



**City of  
Panama City Beach**

Council Chambers |  
17007 Panama City Beach Pkwy |  
Panama City Beach, FL 32413

**CITY COUNCIL  
REGULAR MEETING AGENDA  
THURSDAY, MARCH 23, 2023  
9:00 AM**

- A. ROLL CALL**
- B. INVOCATION BY PASTOR STEVE IRWIN WITH WOODLAWN CHURCH**
- C. PLEDGE OF ALLEGIANCE LED BY COUNCILMEMBER MARY COBURN**
- D. COMMUNITY ANNOUNCEMENTS**
  - D.1 Community Announcements  
[03.23.2023.Community Announcements.pdf](#)
- E. APPROVAL OF MEETING MINUTES**
  - E.1 March 9, 2023 Regular Meeting Minutes.  
[03.09.2023.Council Meeting Minutes.draft.pdf](#)
- F. APPROVAL OF AGENDA, AND ADDITIONS OR DELETIONS.**
- G. PRESENTATIONS**
  - G.1 • Employee Years of Service Awards  
[Employee Presentations.pdf](#)
  - G.2 • Half Cent Sales Tax Oversight Committee Findings by Chairman Doug Gilmore  
[03-22-2023.Half Cent Sales Tax Report.Findings.final.pdf](#)
- H. PUBLIC COMMENTS – CONSENT AGENDA AND NON-AGENDA BUSINESS (LIMITED TO THREE MINUTES)**
- I. CONSENT AGENDA**
  - I.1 **RESOLUTION NO. 23-140, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF 680 REPLACEMENT SCREEN FILTER PANELS, 200 FILTER PANEL SEALS, AND 200 FILTER PANEL GASKETS FROM EVOQUA WATER TECHNOLOGIES FOR THE UTILITES DEPARTMENT IN THE TOTAL AMOUNT OF \$80,748.**  
[Res 23-140.Evoqua Water Tech.Purchase of Filters.pdf](#)  
[2023-587358 Rev 2.pdf](#)

[Evoqua Sole Source Authorized Distributor Letter.pdf](#)

I.2 **\*RESOLUTION 23-145, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A TASK ORDER WITH CHANDLER AND ASSOCIATES OF PANAMA CITY, INC. RELATING TO PROPERTY APPRAISALS FOR THE FRONT BEACH ROAD RIGHT OF WAY PROJECT SEGMENT 4.2, IN THE TOTAL AMOUNT OF \$47,250.**

[Res 23-145.Chandler Task Order.Seg. 4.2.pdf](#)

[Chandler Task Order Seg 4.2.pdf](#)

[FRONT BEACH ROAD SEGMENT 4.2 SUMMARY SHEET.pdf](#)

I.3

**REVISION OF THE MASTER AUDIT LIST TO REMOVE OBSOLETE ITEMS.** These items are to be removed from the Master Audit List. Staff recommends approval. By approval of this matter in the Consent Agenda, the City Council makes a finding of surplus for these items and approves their removal from the Master Audit List.

[03.23.2023.Surplus Items.pdf](#)

**J. REGULAR AGENDA**

J.1 **ORDINANCE NO. 1614, AMENDING CHAPTER 6 OF THE CITY'S CODE OF ORDINANCES RELATED TO AVIATION, FIRST READING.**

[Ord 1614.Amending Code Related to Aviation.pdf](#)

J.2 **\*RESOLUTION NO. 23-141, AUTHORIZING A TRANSFER AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF PANAMA CITY BEACH, FOR A PORTION OF STATE ROAD (SR) 30 (FRONT BEACH ROAD SEGMENT 4.1).**

[Res 23-141.FL DOT.Seg 4.1 Roadway Transfer.pdf](#)

[Front Beach Road 4.1 Transfer Agreement FS.pdf](#)

J.3

**RESOLUTION NO. 23-142, APPROVING AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION TO PROVIDE ADDITIONAL FUNDING FOR GAYLE'S TRAILS THROUGH A GRANT; AND AUTHORIZING A BUDGET AMENDMENT.**

[Res 23-142.Gayles Trails Grant from SunTrail.final.pdf](#)

[FY 2023 BA #27.pdf](#)

[G0U25 - 440282-1-Gayles Trails -SA 5\\_Funds.pdf](#)

[18-88OCR.pdf](#)

J.4 **RESOLUTION NO. 23-143, APPROVING COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY PROJECTS TO BE SUBMITTED FOR FUNDING TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY REBUILD FLORIDA HURRICANE SALLY PROGRAM.**

[Res 23-143.CDBG-DR Hurricane Sally Outfall Project.03.20.23.pdf](#)

[DRAFT Hurricane Sally Outfall Project Application 03.20.2023.pdf](#)

J.5 **RESOLUTION NO. 23-144, AUTHORIZING A BUDGET AMENDMENT FOR SALARY ADJUSTMENTS FOR THE CITY CLERK, CITY MANAGER AND ASSISTANT CITY MANAGER.**

[Res 23-144.Budget Amendment.Merit Raises CM ACM and CC.pdf](#)

[FY 2023 BA #29.pdf](#)

J.6 **RESOLUTION NO. 23-146, APPROVING A TASK ORDER WITH MCKIM & CREED, INC.**

**RELATING TO ENGINEERING DESIGN AND BIDDING PHASE SERVICES FOR THE CRA SEGMENT 4.3 UTILITIES RELOCATION.**

Res 23-146.McKim and Creed.Task Order.Seg 4.3.pdf

Proposal CRA 4.3 PCB rev.pdf

McKim & Creed Large WW TO2022-2\_CRA 4.3 Utilities Relocation\_draft\_r1.pdf

**K. CITY MANAGER REPORT**

**L. CITY ATTORNEY REPORT**

**M. COUNCIL COMMENTS**

**N. ADJOURN**

\* AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY COUNCIL ALSO SITS, EX-OFFICIO, AS **THE CITY OF PANAMA CITY BEACH COMMUNITY REDEVELOPMENT AGENCY**, JOINTLY AND CONCURRENTLY, AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT LATTER CAPACITY. ACTION ITEMS NOTED WITH AN ASTERICK.

\*\* AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY COUNCIL ALSO SITS, EX-OFFICIO, AS **THE LAW ENFORCEMENT TRUST BOARD**, JOINTLY AND CONCURRENTLY, AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT LATTER CAPACITY. ACTION ITEMS NOTED WITH TWO ASTERICKS.

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PAUL CASTO	X	PAUL CASTO	X
PHIL CHESTER	X	PHIL CHESTER	X
MARY COBURN	X	MARY COBURN	X
MICHAEL JARMAN	X	MICHAEL JARMAN	X
MARK SHELDON	X	MARK SHELDON	X

I certify that the Council members listed above have been contacted and given the opportunity to include items on this agenda.

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/s/ City Clerk

Date

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/s/ City Clerk

Date

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The Agenda Packet is e-mailed to interested parties and posted on the City's website at [www.pcbfl.gov/](http://www.pcbfl.gov/) by close of business the Friday before the scheduled meeting date.

City Council meetings are live streamed on the City's website [www.pcbfl.gov/](http://www.pcbfl.gov/) and City Facebook page "CITY OF PANAMA CITY BEACH-GOVERNMENT".

One or more members of other City Boards may appear and speak at this meeting.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding, and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is based. Sec. 286.0105, FS (2020).



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Lynne Fasone, City Council	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Report community events / announcements in PCB.	
<b>4. AGENDA:</b>  COMMUNITY ANNOUNCEMENTS	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Quality of Life	
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  Report community events / announcements in PCB.	
<a href="03.23.2023.Community Announcements.pdf">03.23.2023.Community Announcements.pdf</a>	



City of

# Panama City Beach

17007 PCB Parkway  
PCB, FL 32413  
[www.pcbfl.gov](http://www.pcbfl.gov)

## Community Announcements

*for*

***March 23, 2023***

### ***Regular Council Meeting***

<b><u>Date</u></b>	<b><u>Event</u></b>	<b><u>Location</u></b>
April 1st 10:00 a.m.	Dog Easter Egg Hunt	Dog Beach at the City Pier
April 1st	USSSA Fastpitch Tournaments	Frank Brown Park
April 8th 10:00 a.m.	Easter Egg Hunt	Frank Brown Park
April 13th 6:00 p.m.	Next City Council Meeting	City Hall



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Lynne Fasone, City Council	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Review and approve City Council's March 9, 2023 regular meeting minutes.	
<b>4. AGENDA:</b>  APPROVAL OF MEETING MINUTES	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
<b>6. IDENTIFY STRATEGIC PRIORITY:</b>	
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>	
<a href="03.09.2023.Council Meeting Minutes.draft.pdf">03.09.2023.Council Meeting Minutes.draft.pdf</a>	



City of  
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City Hall  
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**MINUTES of the March 9, 2023** Regular Meeting of the City Council of the City of Panama City Beach, Florida, and when permitted or required by the subject matter, the Panama City Beach Community Redevelopment Agency.

**Mayor Mark Sheldon called the March 9, 2023 regular meeting to order at 6:00 p.m.**

**ROLL CALL**

**MAYOR MARK SHELDON**  
**VICE MAYOR PAUL CASTO**  
**COUNCILMAN PHIL CHESTER**  
**COUNCILMEMBER MARY COBURN**  
**COUNCILMAN MICHAEL JARMAN**

**A quorum was present with all five members of City Council.** Others present were City Manager Drew Whitman, Assistant City Manager Holly White, City Attorneys Amy Myers and Cole Davis, City Clerk Lynne Fasone, Directors, staff, and members of the public and press.

Mayor Mark Sheldon led the invocation, the Pledge of Allegiance, and provided community announcements.

Mayor Sheldon called for approval of the February 23, 2023 regular meeting minutes. **Councilman Jarman so moved. Councilman Chester seconded the motion. The meeting minutes were unanimously approved by a roll call vote (5-0).**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**APPROVAL OF AGENDA**

Mayor Sheldon called for approval and/or changes to the agenda. Hearing and seeing none, **Councilman Jarman moved to approve the agenda. Councilman Chester seconded the motion. All were unanimously in favor of approval of the agenda by a roll call vote (5-0).**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**PRESENTATION**

On behalf of the entire City Council, Mayor Sheldon presented Ms. Avery Bell a special recognition on being selected the Boys and Girls Club March 2023 honoree.

**PUBLIC COMMENTS - NON-AGENDA BUSINESS (LIMITED TO THREE MINUTES)**

Mayor Sheldon opened the floor to non-agenda business public comments, limited to three minutes each.

1. Casey Chellsen, 518 Lyndell Lane – Mr. Chellsen thanked Council and staff for all they do for PCB. Mr. Chellsen commented on the growing number coyote and bears in the community. Mr. Chellsen reported the coyotes and bears were taking the lives of residents' pets. Mr. Chellsen reported that coyote feces was toxic to pets and humans. Mr. Chellsen asked Council to do something to protect the pets. Mr. Chellsen urged Council to take action. Mr. Chellsen noted he lost a cat to a coyote.
2. Molly Allen, Lullwater Resident – Ms. Allen comments were in reference to the permit being looked at by the Corps of Engineers for the Outfall Project. Ms. Allen reported there were 49 responses who opposed the project and 33 people requested a public hearing. Ms. Allen noted she was opposed to the "session" type of hearing, a townhall, and instead was asking for an actual public hearing. Ms. Allen asked the City to prove it owned Lullwater Lake, she believed the neighborhood owns it. Ms. Allen noted she would be seeking legal counsel.

Mayor Sheldon called for additional public comments. Hearing and seeing none, Mayor Sheldon closed the public comment portion of the agenda.

**CONSENT AGENDA**

**RESOLUTION NO. 23-128, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE AGREEMENT WITH FOSTER & FREEMAN USA, INC. RELATED TO THE PURCHASE OF ONE FORENSIC CRIME SCENE CAMERA FOR THE POLICE DEPARTMENT, IN THE TOTAL AMOUNT OF \$39,221.50.**

**RESOLUTION NO. 23-130, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF A TORO GROUNDSMASTER TRI DECK MOWER FROM JERRY PATE TURF & IRRIGATION, INC. FOR THE PARKS DEPARTMENT, IN THE TOTAL AMOUNT OF \$40,061.78; AND AGREEING TO BE BOUND BY THE TERMS OF THAT CERTAIN AGREEMENT BETWEEN THE CITY OF MESA, ARIZONA AND THE TORO COMPANY GOVERNING THAT PURCHASE.**

**RESOLUTION NO. 23-131, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF SEVEN IMPELLERS FOR THE WEST BAY PUMPING STATION FROM THE ESCHELMAN COMPANY, INC., IN THE BASIC AMOUNT OF \$53,858.**

**RESOLUTION NO. 23-132, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF THREE TRUCKS FROM ALAN JAY FLEET SALES, IN THE TOTAL AMOUNT OF \$164,398; AGREEING TO BE BOUND BY THE TERMS OF THAT CERTAIN AGREEMENT BETWEEN THE CITY OF TALLAHASSEE AND ALAN JAY FLEET SALES GOVERNING THAT PURCHASE; AND REPEALING RESOLUTION 22-180.**

**RESOLUTION NO. 23-133, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A LIGHTING AGREEMENT WITH FLORIDA POWER & LIGHT COMPANY FOR INSTALLATION AND MAINTENANCE OF LIGHTING FACILITIES ON PANAMA CITY BEACH PARKWAY BETWEEN MANDY LANE AND NAUTILUS STREET.**

**RESOLUTION NO. 23-134, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A CONTRIBUTION TO THE BAY COUNTY TRANSPORTATION PLANNING ORGANIZATION, IN THE TOTAL AMOUNT OF \$45,500.**

**RESOLUTION NO. 23-135, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A CHANGE ORDER TO THE CITY'S AGREEMENT WITH CWR CONTRACTING, INC., FOR THE FRONT BEACH ROAD SEGMENT 3 PROJECT, TO ADD \$112,142.80 AND FOURTEEN DAYS FOR PERFORMANCE OF THE WORK.**

**RESOLUTION NO. 23-137, A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH STUART C. IRBY, CO., FOR THE PURCHASE OF PUMP CONTROLLER EQUIPMENT IN THE TOTAL AMOUNT OF \$83,572.64.**

Mayor Sheldon asked the Clerk to read the Consent Agenda. Mayor Sheldon noted this item was available to Council. **Vice Mayor Casto moved to approve the Consent Agenda. Councilmember Coburn seconded the motion. All were unanimously in favor of approval of the Consent Agenda by a roll call vote (5-0).**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**REGULAR AGENDA- DISCUSSION/ACTION ITEMS**

**ITEM 1. ORDINANCE NO. 1613, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO NOISE VARIANCES, SECOND READING / PUBLIC HEARING.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Ordinance No. 1613 by title only. Mayor Sheldon opened the public hearing on Ordinance 1613. Hearing and seeing no comments, Mayor Sheldon closed the public hearing. Mayor Sheldon noted this item was available to Council. **Vice Mayor Casto moved to approve Ordinance 1613. Councilman Jarman seconded the motion.** Mayor Sheldon called for further discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Ordinance No. 1613 was adopted by a (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 2. ORDINANCE NO. 1615, TEMPORARILY CLOSING A PORTION OF THE SANDY GULF BEACH, SECOND READING / PUBLIC HEARING.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Ordinance No. 1615 by title only. Mayor Sheldon opened the public hearing on Ordinance 1615. Hearing and seeing none, Mayor Sheldon closed the public hearing. Mayor Sheldon noted this item was available. **Councilman Jarman moved to approve Ordinance 1615. Councilman Chester seconded the motion.** Mayor Sheldon called for further discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Ordinance No. 1615 was adopted by a unanimous (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 3. ORDINANCE NO. 1616, REVISING CHAPTER 7 RELATED TO BEACH, BOATS, AND WATER SAFETY, SECOND READING / PUBLIC HEARING.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Ordinance 1616 by title only. Mayor Sheldon opened the public hearing on Ordinance No. 1616.

1. Casey Chellsen, 518 Lyndell Lane – Mr. Chellsen expressed concern with the amendment prohibiting wood beach bonfires, switching only to propane. Mr. Chellsen commented that he had a beautiful experience with a wood beach bonfire and did not understand why wood wouldn't be allowed any longer. Mr. Chellsen commented that he did not think using wood was detrimental to the beach. Mr. Chellsen asked Council to keep wood beach bonfires as an option.
2. Anthony, Owner of Light Me Up Beach Bonfires – Anthony commented that he was the only bonfire vendor who uses wood on the Beach. Anthony commented that his business had been operating for 8 years, without incident. Anthony asked Council for the same opportunities as the propane vendors.

Mayor Sheldon called for further comments. Hearing and seeing none, Mayor Sheldon closed the public hearing. Mayor Sheldon invited Chief Morgan to the podium.

Mayor Sheldon asked Chief Morgan for his take on wood beach fires. Chief Morgan reported the data was correct, that there had been zero incidents with wood fires. Chief Morgan reported when winds were up, wood beach fires would not be permitted. Chief Morgan explained how wood beach fires were disposed of, the cooling aspect and the receptacle used to discard the wood and ash. Chief Morgan reported the Fire Department was able to regulate both wood and propane fires, whichever Council preferred.

Attorney Davis reported since first reading he had talked separately with each Councilmember, staff, and Mr. Anthony, at length. Mr. Davis reported one issue raised was the wood bonfires, so earlier today he provided Council with alternative language to allow wood fires. Mr. Davis explained:

- (a) The applicant must be a licensed bonfire vendor certified by the Fire Department to possess the requisite knowledge, skill, and resources to carefully conduct wood fires without creating a risk of injury to persons or property.
- (b) The Fire Department has certified that the permittee has equipment capable of cooling and disposing of any debris, coals, and ash within the time provided by section (a)(4) of this section.
- (c) At all times from the lighting of the fire to its extinguishment, the fire must be actively tended by the named permittee.
- (d) The named permittee shall keep a 2.5-gallon water-based fire extinguisher tagged in compliance with NFPA 10 standard for portable fire extinguishers on site at all times.
- (e) The fee for the issuance of the fire permit shall be fifty dollars (\$50.00) for a propane-fueled fire and seventy-five dollar (\$75.00) for an organic wood fueled fire or an amount otherwise set by resolution of the City Council.

Mr. Davis stated after speaking with Captain/Fire Inspector Legleiter and Mr. Anthony both were happy with the amendments to the wood fires. Mr. Davis added that both versions of Ordinance were in front of Council .

Mayor Sheldon noted he was a fan of moving forward with wood fires, with the amended language, and knowing that the fires are not dug into the sand.

Councilmember Coburn inquired as to how the wood fires were removed from the beach. Mr. Anthony explained the long process and noted Mr. Davis had a video if anyone would like to see it. Mayor Sheldon reviewed the process, so everyone understood the process. Discussion regarding taking everyone off the beach at the end of the day took place. Councilmember Coburn inquired if Mr. Anthony had staff attend the fire. Mr. Anthony stated yes, that he had 12 employees and they do stay with the fire. Brief discussion regarding propane fires took place. Discussion regarding the wood fire application took place.

All Councilmembers were good with keeping wood fires in the Code, as amended by Mr. Davis.

Mayor Sheldon noted this item was available to Council. **Councilman Jarman moved to approve Ordinance No. 1616, with the language allowing wood fires, and to include all other amended language as detailed in Mr. Davis' email. Vice Mayor Casto seconded the motion.** Mayor Sheldon called for further discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Ordinance No. 1616 was adopted, as amended, by a unanimous (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 4. RESOLUTION NO. 23-129, AUTHORIZING A BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR SICK LEAVE PAYOUTS.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Resolution No. 23-129 by title only. Mayor Sheldon called for public comment on Item #4. Hearing and seeing none, Mayor Sheldon closed the public comment period. Mayor Sheldon noted this item was available to Council. **Vice Mayor Casto moved to approve Resolution 23-129. Councilman Chester seconded the motion. All were unanimously in favor of approval of Resolution 23-129 by a roll call vote (5-0).**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 5. RESOLUTION NO. 23-136, ACCEPTANCE AND EXECUTION OF A GRANT AGREEMENT FOR THE POLICE DEPARTMENT; AND AUTHORIZING A BUDGET AMENDMENT.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Resolution 23-136 by title only. Mayor Sheldon called for public comment on Item #5. Hearing and seeing none, Mayor Sheldon closed the public comment period. Mayor Sheldon thanked the Police Department for finding another grant for the City. Mayor Sheldon noted this item was available to Council. **Councilman Chester moved to approve Resolution No. 23-136. Councilman Jarman seconded the motion.** Mayor Sheldon called for further

discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Resolution No. 23-136 was approved by a unanimous (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 6. RESOLUTION NO. 23-138, APPROVING AN AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS, INC. FOR PREPARATION OF A WATER AND WASTEWATER UTILITY REVENUE SUFFICIENCY STUDY.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Resolution 23-138 by title only. Mayor Sheldon called for public comment on Item #6. Hearing and seeing none, Mayor Sheldon closed the public comment period. Mayor Sheldon noted this item was available to Council. **Councilman Chester moved to approve Resolution No. 23-138. Councilmember Coburn seconded the motion.** Mayor Sheldon called for further discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Resolution No. 23-138 was approved by a unanimous (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**ITEM 7. RESOLUTION NO. 23-139, APPROVING A TASK ORDER WITH MOTT MACDONALD FLORIDA, LLC, FOR THE LAGUNA BEACH AREA “C” SEPTIC TO SEWER PROJECT.**

Mayor Sheldon introduced City Attorney Myers. Mrs. Myers read Resolution No. 23-139 by title only. Mayor Sheldon called for public comment on Item #7. Hearing and seeing none, Mayor Sheldon closed the public comment period. Mayor Sheldon noted this item was available to Council. **Councilman Chester moved to approve Resolution No. 23-139. Councilman Jarman seconded the motion.** Mayor Sheldon called for further discussion. Hearing and seeing none, Mayor Sheldon asked the Clerk to call the roll. **Resolution No. 23-139 was approved by a unanimous (5-0) roll call vote.**

Councilmember Coburn	Aye
Councilman Chester	Aye
Vice Mayor Casto	Aye
Councilman Jarman	Aye
Mayor Sheldon	Aye

**CITY MANAGER REPORT** – No report.

**CITY ATTORNEY REPORT** - No report.

**COUNCIL COMMENTS** - Mayor Sheldon invited comments from Council.

Councilmember Coburn thanked Director Joyner for organizing a great event; “Spring into Sports.”

Councilman Chester wished Mayor Sheldon a Happy Birthday.

Councilman Jarman reported the City does not have any type of animal control and recommended residents contact Bay County and/or the Florida Fish & Wildlife Commission.

Mayor Sheldon reported as a board, Council had two direct employees, the City Clerk and the City Manager. Mayor Sheldon reported reviews had been done on both and April was the two-year timeline for the City Manager and Ms. Lynne had been with us three years now. Mayor Sheldon reported they had received the cost of living increases with staff, but no merit raises. Mayor Sheldon recommended that Council look at merit increases for both of them. Mayor Sheldon added both do a fabulous job and both put the City first so he recommended that both receive a 4% per year merit increase; 8% for the past two years, based on their work ethic and their reviews. Mayor Sheldon further thanked City Manager Whitman, Attorney Davis, and Lobbyist Steve Southerland for putting together a packed week in DC. Mayor Sheldon reported there was no down time, they had face-to-face meetings with the City's Senators and Representatives and many other folks, and spent time at the White House. Mayor Sheldon thanked the team for putting the trip together and noted he was very hopeful.

**With nothing further, Mayor Sheldon adjourned the meeting by unanimous consent at 6:32 p.m.**

**READ AND APPROVED** this \_\_\_\_\_ day of March, 2023.

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Mark Sheldon, Mayor  
City of Panama City Beach, Florida

ATTEST:

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Lynne Fasone, MMC, City Clerk

\* ACTION ITEMS NOTED WITH AN ASTERISK ARE TAKEN BOTH BY THE CITY COUNCIL AND THE PANAMA CITY BEACH REDEVELOPMENT AGENCY JOINTLY AND CONCURRENTLY. IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Lori Philput, Administration	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Employee Presentations	
<b>4. AGENDA:</b>  PRESENTATIONS	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Quality of Life	
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  Recognition of employee service.	
<a href="#"><b>Employee Presentations.pdf</b></a>	



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[wwwpcbfl.gov](http://wwwpcbfl.gov)

**City Council Meeting**  
**March 23, 2023**

**Employee Plaque Presentation**

**Fire Department**  
Jonathan Miller – 5 Years  
Robert Demeester – 5 Years

**Police Department**  
James Smeby – 15 Years  
Nicholas Tomlinson – 15 Years

**Building and Planning Department**  
Andrea Chester – 15 Years



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Drew Whitman, Administration	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Receive Report/Findings of the Committee.	
<b>4. AGENDA:</b>  PRESENTATIONS	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Financial Health	
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  The Half-Cent Sales Tax Advisory Committee was established by City Council by Resolution 17-39 on January 12, 2017. The Committee shall review and ascertain that the proceeds of the infrastructure surtax are being used solely for the purposes of: "1. That the proceeds received by the City from the local government infrastructure surtax levied pursuant to Bay County Ordinance 16-21 shall be used by the City to finance, plan or construct projects that will repair local roads, reduce traffic congestion or improve traffic flow, increase neighborhood safety with pedestrian paths, provide sidewalks near schools, or reduce local flooding." At the conclusion of each review, or no less than annually, the Committee shall make a report to the City Manager, Council and public regarding the use of the proceeds of the infrastructure surtax and the progress and status of all projects financed by those proceeds.	
<a href="#"><b>03-22-2023.Half Cent Sales Tax Report.Findings.final.pdf</b></a>	



City of  
**Panama City Beach**

City Hall  
17007 PCB Parkway  
PCB, FL 32413  
P: (850) 233-5100  
F: (850) 233-5108  
[wwwpcbfl.gov](http://wwwpcbfl.gov)

## **HALF-CENT SALES TAX CITIZENS OVERSIGHT COMMITTEE**

### **March 22, 2023 Report / Findings**

Revised Report/Findings from the November 15, 2022 Meeting

The Committee has reviewed the schedule of surtax proceeds collected by the City from inception through September, 2022 and ascertained that the monies paid out to date through September, 2022 in the amount of **\$6,711,760.68** are for the Bay Parkway Segment 2 project as authorized by Resolution No. 17-39.

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Doug, Gilmore, Chairman

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Lynne Fasone, City Clerk

**Mayor**  
Mark Sheldon

**Vice Mayor**  
Paul Casto

**Ward 2**  
Phil Chester

**Ward 3**  
Mary Coburn

**Ward 4**  
Michael Jarman

**City Manager**  
Drew Whitman

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*Home of the world's most beautiful beaches.*



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

**1. DEPARTMENT MAKING REQUEST/NAME:**  
Mark Shaeffer, Utilities

**2. MEETING DATE:**  
March 23, 2023

**3. REQUESTED MOTION/ACTION:**

Staff requests Council approval for 680 replacement screen mesh filter panels with associated gaskets and seals for Filter No. 4 at the City's Wastewater Treatment Facility No. 1 in the amount of \$80,748.

**4. AGENDA:**

CONSENT AGENDA

**5. IS THIS ITEM BUDGETED  
(IF APPLICABLE)?:** Yes

Detailed Budget Amendment Attached: N/A

**6. IDENTIFY STRATEGIC PRIORITY:**

Quality of Life  
Financial Health

**7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?**

There are a total of four filter units at the City's Wastewater Treatment Facility (WWTF) No. 1. Three of these units, Nos. 1-3 utilize an older travelling bridge technology with sand and carbon media. Filter 4 is the newest of the units and utilizes a higher flow rate screen media disk filtration system. A recent mechanical issue resulted in panels being torn and requires replacement to maintain treatment quality and capacity. A total of 210 replacement panels with associated seals and gaskets were recently purchased for \$24,774.50 in order to maintain treatment levels required to comply with the operating permit for WWTF No. 1. Additional panels and sealing systems are needed to have on-hand spares for future maintenance. Supply chain issues are such that replacement panels may not be available on an as-needed basis. Staff recommends purchase of 680 panels with associated gaskets and seals to replace the media on up to two complete filter sub-units. Design of these wedge-shaped filter panels is unique to this manufacturer and they are the sole source for replacement units. Please see attached letter from Evoqua Water Technologies.

Staff requests Council approval to purchase 680 filter panels with associated gaskets and seals from Evoqua Water Technologies in the amount of \$80,748.00 for availability for upcoming high Spring and Summer demands.

[Res 23-140.Evoqua Water Tech.Purchase of Filters.pdf](#)  
[2023-587358 Rev 2.pdf](#)  
[Evoqua Sole Source Authorized Distributor Letter.pdf](#)

**RESOLUTION NO. 23-140**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF 680 REPLACEMENT SCREEN FILTER PANELS, 200 SEAL FILTER PANELS, AND 200 FILTER GASKETS FROM EVOQUA WATER TECHNOLOGIES FOR THE UTILITES DEPARTMENT IN THE TOTAL AMOUNT OF \$80,748.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA THAT** the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain proposal between the City and Equova Water Technologies relating to the purchase of Six Hundred and Eighty (680) replacement screen filter panels, Two Hundred (200) seal filter panels, and Two Hundred (200) filter gaskets for the City's Waste Water Treatment Facility, in the total amount of Eighty Thousand, Seven Hundred Forty-Eight Dollars and No Cents (\$80,748), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

Proposal For: CITY OF PANAMA CITY BEACH  
 PAT QUEZADA  
 206 N GULF BLVD  
 PANAMA CITY BEACH, FL 32413-2802  
 Phone: 850-625-7977

Kristopher Kebbekus  
 Evoqua Water Technologies  
 N19W23993 Ridgeview Pkwy, Suite 200  
 Waukesha, WI 53188  
 Phone: 262-521-8212  
 kristopher.kebbekus@evoqua.com

## Item Pricing Summary

Item	Part No Description	Qty	Net Price	Ext. Price
1	<b>W3T413662</b> SS SCREEN FILTER PANEL OTM2;  Current Stock	680	\$110.00	\$74,800.00
2	<b>W2T289768</b> GSKT,SEAL;FILTER PANEL;P10.0001  Stock	200	\$21.94	\$4,388.00
3	<b>W2T289770</b> DISK FILTER GASKET UPPER PER DRAWING 102  Stock	200 EA	\$4.05	\$810.00

Currency: USD

Item(s) Subtotal:	<b>\$79,998.00</b>
Shipping and Handling Charges:	<b>\$750.00</b>
<b>Total Net Price:</b>	<b>\$80,748.00</b>

**Proposal Notes**  
**Current Stock as of 3/9/2023**

**Please provide tax exempt certificate with purchase order.**

**Determination of suitability of the material provided under this quote for any use by Buyer shall be the sole and exclusive responsibility of Buyer.**

Our Manufacturer Rep in your area is:

Representative: Lance Clark

Company: Heyward Florida Incorporated  
List Address: 415 Country Club Drive  
Winter Park, FL, 32789  
Phone: (229) 224-7453  
Email: clark@heywardfl.com

# Payment Terms and Delivery

## PO Terms

Purchaser acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the goods and/or services provided under the Contract, including any export license requirements. Purchaser agrees that such goods and/or services shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times.

PURCHASER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

## Shipping Information

- Prepaid and Add: Shipping and Handling Charge

## Terms

- This quote is valid until 04-28-2023
- Payment terms are N30 - Net 30 days with proper credit, and are subject to the attached Evoqua Water Technologies Terms and Conditions

### Sales Tax & GST:

- The pricing provided in this proposal does not include applicable Sales Tax or GST.
- If your company is exempt from Sales Tax or GST, or eligible for a reduced rate of tax, a tax exemption certificate must be provided no later than with your purchase order.
- If a timely, valid exemption certificate or other documentation is not provided, any applicable Sales Tax or GST will be invoiced and payable.
- New customers may be required to supply a signed credit application to be approved for credit terms.
- **NOTE:** You may be assessed a 3% fee if paying via Credit Card. Find more info on our website here > <https://www.evoqua.com/en/about-us/terms-conditions-sale-products-services/credit-card-fee-faqs/>. Ask us how to avoid paying fees by migrating to ACH CTX payment type.
- We require hard documentation of your ordering for Evoqua to process your order. For your convenience, we can start processing your order by signing and returning:
  - Fax to:
  - or Email to: [kristopher.kebbekus@evoqua.com](mailto:kristopher.kebbekus@evoqua.com)
- You may also mail to:
  - Evoqua Water Technologies
  - N19W23993 Ridgeview Pkwy, Suite 200
  - Waukesha, WI 53188

**Evoqua Water Technologies Banking Details**

**ACH - CTX**

**Evoqua's preferred payment method is via ACH - CTX:**

JP Morgan Chase Bank  
Attn: Evoqua Water Technologies, LLC  
Account #: 603148011  
Swift Code: CHASUS33  
ACH Routing / ABA: **044000037**  
Wire Routing / ABA: **021000021**  
Remittance details should go to: [electronicfunds@evoqua.com](mailto:electronicfunds@evoqua.com)

**Paper checks via Postal Service**

**Paper checks via Postal Service:**

Send to our Lockbox, address is:  
Evoqua Water Technologies LLC  
28563 Network Place  
Chicago, IL 60673-1285

**Paper checks via Overnight / Courier**

**Paper checks via Overnight / Courier:**

JP Morgan Chase Bank  
Attn: Evoqua Water Technologies Lockbox 28563  
131 S Dearborn, 6th Floor  
Chicago, IL 60603  
Remittance details should go to: [electronicfunds@evoqua.com](mailto:electronicfunds@evoqua.com)

**\*\* If ever instructed to change banking information, contact us immediately at 1-800-466-7873 \*\***

### Standard Terms of Sale

1. **Applicable Terms.** These terms govern the purchase and sale of equipment, products, related services, leased products, and media goods if any (collectively herein "Work"), referred to in Seller's proposal ("Seller's Documentation"). Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is expressly conditioned on Buyer's assent to these terms. Seller rejects all additional or different terms in any of Buyer's forms or documents.

2. **Payment.** Buyer shall pay Seller the full purchase price as set forth in Seller's Documentation. Unless Seller's Documentation specifically provides otherwise, freight, storage, insurance and all taxes, levies, duties, tariffs, permits or license fees or other governmental charges relating to the Work or any incremental increases thereto shall be paid by Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller. If Buyer claims a tax or other exemption or direct payment permit, it shall provide Seller with a valid exemption certificate or permit and indemnify, defend and hold Seller harmless from any taxes, costs and penalties arising out of same. All payments are due within N30 - Net 30 days after receipt of invoice. Buyer shall pay interest on all late payments not received by the due date. The Buyer shall be charged the lesser rate of 1 1/2% interest per month or the maximum interest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall also reimburse Seller for all costs incurred in collecting amounts due but unpaid, including without limitation, collections fees and attorneys' fees. All orders are subject to credit approval by Seller. Back charges without Seller's prior written approval shall not be accepted.

3. **Delivery.** Delivery of the Work shall be in material compliance with the schedule in Seller's Documentation. Unless Seller's Documentation provides otherwise, delivery terms are FOB Shipping Point, or for international orders, ExWorks Seller's factory (INCOTM Terms 2020). Title to all Work shall pass upon receipt of payment for the Work under the respective invoice. Unless otherwise agreed to in writing by Seller, shipping dates are approximate only and Seller shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer or Buyer's customer if Seller fails to meet the specified delivery schedule.

4. **Ownership of Materials and Licenses.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data, software, and other information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Buyer a non-exclusive, non-transferable license to use any written material solely for Buyer's use of the Work. Buyer shall not disclose any such material to third parties without Seller's prior written consent. Buyer grants Seller a non-exclusive, non-transferable license to use Buyer's name and logo for marketing purposes, including but not limited to, press releases, marketing and promotional materials, and web site content.

5. **Changes.** Neither party shall implement any changes in the scope of Work described in Seller's Documentation without a mutually agreed upon change order. Any change to the scope of the Work, delivery schedule for the Work, any Force Majeure Event, any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle Seller to an equitable adjustment in the price and time of performance. If Buyer requests a proposal for a change in the Work from Seller and subsequently elects not to proceed with the change, a change order shall be issued to reimburse Seller for reasonable costs incurred for estimating services, design services, and services involved in the preparation of proposed changes.

6. **Force Majeure Event.** Neither Buyer nor Seller shall have any liability for any breach or delay (except for breach of payment obligations) caused by a Force Majeure Event. If a Force Majeure Event exceeds six (6) months in duration, the Seller shall have the right to terminate the Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment, including overhead and profit, for work performed prior to the date of termination. "Force Majeure Event" shall mean events or circumstances that are beyond the affected party's control and could not reasonably have been easily avoided or overcome by the affected party and are not substantially attributable to the other party. Force Majeure Event may include, but is not limited to, the following circumstances or events: war, act of foreign enemies, terrorism, riot, strike, or lockout by persons other than by Seller or its sub-suppliers, natural catastrophes, (with respect to on-site work) unusual weather conditions, epidemic, pandemic, communicable disease outbreak, quarantines, national emergency, or state or local order.

7. **Warranty.** Subject to the following sentence, Seller warrants to Buyer that the (i) Work shall materially conform to the description in Seller's Documentation and shall be free from defects in material and workmanship and (ii) the Services shall be performed in a timely and workmanlike manner. Determination of suitability of treated water for any use by Buyer shall be the sole and exclusive responsibility of Buyer, and Seller disclaims any warranty regarding such suitability. The foregoing warranty shall not apply to any Work that is specified or otherwise demanded by Buyer and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Buyer, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Buyer under warranty, tort or any other legal theory. The Seller warrants the Work, or any components thereof, through the earlier of (i) eighteen (18) months from delivery of the Work, or (ii) twelve (12) months from Buyer's initial operation of the Work, or in the case of services performed as part of the Work, ninety (90) days from the performance of the services (the "Warranty Period"). If Buyer gives Seller prompt written notice of breach of this warranty within the Warranty Period, Seller shall, at its sole option and as Buyer's sole and exclusive remedy, repair or replace the subject parts, re-perform the Service or refund the purchase price. Unless otherwise agreed to in writing by Seller, (i) Buyer shall be responsible for any labor required to gain access to the Work so that Seller can assess the available remedies and (ii) Buyer shall be responsible for all costs of installation of repaired or replaced Work. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Buyer's (i) operating and maintaining the Work in accordance with Seller's instructions, (ii) not making any unauthorized repairs or alterations, and (iii) not being in default of any payment obligation to Seller. Seller's warranty does not cover (i) damage caused by chemical action or abrasive material, improper thermal or electrical capacity, misuse or improper installation (unless installed by Seller) and (ii) media goods (such as, but not limited to, resin, membranes, or granular activated carbon media) once media goods are installed. THE WARRANTIES SET FORTH IN THIS SECTION ARE THE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. SELLER MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

8. **Indemnity.** Seller shall indemnify, defend, and hold Buyer harmless from any claim, cause of action, or liability incurred by Buyer as a result of third-party claims for personal injury, death, or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Buyer (i) promptly notifying Seller of any

claim, and (ii) providing reasonable cooperation in the defense of any claim. Buyer shall indemnify, defend, and hold harmless Seller from any claim, cause of action, or liability incurred by Seller as a result of third-party claims for personal injury, death, or damage to tangible property, to the extent caused by Buyer's negligence. Buyer shall have the sole authority to direct the defense of and settle any such indemnified claim. Buyer's indemnification is conditioned on Seller (i) promptly notifying Buyer of any claim, and (ii) providing reasonable cooperation in the defense of any claim.

9. **Assignment.** Neither party may assign this Agreement, in whole or in part, nor any rights or obligations hereunder without the prior written consent of the other party; provided, however, the Seller may assign its rights and obligations under these terms to its affiliates or in connection with the sale or transfer of the Seller's business, and Seller may grant a security interest in the Agreement and/or assign proceeds of the agreement without Buyer's consent.

10. **Termination.** Either party may, in addition to any other available remedy, terminate this agreement for a material breach upon issuance of a written notice of the breach and expiration of a thirty (30) day cure period. In the event of (i) a voluntary or involuntary petition in bankruptcy, (ii) an assignment for the benefit of a creditor, or (iii) a receivership, liquidation, or dissolution, Seller may terminate the agreement immediately, in addition to seeking any other available remedy. If Buyer suspends an order without a change order for ninety (90) or more days, Seller may thereafter terminate this Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed, whether delivered or undelivered, prior to the date of termination.

11. **Dispute Resolution.** In the event of any claim, dispute, or controversy arising out of or relating in any way to this Agreement (collectively, a "Claim"), Seller and Buyer shall first negotiate in good faith in an effort to resolve the Claim. If, despite good faith efforts, the parties are unable to resolve a Claim through negotiations, the parties shall mediate the Claim in accordance with the commercial mediation procedures of the American Arbitration Association ("AAA"), with such mediation to take place in Pittsburgh, Pennsylvania. If the parties are unable to resolve the Claim through such mediation, then the Claim shall be resolved through final and binding arbitration pursuant to the commercial arbitration procedures of the AAA, with such arbitration to take place in Pittsburgh, Pennsylvania before one arbitrator, who shall have authority to rule on jurisdiction over the Claim. Seller and Buyer agree to the exclusive jurisdiction of the federal and state courts situated in Allegheny County, Pennsylvania for purposes of entering judgment upon the arbitrator's award. The substantially prevailing party, as determined by the arbitrator, shall be entitled to recover all costs, expenses, and charges, including, without limitation, reasonable attorneys' fees and expert witness fees, incurred in connection with the Claim. In case of an Agreement under which Seller ships the Work outside of the United States, or under which Seller's and Buyer's places of business are in different countries, any Claim which is not resolved by the good faith negotiations and mediation required by this Section shall then be determined by arbitration administered by the International Center for Dispute Resolution in accordance with its International Arbitration Rules, with such arbitration taking place in Pittsburgh, Pennsylvania, USA, before one arbitrator, with English as the language of the arbitration. This Agreement and any Claim shall be governed by the laws of the Commonwealth of Pennsylvania, without giving effect to the choice of law principles thereof.

12. **Export Compliance.** All items, and technologies, software, and work products are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations. Any diversion contrary to U.S. law is prohibited. Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal, and usage of the Work provided under this Agreement, including any export license requirements. Buyer agrees that such Work shall not at any time directly or indirectly be used, exported, sold, transferred, assigned, or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. BUYER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

13. **Anti-Kickback Statute - Discounts.** It is the intent of both Buyer and Seller to comply with the Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) and the Discount Safe Harbor and Warranties Safe Harbor regulations set forth in 42 C.F.R. 1001.952(h) and (g), respectively. Buyer's price may constitute a 'discount or other reduction in price' under the Anti-Kickback Statute. Seller shall provide Buyer with invoices that fully and accurately disclose the discounted price of all Products purchased under this Agreement to allow Buyer to comply with this Section and the Discount Safe Harbor regulations, including sufficient information to enable it to accurately report its actual cost for all purchases of Products. Buyer acknowledges that, if applicable, it will fully and accurately report all discounts or other price reductions, including warranty items, in the costs claimed or charges made under any Federal or State healthcare program and provide information upon request to third party reimbursement programs, including Medicare and Medicaid. Buyer will be solely responsible for determining whether any savings or discount or warranty item it receives must be reported or passed on to payors.

14. **Federal Program Participation.** Seller represents and warrants that neither it nor any of its current directors, officers, or key personnel: (i) are currently excluded, debarred or otherwise ineligible to participate in federal health care programs as defined in 42 U.S.C. §1320a-7b(f) (the "Federal Healthcare Programs"); (ii) have been convicted of a criminal offense related to the provision of healthcare items or services during the last five (5) years; or (iii) have been excluded, debarred or otherwise declared ineligible to participate during the last five (5) years in Federal Healthcare Programs. Seller will notify Buyer of any change in the status of the representations and warranties set forth above.

15. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SELLER'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE AGREEMENT, SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

16. **Miscellaneous.** These terms, together with any related Contract Documents issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Buyer's documents, unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. To the extent the Agreement is considered a subcontract under Buyer's prime contract with an agency of the United States government, in case of Federal Acquisition Regulations (FARs) flow down terms, Seller will be in compliance with Section 44.403 of the FAR relating to commercial items and those additional clauses as specifically listed in 52.244-6, Subcontracts for Commercial Items (OCT 2014). If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. The Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. Both Buyer and Seller reject the applicability of the United Nations Convention on Contracts for the international sales of goods to the relationship between the parties and to all transactions arising from said relationship.

**Only in the event that the Work contemplated in this Order is related to the provision of medical devices, the following additional terms apply:**

17. **Medical Devices Act and Regulatory Disclaimer.** Buyer acknowledges that it is familiar with the U.S. Safe Medical Devices Act of 1990 (the "Devices Act") and the reporting obligations imposed on device users thereunder. In this regard, Buyer agrees to notify Seller within ten (10) days of the occurrence of any event identified in the Devices Act imposing a reporting obligation on Buyer and/or Seller (except for events representing an imminent hazard that require notification to the United States Food and Drug Administration (the "FDA") within seventy-two (72) hours (or such shorter time as required by law), in which case, such notice will be delivered to the FDA and Seller within said period). Buyer will maintain adequate tracking for the Products to enable Seller to meet the FDA requirements applicable to the tracking of medical devices. Although Seller has the required registrations, approvals, and licenses (e.g., U.S. 510(k) pre-market notifications) for all or substantially all of its systems, the purchase of parts and system components from Seller does not provide 510(k) compliance or compliance under any other law, rule or regulation for Buyer's system.

**Only in the event that the Work contemplated in this Order is related to the provision of leased or rented equipment ("Leased Equipment"), the following additional terms apply:**

18. **Rental Equipment / Services.** Any Leased Equipment provided by Seller shall at all times be the property of Seller with the exception of certain miscellaneous installation materials purchased by the Buyer, and no right or property interest is transferred to the Buyer, except the right to use any such Leased Equipment as provided herein. Buyer agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the Leased Equipment. Buyer shall be responsible to maintain the Leased Equipment in good and efficient working order. At the end of the initial term specified in the order, the terms shall automatically renew for the identical period unless canceled in writing by Buyer or Seller not sooner than three (3) months nor later than one (1) month from termination of the initial order or any renewal terms. Upon any renewal, Seller shall have the right to issue notice of increased pricing which shall be effective for any renewed terms unless Buyer objects in writing within fifteen (15) days of issuance of said notice. If Buyer timely cancels service in writing prior to the end of the initial or any renewal term this shall not relieve Buyer of its obligations under the order for the monthly rental service charge which shall continue to be due and owing. Upon the expiration or termination of this Agreement, Buyer shall promptly make any Leased Equipment available to Seller for removal. Buyer hereby agrees that it shall grant Seller access to the Leased Equipment location and shall permit Seller to take possession of and remove the Leased Equipment without resort to legal process and hereby releases Seller from any claim or right of action for trespass or damages caused by reason of such entry and removal.

Accepted by: \_\_\_\_\_

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

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



To: Panama City Beach, FL WWTP  
Date: 2/14/2023

To whom it may concern:

This is to confirm that Evoqua Water Technologies is the sole source for Envirex™ Jet-Tech™ and Davco™ systems.

We are the OEM and retain all drawings and proprietary rights to the 40-X Disc Filter located at Panama City Beach, FL WWTP Facility.

Evoqua Water Technologies Corp. is the Original Equipment Manufacturer of the Forty-X® Disc Filters purchased by Panama City Beach, FL WWTP and as such we should be considered the sole source for materials to rebuild and repair of this equipment to guarantee factory fit, manufacturing engineering and long-term service life of the equipment.

Heyward Florida Incorporated is the authorized distributor of the Forty-X Disc Filter located at the Panama City Beach WWTP

The Forty-X® Disc Filter Systems have inherent specific design characteristics that must be utilized during any rebuild to assure the owner that the filters will operate at the most efficient mode in any state of design flow and design loading. Manufactured equipment and components and certain purchased materials are specifically designed and manufactured for use only in the Forty-X® Filters and are specific to Evoqua Water Technologies.

Likewise, only Evoqua fabricated or specified equipment, and parts must be used to maintain any warranty - or guarantee promised effluent capabilities as specified in the original contract.

With kind regards,

*Randy Sowell*

Randy Sowell  
Evoqua Water Technologies  
1828 Metcalf Ave  
Thomasville, GA 31792  
[Tel:229-227-8711](tel:229-227-8711)

Lance A. Clark  
229-224-7453 (cell)  
[415 Country Club Drive](http://415CountryClubDrive)  
[Winter Park, FL 32789](http://WinterPark,FL32789)  
[www.HeywardFL.com](http://www.HeywardFL.com)





## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Scott Passmore, Community Redevelopment Agency	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Approve a task order with Chandler and Associates for real property appraisals for the Front Beach Road CRA Segment 4.2 project.	
<b>4. AGENDA:</b> <u>CONSENT AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> Yes  Detailed Budget Amendment Attached: No
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Quality of Life Transportation
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  The City is currently working on underground design and engineering for Segment 4.2 of the Front Beach Road Community Redevelopment Plan. In doing so, the City's right of way team has identified certain parcels that the CRA may need to acquire rights to in order to construct the redevelopment of this phase.  Having identified these seven parcels, CRA staff request that the City Council approve a task order with Chandler and Associates in the amount of \$47,250, pursuant to the City's current Master Services Agreement with Chandler, to appraise these properties. This will allow the City to negotiate with property owners to acquire the necessary licenses, easements, and fee simple titles as the design requires.	
<a href="#">Res 23-145.Chandler Task Order.Seg. 4.2.pdf</a> <a href="#">Chandler Task Order Seg 4.2.pdf</a> <a href="#">FRONT BEACH ROAD SEGMENT 4.2 SUMMARY SHEET.pdf</a>	

**RESOLUTION NO. 23-145**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A TASK ORDER WITH CHANDLER AND ASSOCIATES OF PANAMA CITY, INC. RELATING TO PROPERTY APPRAISALS FOR THE FRONT BEACH ROAD RIGHT OF WAY PROJECT SEGMENT 4.2, IN THE TOTAL AMOUNT OF \$47,250.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Task Order to its Master Services Agreement with Chandler and Associates of Panama City, Inc., relating to real property appraisals for the Front Beach Road Right of Way Project Segment 4.2, in the total amount of Forty-Seven Thousand, Two Hundred Fifty Dollars (\$47,250), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

COMBINED TASK ORDER AND  
NOTICE TO PROCEED

TASK ORDER NO. 2023-01-4.2

DATE \_\_\_\_\_,  
2023

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND **CHANDLER AND ASSOCIATES OF PANAMA CITY, INC.** RELATING TO PROFESSIONAL APPRAISAL SERVICES dated August 13, 2020, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

1. Pursuant to the Agreement, Appraiser agrees to perform the specific professional appraisal tasks set forth upon incorporated Attachment A, Scope of Services, to assist the City's acquisition of land to effect improvements to certain transportation corridors within the City.

2. Appraiser's compensation shall be paid in monthly installments as specified in the Agreement. Appraiser's total compensation for the services to be provided under this Task Order shall be determined as follows:

	Subtotal
Parcel 701	\$7,200
Parcel 703	\$6,300
Parcel 712	\$9,000
Parcel 714	\$6,300
Parcel 716	\$7,200
Parcels 121 & 722	<u>11,250</u>
<b>TOTAL</b>	<b>\$47,250</b>

Right of Way Planning and Consultation:      \$/hr \_\_\_\_\_ x \_\_\_\_\_ hrs = \_\_\_\_\_

Restricted Use Appraisals:

\_\_\_\_\_ \$/parcel \_\_\_\_\_ x \_\_\_\_\_ parcel(s) = \_\_\_\_\_

Summary Appraisals:

\_\_\_\_\_ \$/parcel \_\_\_\_\_ x \_\_\_\_\_ parcel(s) = \_\_\_\_\_

Self Contained Appraisals:

\_\_\_\_\_ \$/parcel \_\_\_\_\_ x \_\_\_\_\_ parcel(s) = \_\_\_\_\_

Litigation and Expert Witness Consultation: \$/hr \_\_\_\_\_ x \_\_\_\_\_ hrs = \_\_\_\_\_

**Reimbursable Expenses:**

If reimbursable expenses are to be paid hereunder, such expenses must be specifically AUTHORIZED AND IDENTIFIED in this section. Should no reimbursable expenses be particularly set forth in this section, the parties agree that reimbursable expenses shall not exceed \$\_\_\_\_\_.

Appraiser's total compensation, including reimbursable expenses, if any, will be established in a stipulated sum not to exceed \$\_\_\_\_\_.

3. Work shall begin on \_\_\_\_\_, 202\_\_\_\_, and shall be substantially completed by \_\_\_\_\_, 202\_\_\_\_\_. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this Task Order by both Appraiser and City, Appraiser is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

CHANDLER AND ASSOCIATES OF  
PANAMA CITY, INC.

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By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF PANAMA CITY BEACH, FL

ATTEST:

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

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

### ***SUMMARY OF FEES***

PARCEL 701:	\$7,200
PARCEL 703:	\$6,300
PARCEL 712:	\$9,000
PARCEL 714:	\$6,300
PARCEL 716:	\$7,200
PARCELS 121 & 722:	\$11,250
Total:	<b><u>\$47,250</u></b>

### **PROPOSED DELIVERY DATE**

Pending no unforeseen circumstances, we propose to deliver all seven appraisal reports within not more than 45 days of receiving an executed task assignment.

Respectfully Submitted,  
CHANDLER AND ASSOCIATES OF PANAMA CITY, INC.

*Randall Chandler*

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Randall C. Chandler, MAI  
State-Certified General Real Estate Appraiser RZ156



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Lynne Fasone, City Council	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Staff recommends approval.	
<b>4. AGENDA:</b> <u>CONSENT AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Financial Health	
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  By approval of this matter in the Consent Agenda, the City Council makes a finding of surplus for these items and approves their removal from the Master Audit List.	
<a href="03.23.2023.Surplus Items.pdf">03.23.2023.Surplus Items.pdf</a>	



## City of Panama City Beach Surplus/Auction Listing

March 23, 2023 Meeting

### **Vehicles**

<b>City Asset ID</b>	<b>Year</b>	<b>Make</b>	<b>Model</b>	<b>VIN</b>	<b>Department</b>	<b>Comments</b>
0781	2014	Yamaha	Grizzly 450	G941211D6F0A	Code Enforcement	Unit # A8

### **Other Machinery and Equipment**

<b>City Asset ID</b>	<b>Serial #</b>	<b>Department</b>	<b>Employee Assigned</b>	<b>Description</b>	<b>Comments</b>
3779	02137	Utilities	Underground Utilities	John Deere Backhoe	2004
2465	00442	Utilities	Underground Utilities	Backhoe Bucket	2008
1864	02066	Utilities	Underground Utilities	John Deere Backhoe	2004
01022		Public Works		Bushhog Mower	
01025		Public Works		Bushhog Mower	
01698		Public Works		2002 Ford F-150	
01808		Public Works		Cabinet for Traffic Counter	
01810		Public Works		Traffic Counter	
Not tagged		Public Works		Rotary Cutter	
Not tagged		Public Works		Traffic Signal Controller	
Not tagged		Public Works		Traffic Signal/Loops	
02341		Public Works		Generator	
00356		Public Works		Fork	
00351		Public Works		Emergency Equipment S-13	
00301		Public Works		Compressor	
01950		Public Works		2001 F250 XL Ford TR	
02342		Public Works		John Deere Gator 4x4	

**Other Machinery and Equipment**

<b>City Asset ID</b>	<b>Serial #</b>	<b>Department</b>	<b>Employee Assigned</b>	<b>Description</b>	<b>Comments</b>
02096		Public Works		40' Flag Pole	
02345		Public Works		40' Flag Pole	
02346		Public Works		40' Flag Pole	
02347		Public Works		40' Flag Pole	
02348		Public Works		40' Flag Pole	
02349		Public Works		40' Flag Pole	
02350		Public Works		40' Flag Pole	
02351		Public Works		40' Flag Pole	
02352		Public Works		40' Flag Pole	
02353		Public Works		40' Flag Pole	
02354		Public Works		40' Flag Pole	
02355		Public Works		40' Flag Pole	



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Cole Davis, Administration	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Approve first reading of Ordinance No. 1614.	
<b>4. AGENDA:</b>  <u>REGULAR AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Public Safety Quality of Life
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  At its February 9th meeting, Mayor Sheldon expressed in protecting residents and visitors from nuisances and invasions of privacy caused by the increasingly common use of drones and other aircraft brought on by advancements in technology. These small, unmanned aircraft are commonly equipped with high resolution cameras capable of capturing detailed photography and video of private property where a person has a reasonable expectation of privacy.  Ordinance 1614 updates the City's existing regulations of aircraft to prohibit all aircraft from being used in a manner that would cause harassment, annoyance, or in a manner that would allow for surveillance. The Ordinance replaces the existing enforcement provisions of Chapter 6 with an updated version to coincide with the City's adoption of the code enforcement hearing officer system.	
<a href="#"><b>Ord 1614.Amending Code Related to Aviation.pdf</b></a>	

## ORDINANCE NO. 1614

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 6 OF THE CITY'S CODE OF ORDINANCES RELATED TO AVIATION; PROVIDING FOR DEFINITIONS; REPEALING AND REPLACING REGULATIONS RELATED TO ENFORCEMENT; RESTRICTING THE USE OF AIRCRAFT ON PRIVATE AND PUBLIC PROPERTY; PROVIDING FOR EXCEPTIONS; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 6-1 of the Code of Ordinances of the City of Panama City Beach, related to Definitions is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### Sec. 6-1. - Definitions.

The following words or phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

**"Aircraft"** shall mean any self-propelled motor vehicle or contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air. Aircraft shall not mean a glider, wing, balloon, parachute or other non-motorized aerial apparatus.

**"Commercial Use"** means the use of an Aircraft within the city limits for a commercial purpose, including aerial photography, aerial mapping, or geospatial imaging.

**"Commercial User"** means any company, entity or person who is in the business of flying an Aircraft for a commercial use.

**"Drone"** means an Aircraft that may be flown without a pilot or operator in or touching the Aircraft.

**"Image"** means a record of thermal, infrared, ultraviolet, visible light, or other electromagnetic waves; sound waves; odors; or other physical phenomena which captures conditions existing on or about real property or an individual located on that property.

**"Imaging Device"** means a mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting an image.

"Powered Paraglider" shall mean a type of Aircraft defined as a lightweight, free-flying, foot-launched glider wing with no rigid primary structure and powered by a motor (a "paramotor") worn by the pilot on his or her back.

"Powered Paraglider Event" or "event" means a circumstance in which three or more Powered Paragliders take-off from the same general location or address on the sandy Gulf beach within a period of one hour and which is organized by an Event Organizer.

"Powered Paraglider Event Organizer" or "Event Organizer" means a firm or person which directly or indirectly performs any two or more of the following functions: solicits pilots to participate in the event; registers pilots to participate in the event, collects a fee from participants in the event, advertises the event, arranges a location for the event and procures goods and services for the event at that location, requires adherence to rules for participation in the event or accepts responsibility to oversee and conduct the event.

**"Private Property"** means any real property within the city which is privately owned and which is not public property.

**"Public Property"** means streets, rights-of-way, easements, parks, beaches, and other publicly owned parcels of land.

**"Surveillance"** means:

**(1) With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or**

**(2) With respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.**

"Rotorcraft" shall mean a heavier-than-air aircraft that derives its support in flight principally from lift generated by one or more rotors.

"Rotorcraft" sightseeing business shall mean a business operated for profit by offering to the public primarily amusement or sightseeing rides in a rotorcraft routinely returning to the point of origin and not traveling to any point more than twenty (20) miles distance from the point of origin.

(Ord. No. 26-2, § 3, 2-24-83; Ord. No. 1237, § 1, 8-23-2012; Ord. No. 1275, § 1, 4-25-2013)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

SECTION 2. From and after the effective date of this ordinance, Section 6-6 of the Code of Ordinances of the City of Panama City Beach, related to Penalty is repealed entirely and replaced as follows (new text **bold and**

**underlined**, deleted text ~~struckthrough~~):

**Sec. 6-6. – Enforcement**

- a. The City finds that a violation of any section of this Chapter presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature
- b. A violation of this Chapter shall be subject to the following fines:
  - i. If the violation is the first offense, a person or business shall receive a civil fine of two hundred fifty dollars (\$250.00);
  - ii. If the violation is the second violation within the preceding six (6) months, a person or business shall receive a civil fine of five hundred dollars (\$500.00);
  - iii. If the violation is the third or subsequent violation within the preceding twelve months (12) months, a person or business shall receive a civil fine of one thousand dollars (\$1,000.00); and
- c. A violation of section 6-8(d) shall be subject to the fines in double the amount set forth in section 6-6(b).
- d. Enforcement. In addition to any other penalty provided by law, compliance with this Article may be enforced by the remedies and procedures set forth in Chapter 25 of this Code (the Code Enforcement Hearing Officer System). This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws.

**SECTION 3.** From and after the effective date of this ordinance, Section 6-8 of the Code of Ordinances of the City of Panama City Beach, related to Operation of Aircraft is created to read as follows:

**Sec. 6-8. – Regulations of Aircraft on Private and Public Property**

- a. **Private Property.** It is unlawful for a person to operate an *Aircraft* over *Private Property* at an elevation between zero (0) feet and five hundred (500) feet above the ground level of the *Private Property* without the express written permission of the owner of the *Private Property* over which the *Aircraft* is flying.
- b. **Public Property.** The use of any *Aircraft* over *Public Property* within the city limits is permitted only under the following restrictions:
  - i. A person shall not operate an *Aircraft* over *Public Property* equipped with an *Imaging Device* to record an *Image of Private Property* or of the owner, tenant, occupant, invitee, or licensee of such *Private Property* with the intent to conduct *Surveillance* on the individual or property captured in the image in violation of such person's reasonable expectation of privacy without his or her written consent. For purposes of this section, a person is presumed to have a reasonable expectation of privacy on his or her *Private Property* if he or she is not observable by persons located at ground level in a place where they have a legal right to be,

regardless of whether he or she is observable from the air with the use of a *Aircraft*.

- ii. A person shall not operate any *Aircraft* over a *City Park* without the City's express written permission.
- c. **Exemptions.** This section shall not prohibit the use of a *Drone*:
  - i. By an employee or a contractor of any local, county, state or federal governmental agency who uses a *Drone* solely for lawful governmental purposes.
  - ii. By an employee or a contractor of an electric, water, or natural gas utility who uses a *Drone* solely for utility purposes.
  - iii. For aerial mapping, if the person or entity using a *Drone* for this purpose is operating in compliance with Federal Aviation Administration regulations.
  - iv. To deliver cargo, if the person or entity using a *Drone* for this purpose is operating in compliance with Federal Aviation Administration regulations.
  - v. By a holder of a Special Event Permit who uses a *Drone* over the venue of that Special Event for purposes of capturing *Images* of the Special Event.
- d. **Additional Violations.** In addition to those violations enumerated above, the following are violations of this section, even under an otherwise authorized use or exception. No person or entity shall operate an *Aircraft* within the city limits:
  - i. In a careless or reckless manner that poses an apparent or actual threat of harm, or actual harm to persons or property; or
  - ii. In such a manner as to intentionally harass, annoy, or assault a person or persons or to cause a public nuisance; or
  - iii. With the intent to conduct *Surveillance* on the individual or property captured in the image in violation of such person's reasonable expectation of privacy without his or her written consent.
- e. **Regulations Supplemental.** The rules and regulations set forth in this section shall be cumulative and supplemental to those more specific regulations set forth in other sections of this Chapter.

**SECTION 4.** All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

**SECTION 5.** The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed

whenever necessary or convenient.

SECTION 6. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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MARK SHELDON, MAYOR

ATTEST:

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LYNNE FASONE, CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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MARK SHELDON, MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Posted on pcbfl.gov on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Scott Passmore, Community Redevelopment Agency	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Authorize the City Manager to execute the attached Transfer Agreement between the Florida Department of Transportation and the City of Panama City Beach and accept transfer of the Front Beach Road right-of-way segment as outlined in the Transfer Agreement.	
<b>4. AGENDA:</b> <u>REGULAR AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Transportation
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  The City of Panama City Beach is preparing to advertise for construction bids for the Front Beach Road Segment 4.1 project, from east of Lullwater Drive to East of Hills Road.  Prior to the start of work on the project, the right-of-way needed to construct the project needs to be transferred from the jurisdiction of the Florida Department of Transportation to the City. This agreement outlines the terms of that transfer from the FDOT to the City.	
<a href="#">Res 23-141.FL DOT.Seg 4.1 Roadway Transfer.pdf</a> <a href="#">Front Beach Road 4.1 Transfer Agreement FS.pdf</a>	

**RESOLUTION NO. 23-141**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A TRANSFER AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF PANAMA CITY BEACH, FOR A PORTION OF STATE ROAD (SR) 30 (FRONT BEACH ROAD SEGMENT 4.1).**

**WHEREAS**, the City has requested the transfer of State Road (SR) 30 (Front Beach Road) (Roadway ID 46010000) from 442' East of Lullwater Drive (Beginning Mile Post 7.856) to 350' East of Hills Road (Ending Mile Post 9.178) for an approximate net length of 1.322 miles (the "Roadway Segment") from the State Highway System to the City Street System, and this transfer is mutually agreed upon, between the City and the Department; and

**WHEREAS**, the City desires to accept the transfer of the Roadway Segment from the State Highway System to the City Street System.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Panama City Beach, that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Roadway Transfer Agreement between the City and the Florida Department of Transportation (FDOT), relating to the FDOT's transfer of the Roadway Segment to the City, in substantially the form **attached** and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

**Florida Department of Transportation/City of Panama City Beach**

**ROADWAY TRANSFER AGREEMENT**

**State Road 30 Front Beach Road Segment 4.1**  
**State Highway System to the City Street System**

THIS AGREEMENT, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the "DEPARTMENT," and the CITY OF PANAMA CITY BEACH, hereinafter called the "CITY." The DEPARTMENT and the CITY are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

**WITNESSETH**

**WHEREAS**, the CITY has requested the transfer of State Road (SR) 30 (Front Beach Road) (Roadway ID 46010000) from 442' East of Lullwater Drive (Beginning Mile Post 7.856) to 350' East of Hills Road (Ending Mile Post 9.178) for an approximate net length of 1.322 miles (the "Road Segment") from the State Highway System to the City Street System, and as depicted on the map attached hereto as Exhibit "A", and this transfer is mutually agreed upon between the CITY and the DEPARTMENT, and

**WHEREAS**, 23 U.S.C. 116 requires that a maintenance agreement be entered into between the DEPARTMENT and the CITY if the right-of-way to be transferred to the CITY contains a project constructed using federal funds. If applicable, this requirement is satisfied by execution of this Agreement, and

**WHEREAS**, section 335.0415, Florida Statutes, authorizes the Parties to enter this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and DEPARTMENT agree as set forth below:

1. The Recitals set forth in the Whereas clause above are true and are by reference made a part of this Transfer Agreement.
2. This Transfer Agreement sets forth the terms and conditions under which the CITY and the DEPARTMENT will abide.
3. By resolution, attached hereto as Exhibit "B", the CITY has authorized its representative to enter this Transfer Agreement.

4. This Agreement and transfer of the Roadway are subject to final written approval by the Secretary of the Department, which date shall serve as the effective date of this Agreement. The commencement of jurisdictional and maintenance responsibilities is the date of approval of the roadway transfer by the Secretary of the Department.

5. With respect to the Road Segment:

(a) The CITY accepts all responsibility for the right of way and for operation and maintenance of the roadway. In addition to the roadbed, this Agreement includes all curbs, culverts, mast arms (including 46M011 and 46M010) and drainage structures within the right of way at the time of transfer.

(b) The CITY shall be responsible for maintenance of the right of way and of public sidewalks, bike paths, and other ways in the right of way.

(c) The DEPARTMENT gives up all rights to the Road Segment, including the right of way, except as may be specified in this Agreement.

(d) It is agreed that all obligations of the DEPARTMENT, under any maintenance, utility, or railroad crossing agreement, permit or other agreement, relating to the Road Segment, shall be transferred at the same time and in the same manner as jurisdictional responsibility and regulatory authority over all pedestrian crossing permits (including, but not limited to, FDOT Permits # 03-K-391-0005, 05-K-391-0004 and the Airspace Agreement with Crimson Tide I, LLC dated December 1, 2016) are assigned to the CITY. If the agreements were made between the DEPARTMENT and the CITY, and the DEPARTMENT will no longer be involved after the transfer takes place, new agreements or amended agreements shall be made between the DEPARTMENT and the CITY. These agreements shall be negotiated and signed prior to District Secretary approval of the final Transfer Agreement. The DEPARTMENT acknowledges that copies of any existing permits, agreements, and easements have been turned over to the CITY for their records prior to the execution of this agreement.

(e) Disposition of telemetered traffic monitoring sites will be determined on an individual basis. The Traffic Data Section of the Transportation Data and Analytics Office in cooperation with the District Office will determine if polling the sites is still desirable even if the traffic data are no longer needed for State Highway System reporting.

(f) If there is evidence of historical or archaeological resources that could be adversely impacted after a transfer, the CITY agrees to maintain the resources in accordance with the Cultural Resource Management Coordinator (CRMC)

recommendations, attached hereto as Exhibit "C". If no evidence is found, the CITY agrees not to adversely affect any such resources if found after the transfer.

(g) Transfer of the Roadway from the Department to the CITY shall be by right-of-way map transfer ("Map Transfer"). The Department shall deliver the Map Transfer to the CITY within sixty (60) days of the Effective Date of this Agreement, or as soon thereafter as practicable. The CITY shall record the Map Transfer at the CITY's sole cost and expense in the Bay County Public Records within 60 days of its receipt and provide the Department with a copy of the recorded conveyance document upon receipt of the same from the recording office.

6. Funding associated with projects located upon the Road Segment and included in the DEPARTMENT'S current work program shall remain available for expenditure on the newly assigned city road. However, this availability is contingent upon both the availability of funding and the eligibility of that funding to be used for projects located off of the state highway system, as well as the expenditure of such funds is otherwise permissible in accordance with applicable laws, rules, regulations and policies.

7. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

8. This Transfer Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Transfer Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto.

9. This Transfer Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

10. The Parties may be reached at the following addresses and phone numbers.

**Florida Department of Transportation**  
Director, Transportation Development  
Post Office Box 607  
1074 Highway 90  
Chipley, FL 32428  
Telephone: (850) 330-1214  
Fax: (850) 330-1761

**City of Panama City Beach**  
Drew Whitman  
City Manager  
17007 Panama City Beach Parkway  
Panama City, FL 32413  
Telephone: (850) 223-5100

11. Each Party is an independent contractor and is not an agent of the other Party. Nothing contained in this Transfer Agreement shall be construed to create any fiduciary relationship between the Parties, during or after the performance of this Transfer Agreement. Neither Party shall have the authority to bind the other Party to any obligation whatsoever to any third party without the express specific written consent of the other.
12. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
13. If any part of this Transfer Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Transfer Agreement shall remain in full force and effect provided that the part of this Transfer Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Transfer Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Transfer Agreement to be executed, the day and year below written.

*Signature page follows.*

**CITY OF PANAMA CITY BEACH**

BY: \_\_\_\_\_  
City Manager

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

ATTEST: \_\_\_\_\_

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

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

LEGAL REVIEW:

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City Attorney

**STATE OF FLORIDA DEPARTMENT  
OF TRANSPORTATION**

BY: \_\_\_\_\_  
Philip Gainer, P.E.  
District Secretary

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

ATTEST: \_\_\_\_\_

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

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

LEGAL REVIEW:

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Office of General Counsel  
Department of Transportation

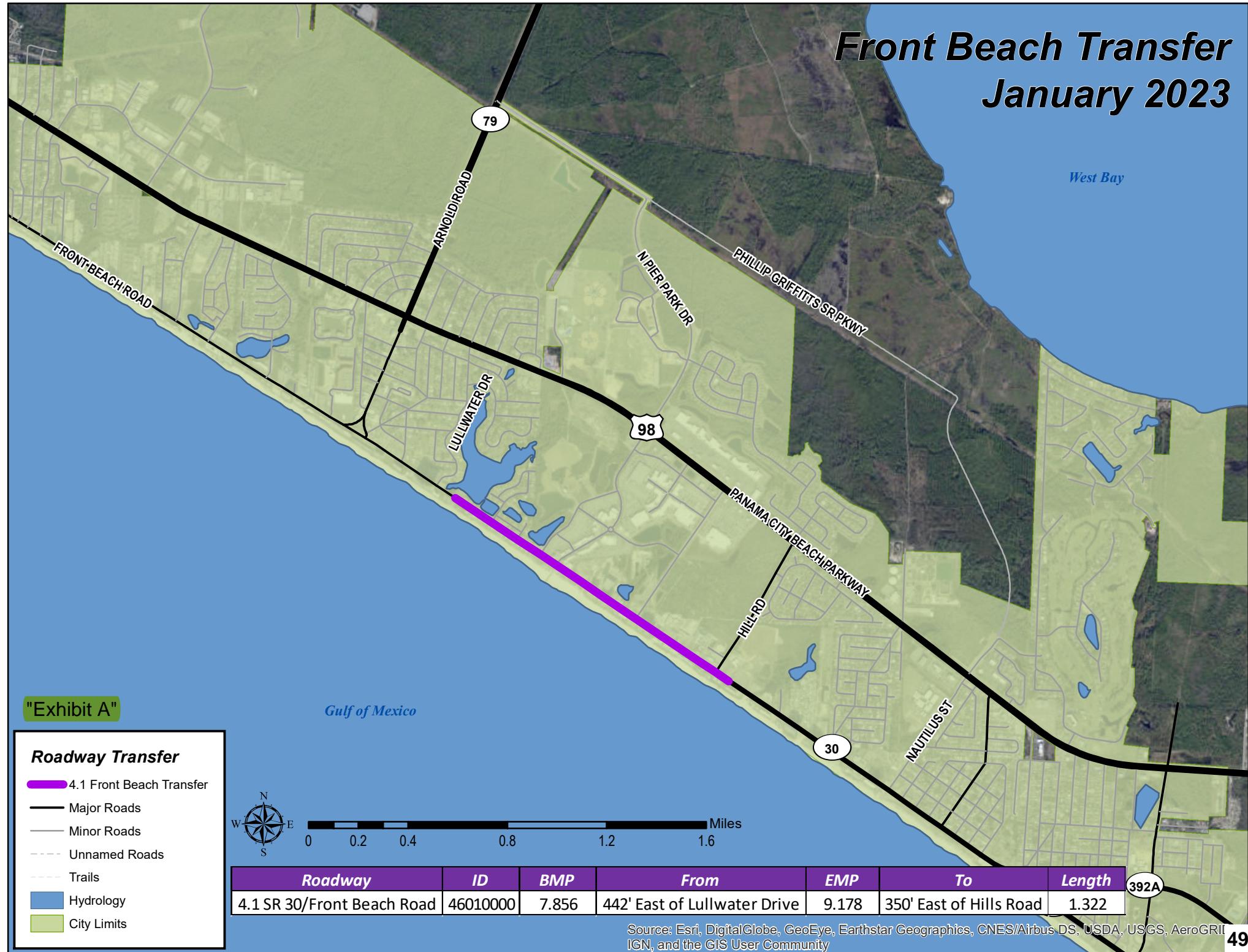
**FINAL APPROVAL BY THE SECRETARY OF TRANSPORTATION**

The Secretary of the Florida Department of Transportation approves the transfer and all provisions listed in this executed Transfer Agreement and the supporting Resolution between the Department and the City.

Signed \_\_\_\_\_  
Jared W. Perdue, P.E.  
Secretary  
State of Florida, Department of Transportation

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

# Front Beach Transfer January 2023



**Project Name:** State Road 30/Front Beach Road Roadway Jurisdictional Transfer**FM#:** N/A**FAP#:****Project Review Date:** 9/9/2021**FDOT District:** 3**County(ies):** Bay**Project Description:** The Florida Department of Transportation (FDOT) District 3 is proposing a roadway jurisdictional transfer of the potential transfer of State Road 30/Front Beach Road from 442 feet east of Lullwater Drive to 350 feet east of Hills Road in Bay County, Florida. Jurisdictional responsibilities of SR 30/Front Beach Road would transfer from the State Highway System to the City of Panama Beach City Street System. The proposed transfer is located in Section 20 of Township 3 South, Range 16 West.**Classification Category** Stipulation VI - Minor Project Considered Unlikely to Affect Historic  
**(Stipulation V or VI):** Properties**Additional Information for Projects with No Potential to Affect Historic Properties**

Used for projects classified under Stipulation V of Florida's Section 106 Programmatic Agreement.

**Activity Types with No Potential to Affect Historic Properties select all that apply (Section 106 Programmatic Agreement Exhibit 1):**

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

**Confirmed Conditions:****YES    NO**

- The activity is a stand-alone project
- The activity does not occur on tribal lands
- The activity does not include and is not located in or adjacent to any historic resource of 50 years of age or older; nor listed on the National Register of Historic Places; nor is it listed as a National Historic Landmark
- The activity is limited to activities specified in **Exhibit 1** of Florida's Section 106 Programmatic Agreement, 2016

**IMPORTANT:** If all answers are **Yes**, the project meets the conditions set forth in Stipulation V of the Programmatic Agreement. If the answer to any of these questions is **No**, evaluate the project pursuant to the conditions in Stipulation VI of the Programmatic Agreement on page 2 of this form.

**Description of internal review methodologies used to verify compliance with Stipulation V conditions:**

**Additional Information for Projects Considered Unlikely to Affect Historic Properties**

Used for projects classified under Stipulation VI of Florida's Section 106 Programmatic Agreement.

**Identify activity types with No Potential to Affect Historic Properties, as appropriate (Section 106 Programmatic Agreement Exhibit 1):**

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

**Activity Types Considered Unlikely to Affect Historic Properties:**

Include number(s) and description(s), as appropriate, from **Exhibit 2** of Florida's Section 106 Programmatic Agreement, 2016 for project activities.

2.1, 2.4

**Confirmed Conditions:**

**YES    NO**

<input checked="" type="checkbox"/> <input type="checkbox"/> The activity is a stand-alone project
<input checked="" type="checkbox"/> <input type="checkbox"/> The activity does not occur on tribal lands
<input checked="" type="checkbox"/> <input type="checkbox"/> The activity is limited to the activities specified in <b>Exhibits 1 or 2</b> of Florida's Section 106 Programmatic Agreement, 2016
<input checked="" type="checkbox"/> <input type="checkbox"/> The desktop analysis and/or field review efforts discussed below resulted in the identification of no historic resources within the project APE
<input checked="" type="checkbox"/> <input type="checkbox"/> There are no National Historic Landmarks within or adjacent to the project APE

**IMPORTANT:** If all answers are **Yes**, the project meets the conditions set forth in Stipulation VI of the Programmatic Agreement. If the answer to any of these questions is **No**, this form cannot be used. Evaluate the project pursuant to Stipulation VII of the Programmatic Agreement.

FLORIDA DEPARTMENT OF TRANSPORTATION  
**SECTION 106 PA MINIMAL IMPACT DETERMINATION**

650-050-17  
ENVIRONMENTAL MANAGEMENT  
01/17

**Area of Potential Effect (APE) Description and Justification:**

The APE is limited to the existing ROW for length of transfer, from 442 feet east of Lullwater Drive to 350 feet east of Hills Road. As no construction activities are proposed and there is no potential for indirect effects, adjacent parcels are not included in the APE.

FLORIDA DEPARTMENT OF TRANSPORTATION  
**SECTION 106 PA MINIMAL IMPACT DETERMINATION**

650-050-17  
ENVIRONMENTAL MANAGEMENT  
01/17

**Description of the desk top and field review methodologies used to confirm the conditions set forth in Stipulation VI:**

Review of the project plans, the Florida Master Site File (FMSF) database, modern and historical USGS topographic maps and aerial photographs, NRCS soil survey data, and Google Earth imagery.

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Based on the review summarized above, FDOT has determined that the State Road 30/Front Beach Road Roadway Jurisdictional Transfer project will not cause effects to historic properties.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature:  for Joy Swanson Pleas Date: 9/9/2021  
Environmental Manager, or designee

**Processing Instructions:** To notify the State Historic Preservation Officer and the Florida Division of Historical Resources of minor projects having no effects to historic properties under stipulations V and VI of Florida's Section 106 Programmatic Agreement, email the completed form to the Compliance and Review Section of the Bureau of Historic Preservation at [CompliancePermits@dos.myflorida.com](mailto:CompliancePermits@dos.myflorida.com). Use the following standard text in the subject line:

*Notification of Minor Project per Stipulations V and VI of  
the statewide Section 106 Programmatic Agreement*

**Link to Section 106 PA:**

[http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%20%202015mar16%20\(3\).pdf](http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%20%202015mar16%20(3).pdf)



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

**1. DEPARTMENT MAKING REQUEST/NAME:**  
Kathy Younce, Public Works

**2. MEETING DATE:**  
March 23, 2023

**3. REQUESTED MOTION/ACTION:**

Staff recommends approval of the execution of the supplemental agreement between the FDOT and the City of Panama City Beach.

**4. AGENDA:**

REGULAR AGENDA

**5. IS THIS ITEM BUDGETED  
(IF APPLICABLE)?:** No

Detailed Budget Amendment Attached: Yes

**6. IDENTIFY STRATEGIC PRIORITY:**

Public Safety  
Quality of Life  
Attractive Community

**7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?**

The City was previously awarded a Florida Shared-Use Non-Motorized Trail Agreement (SUN-TRAIL) grant in the amount of \$904,716.00 from the Florida Department of Transportation (FDOT) in June of 2018. The Supplemental Agreement attached is required to reflect the additional funds from the Sun Trail Program awarded to the City of Panama City Beach for this project and to modify the agreement language as a result of the additional funding. FDOT's additional funds through this agreement are in the amount of \$1,718,368.00, for a total Sun Trail grant funded amount of \$2,623,084.00. The match portion to be paid by the City will total \$78,593.00. This agreement also includes a contract time extension through May 31, 2024, for final project completion.

A budget amendment is attached to reflect the additional grant funds awarded to the City and to return to reserves the portion of the project previously funded from impact fees, American Rescue Plan Funds, and unrestricted reserves which is now being funded by the increase in the grant award.

[Res 23-142.Gayles Trails Grant from SunTrail.final.pdf](#)  
[FY 2023 BA #27.pdf](#)  
[GOU25 - 440282-1-Gayles Trails -SA 5\\_Funds.pdf](#)  
[18-88OCR.pdf](#)

## RESOLUTION NO. 23-142

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A SUPPLEMENTAL AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION TO PROVIDE ADDITIONAL FUNDING FOR GAYLE'S TRAILS THROUGH THE SUNTRAIL GRANT PROGRAM IN THE AMOUNT OF \$1,718,368; FOR A TOTAL GRANT AWARD IN THE AMOUNT OF \$2,623,084; AND AUTHORIZING A BUDGET AMENDMENT TO REFLECT THE RECEIPT OF THESE FUNDS.**

**WHEREAS**, in June 2018, FDOT awarded the City a grant in the amount of \$904,716 through its Sun Trail Program to fund the construction of Gayle's Trails between Holiday Golf Club and the Breakfast Point subdivision; and

**WHEREAS**, FDOT would like to provide additional funding for this project in the amount of \$1,718,368, for a total grant amount of \$2,623,084.

**BE IT RESOLVED** that:

1. The appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Supplemental Agreement between the City and the Florida Department of Transportation relating to the Suntrail Grant Program for Gayle's Trails, to provide funding in a total amount of Two Million, Six Hundred Twenty-Three Thousand, Eighty-Four Dollars (\$2,623,084), in the form **attached** as Exhibit A and presented to the Council today.
2. The following budget amendment #27 is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2022 and ending September 30, 2023, as shown in and in accordance with the **attached** and incorporated Exhibit B, to reflect the receipt of these funds for this purpose.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

**CITY OF PANAMA CITY BEACH  
BUDGET TRANSFER FORM BF-10**

BA# 27

## BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To reflect additional grant revenues from FDOT for the extension of Gayle's Trails (GOU25: FPID # 440282-1-54-01)

Funding sources for the project are currently in the budget as follows: \$904,700 from grant funding, \$567,400 (20%) from recreation impact fees, \$438,200 from restricted American Rescue Plan funding, and the balance of \$926,700 from unrestricted reserves. \$2,623,084 will now be funded by the grant, and the balance will be funded by recreation impact fees.

## FINANCE REVIEW:

**RESOLUTION #:**

DATE:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT**  
**SUPPLEMENTAL AGREEMENT**

525-010-60  
PROGRAM MANAGEMENT  
12/18  
Page 1 of 1

SUPPLEMENTAL NO.  
005  
CONTRACT NO.  
G0U25  
FPN  
440282-1-54-01

Recipient: City of Panama City Beach

This Supplemental Agreement ("Supplemental"), dated \_\_\_\_\_ arises from the desire to supplement the State-Funded Grant Agreement ("Agreement") entered into and executed on 6/5/2018 as identified above. All provisions in the Agreement and supplements, if any, remain in effect except as expressly modified by this Supplemental.

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The parties agree that the Agreement is to be amended and supplemented as follows:

Exhibit B- Updated Schedule of Financial Assisance

Exhibit D- Audit Requirement for Awards of State Financial Assistance

Exhibit E: New Resolution Approving Agreement

Reason for this Supplemental and supporting engineering and/or cost analysis:

This Supplemental Agreement is required to add additional funds to the SUN Trail Program awarded to the City of Panama City Beach for the subject project and modify the agreement language as a result of the additional funding source. Contract time is also extended through May 31,2024

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

RECIPIENT:

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

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

Name: Drew Whitman  
Title: City Manager, Panama City Beach

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

Name: Tim Smith, P.E.  
Title: Director of Transportation Development

Legal Review:

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT**

**EXHIBIT B**

**SCHEDULE OF FINANCIAL ASSISTANCE**

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

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
440282-1-54-01	Non-federal STFF	088717	2023		55.038	Florida Shared-Use Nonmotorized (SUN) Trail Program – Wheels on Road Fund	\$1,718,368.00
440282-1-54-01	Non-federal STFF	088717	2018		55.038		\$904,716.00
440282-1-54-01	Local Funds		2023				78,593.00
<b>Total Financial Assistance</b>							<b>\$2,701,677.00</b>

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

Phases*	State	Local	Federal	Totals	State %	Local%	Federal %
Land Acquisition	\$	\$	\$	\$			
Planning	\$	\$	\$	\$			
Environmental/Design/Construction	<b>\$2,623,084.00</b>	<b>\$78,593.00</b>	\$	<b>\$2,701,677.00</b>			
<b>Totals</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Florida Shared-Use Nonmotorized Trail Network Program Grant Agreement.

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

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

Tanya Sanders Branton

Department Chair Manager Name

*Tanya Branton*

Signature  
E62677D5145F4E2...

03/03/2023 | 12:24 PM EST

Date

**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT**

**EXHIBIT D**

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

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

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

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL NETWORK PROGRAM

**CSFA Number:** 55.038

**\*Award Amount:** \$2,623,084.00

\*The award amount may change with supplemental agreements.

Specific project information for CSFA Number 55.038 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

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

State Project Compliance Requirements for CSFA Number 55.038 are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

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

**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT**

**EXHIBIT E**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

To: Tanya.Brant0@dot.state.fl.us

**FLORIDA DEPARTMENT OF TRANSPORTATION  
FUNDS APPROVAL**

**G0U25**

**3/1/2023**

**CONTRACT INFORMATION**

<b>Contract:</b>	G0U25
<b>Contract Type:</b>	GD - GRANT DISBURSEMENT (GRANT)
<b>Method of Procurement:</b>	G - GOVERMENTAL AGENCY (287.057,F.S.)
<b>Vendor Name:</b>	CITY OF PANAMA CITY BEACH
<b>Vendor ID:</b>	F596045116012
<b>Beginning Date of This Agreement:</b>	06/05/2018
<b>Ending Date of This Agreement:</b>	05/31/2023
<b>Contract Total/Budgetary Ceiling:</b>	ct = \$2,623,084.00
<b>Description:</b>	CONSTRUCTION OF GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST PT SUBDIVISION

**FUNDS APPROVAL INFORMATION**

**FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 3/1/2023**

Action:	Supplemental
Reviewed or Approved:	APPROVED
Organization Code:	55032010330
Expansion Option:	A7
Object Code:	751000
Amount:	\$1,718,368.00
Financial Project:	44028215401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2023
Budget Entity:	55150200
Category/Category Year:	088717/23
Amendment ID:	S001
Sequence:	00
User Assigned ID:	005
Enc Line (6s)/Status:	0002/04

**Total Amount: \$1,718,368.00**

## **RESOLUTION 18-88**

### **A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, RATIFYING THE FDOT GRANT AGREEMENT RELATED TO THE CONSTRUCTION OF A PORTION OF GAYLES TRAILS EAST OF COLONY CLUB; AND EXPRESSLY AUTHORIZING THE CITY MANAGER TO EXECUTE A MAINTENANCE MEMORANDUM AGREEMENT RELATED TO THAT PROJECT.**

WHEREAS, on March 22, 2018, the Council adopted Resolution 18-72, approving a \$904,716 grant from the Florida Department of Transportation for construction of a segment of Gayle's Trails located east of Holiday Golf Club to the Breakfast Point Subdivision; and

WHEREAS, the Agreement approved by the Council did not include the entirety of Exhibit G, which notably requires execution by both parties, such that the Department has requested a City resolution expressly contemplating and authorizing execution of this Exhibit.

#### **BE IT RESOLVED** that:

1. The appropriate officers of the City are authorized to execute, deliver, and to the extent necessary, to ratify on behalf of the City that certain Florida Shared-Use Nonmotorized Grant Agreement between the City and the State of Florida Department of Transportation, relating to the acceptance and use of \$904,716 to fund the construction of Gayle's Trails from east of Holiday Golf Club to Breakfast Point Subdivision, in the form attached and presented to the Council today with an amended Exhibit G, with such changes, insertions or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
2. The appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Maintenance Memorandum of Agreement between the City and the Florida Department of Transportation, which forms Exhibit G to that certain Florida Shared-Use NonMotorized Trail Network Agreement referenced above, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

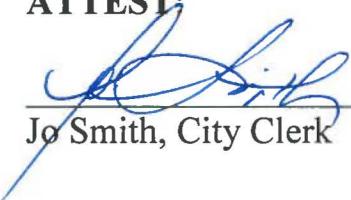
**PASSED** in regular session this 10<sup>th</sup> day of May, 2018 *nunc pro tunc*  
March 22, 2018.

**CITY OF PANAMA CITY BEACH**

By: 

Mike Thomas, Mayor

**ATTEST:**

  
Jo Smith, City Clerk

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

<b>Financial Project No:<u>440282-1-54-01</u></b>	<b>Contract No. <u>G0U25</u></b>	<b>Vendor No.: <u>F596045116012</u></b>	<b>CSFA No. and Title: <u>55.038</u></b>
Florida Shared-Use Nonmotorized (SUN) Trail Network Program			

THIS FLORIDA SHARED-USE NONMOTORIZED TRAIL GRANT AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, by and between the State of Florida Department of Transportation, ("Department"), and CITY OF PANAMA CITY BEACH, ("Recipient"). The Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

**RECITALS**

- A. The Department is authorized under Section 339.81, Florida Statutes, to enter into this Agreement.
- B. The Florida Shared-Use Nonmotorized Trail Network is included in the Department's work program for the purposes of funding and maintaining projects within the network.
- C. The purpose of this Agreement is to provide for the Department's participation in the construction of a Multi-use Path, GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT SUBDIVISION, as further described in Exhibit "A", Scope of Services ("Project"), state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed. The Project is or shall be a component of the Florida Shared-Use Nonmotorized Trail Network and it would be more practical, expeditious, and economical for the Recipient to perform the Project.
- D. The Recipient by Resolution No. 18-72 adopted on 22, <sup>MARCH</sup> 2018, a copy of which is attached hereto and made a part hereof as Exhibit "E", Recipient Resolution, authorizes the proper officials to enter into this Agreement.

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

- 1. **Incorporation of Recitals:** The recitals set forth above are true and correct and are incorporated into this Agreement.
- 2. **Term of Agreement:** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through MAY 20, 2020. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department. Unless terminated earlier, work on the Project shall commence no

[Type here]

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

later than: the N/A day of \_\_\_\_\_, 20\_\_\_\_ or within 30 days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

3. **Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
4. **Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Recipient's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
  - a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
  - b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
  - c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
  - d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

5. **Project Cost:**

- a. The estimated total cost of the Project is \$904,716. This amount is based upon the schedule of funding in **Exhibit "B", Method of Compensation**. The schedule of funding may be modified by mutual agreement of the Parties.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$904,716 and as more fully described in **Exhibit "B", Method of Compensation**. The Parties agree that the Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of a supplemental agreement. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

6. **Compensation and Payment:**

- a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Scope of Services in **Exhibit "A"**, and as set forth in the Method of Compensation in **Exhibit "B"**.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Financial Project Number 440282-1-54-01, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Scope of Services. Any changes to the deliverables shall require written approval in advance by the Department.
- c. Invoices shall be submitted no more often than monthly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to reimbursements. The Department will identify the Department's Project Manager to the Recipient in writing.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met.
- e. Travel expenses are not compensable under this Agreement.
- f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under s. 334.044 (29), Florida Statutes. If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the retained amount during the next billing period. If the Recipient is unable to resolve the deficiency, the funds retained must be forfeited at the end of the Agreement's term.
- g. Recipients providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

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

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- n. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- o. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

**7. General Requirements:**

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

- a. In the event the Recipient proceeds with any phase of the Project utilizing its own forces, the Recipient will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall certify to Department that the Recipient's design consultant and/or construction contractor has secured the necessary permits. If the Recipient fails to provide such certification to Department by execution of agreement, the Department may, at its discretion, terminate this Agreement.
- c. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained.
- d. In the event the cost of the Project is greater than \$250,000.00 and the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
  - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
  - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement.
- e. The Recipient shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
- f. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Recipient will make best efforts to obtain the Department's input in its decisions.
- g.  If this box is selected, then the following provision is incorporated into this Agreement:

A portion of the Project will be located on the Department's right-of-way and the Recipient shall be responsible for ensuring that the construction work under this

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Department standards and that the work is performed in accord with **Exhibit "F", Terms and Conditions of Construction**, attached to and incorporated into this Agreement.

**8. Contracts of the Recipient**

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act

**9. Design and Construction Standards and Required Approvals:** In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. The Recipient must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or exhibit past project experience in the last five years that are comparable in scale, composition, and overall quality of the site identified within the scope of services of this Project.
- b. Construction Engineering Inspection (CEI) services will be provided by the Recipient by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project.
- c. The Recipient understands that it is responsible for the preparation of all design plans for the Project. The Recipient shall hire a qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project.
- d. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department's Construction Project Manager, Joseph Mastro, at 850 767-4990 or from an appointed designee. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

- e. The Recipient will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project.
- f. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.
- g. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- h. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**10. Maintenance Obligations:** In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient has agreed by resolution to execute a Maintenance Memorandum of Agreement ("MMOA") in which Recipient agrees to maintain the entire Project as depicted in the construction plans and specifications for the useful life of the Project, and such resolution is attached and incorporated into this Agreement as **Exhibit "E"**. The Recipient shall execute the MMOA concurrently with execution of this Agreement. The MMOA is attached and incorporated into this Agreement as **Exhibit "G"**. The terms of the MMOA, **Exhibit "G"**, shall survive the termination of this Agreement. The Parties acknowledge and agree that the design plans for the Project may not yet be finalized and are subject to review by the Department. Upon completion of the Project, the Parties shall amend the MMOA to attach the latest version of the construction plans for the Project to the MMOA in order to show the extent of the Project to be maintained.

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

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

- b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:

  - i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
  - ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
  - iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).
  - iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

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

And

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

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
- vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

**12. Notices and Approvals:**

- a. All notices (except invoices) pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses and the Agreement Administrators set forth below for the

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**

**OLEN PETTIS** \_\_\_\_\_  
1074 HWY 90 CHIPLEY, FL. 32428 \_\_\_\_\_  
PHONE: (850)330-1543 \_\_\_\_\_  
FAX: \_\_\_\_\_  
EMAIL: OLEN.PETTIS@DOT.STATE.FL.US \_\_\_\_\_

**RECIPIENT:**

**MARIO GISBERT** \_\_\_\_\_  
110 SOUTH ARNOLD ROAD \_\_\_\_\_  
PANAMA CITY BEACH, FL. 32413 \_\_\_\_\_  
  
PHONE: (850)233-5100 \_\_\_\_\_  
FAX: (850)233-5049 \_\_\_\_\_  
EMAIL: MGISBERT@PCBGOV.COM \_\_\_\_\_

b. All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

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

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

**14. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement. Additionally, the Recipient agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

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

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Recipient's sovereign immunity."

- b. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Recipient is a state agency or subdivision of the State of Florida and elects to self-perform the Project, then the Recipient may self-insure. If the Recipient is not a state agency or subdivision of the State of Florida or if the Recipient is a state agency or subdivision of the State of Florida that elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department to be made an Additional Insured as to such insurance.

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, you shall, in addition to the insurance coverage required pursuant to 7-13.2 above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 15.C above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have. The Railroad Protective Liability Coverage described above is not required if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 11.c above. This provision does not apply if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.

**15. Miscellaneous:**

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance 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).

- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- f. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- g. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- h. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- i. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.
- j. The Recipient shall:

  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- k. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.
- l. The Recipient agrees to comply with Section 20.055(5), F.S., and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S.
- m. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

**16. Exhibits.**

- a. Exhibits A, B, C, D, and E are attached to and incorporated into this Agreement.
- b.  A portion or all of the Project will utilize the Department's right-of-way and therefore Exhibit F, Terms and Conditions of Construction, is attached and incorporated into this Agreement.

**c. Exhibit List**

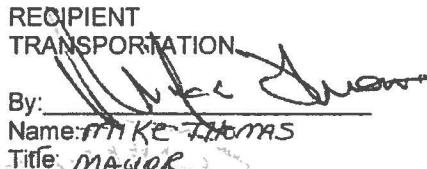
- Exhibit A: Scope of Services
- Exhibit B: Method of Compensation
- Exhibit C: Engineer's Certification of Compliance
- Exhibit D: State Financial Assistance (Florida Single Audi Act)
- Exhibit E: Recipient Resolution
- \*Exhibit F: Terms and Conditions of Construction
- Exhibit G: Maintenance Memorandum of Agreement

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

*The remainder of this page intentionally left blank.*

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

RECIPIENT  
TRANSPORTATION

By:   
Name: MIKE THOMAS  
Title: MAYER

STATE OF FLORIDA, DEPARTMENT OF

By: \_\_\_\_\_  
Name: Jared Perdue, P.E.  
Title: D3 Director of Transportation Development

Title:

Legal Review:

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT A**  
**SCOPE OF SERVICES**

This exhibit forms an integral part of the Florida Shared-Use Nonmotorized Trail Network Agreement between the State of Florida, Department of Transportation and CITY OF PANAMA CITY BEACH.

Project Description: GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT SUBDIVISION

This project is to construct a 12' wide asphalt multi-use path which will also include boardwalks.

The following special requirements and conditions shall apply:

Construction Shall not commence until 100% final plans are reviewed and approved by the FDOT. At that time the Notice To Proceed will be issued.

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT B**

**Method of Compensation**

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

<b>State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources:</b>						
<b>State Program Number</b>	<b>Funding Source</b>	<b>State Fiscal Year</b>	<b>CSFA Number</b>	<b>CSFA Title or Funding Source Description</b>	<b>Funding Amount</b>	<b>State Appropriation Category</b>
02	STTF	2018	55.038	Florida Shared-Use Nonmotorized (SUN) Trail Program – Wheels on Road Fund	\$904,716	5

<b>Total Award</b>	<b>\$904,716</b>	
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT C**

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

**NOTICE OF COMPLETION**

**FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL PROGRAM  
GRANT AGREEMENT**

Between

THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and CITY OF PANAMA CITY BEACH

PROJECT DESCRIPTION: GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT  
SUBDIVISION

FINANCIAL MANAGEMENT ID# 440282-1-54-01 \_\_\_\_\_

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_\_\_.

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

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

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

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish FDOT a set of "as-built" plans certified by the Engineer of Record/CEI.

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

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

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

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT D**

**STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)**

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

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

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL NETWORK PROGRAM

**CSFA Number:** 55.038

**\*Award Amount:** \$904,716

\*The award amount may change with supplemental agreements.

Specific project information for CSFA Number 55.038 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

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

State Project Compliance Requirements for CSFA Number 55.038 are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

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

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT E**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

RESOLUTION 18-72

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AUTHORIZING THE APPROPRIATE OFFICE(S) OF THE CITY TO EXECUTE AND DELIVER AN AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RELATED TO THE ACCEPTANCE OF \$904,716 FOR THE CONSTRUCTION OF GAYLE'S TRAILS BETWEEN COLONY CLUB AND BREAKFAST POINT; AUTHORIZING A BUDGET AMENDMENT FOR THE PROJECT; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

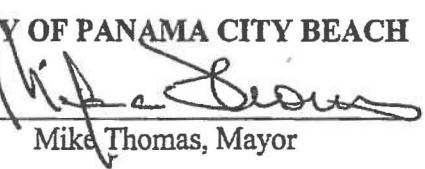
BE IT RESOLVED by the City Council of the City of Panama City Beach that:

1. The appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Florida Shared-Use Nonmotorized Grant Agreement between the City and the State of Florida Department of Transportation, relating to the acceptance and use of \$904,716 to fund the construction of Gayle's Trails from east of Holiday Golf Club to Breakfast Point Subdivision, in substantially the form attached as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
2. The following budget amendment (#16) is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2017, and ending September 30, 2018, as shown in and in accordance with the attached and incorporated Exhibit B.

THIS RESOLUTION shall be effective immediately upon passage.

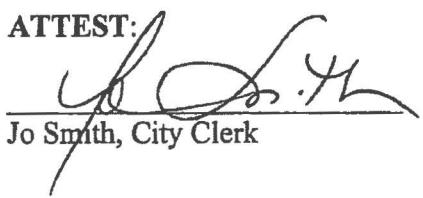
PASSED in regular session this 22<sup>nd</sup> day of March, 2018.

CITY OF PANAMA CITY BEACH

By: 

Mike Thomas, Mayor

ATTEST:

  
Jo Smith, City Clerk

STATE OF FLORIDA Department OF TRANSPORTATION  
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT

Financial Project No: <u>440282-1-54-01</u>	Contract No. <u>GOU25</u>	Vendor No.: <u>F596045116012</u>	CSFA No. and Title: <u>55.038</u> Florida Shared-Use Nonmotorized (SUN) Trail Network Program
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THIS FLORIDA SHARED-USE NONMOTORIZED TRAIL GRANT AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, by and between the State of Florida Department of Transportation, ("Department"), and CITY OF PANAMA CITY BEACH, ("Recipient"). The Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

RECITALS

- A. The Department is authorized under Section 339.81, Florida Statutes, to enter into this Agreement.
- B. The Florida Shared-Use Nonmotorized Trail Network is included in the Department's work program for the purposes of funding and maintaining projects within the network.
- C. The purpose of this Agreement is to provide for the Department's participation in the construction of a Multi-use Path, GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT SUBDIVISION, as further described in Exhibit "A", Scope of Services ("Project"), state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed. The Project is or shall be a component of the Florida Shared-Use Nonmotorized Trail Network and it would be more practical, expeditious, and economical for the Recipient to perform the Project.
- D. The Recipient by Resolution No. \_\_\_\_ adopted on \_\_\_\_ 20\_\_\_\_, a copy of which is attached hereto and made a part hereof as Exhibit "E", Recipient Resolution, authorizes the proper officials to enter into this Agreement.

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

1. **Incorporation of Recitals:** The recitals set forth above are true and correct and are incorporated into this Agreement.
2. **Term of Agreement:** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through MAY 20, 2020. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department. Unless terminated earlier, work on the Project shall commence no

[Type here]

Exhibit A

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

3. **Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
4. **Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Recipient's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
  - a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
  - b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
  - c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
  - d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
5. **Project Cost:**
  - a. The estimated total cost of the Project is \$904,716. This amount is based upon the schedule of funding in Exhibit "B", Method of Compensation. The schedule of funding may be modified by mutual agreement of the Parties.
  - b. The Department agrees to participate in the Project cost up to the maximum amount of \$904,716 and as more fully described in Exhibit "B", Method of Compensation. The Parties agree that the Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of a supplemental agreement. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.
6. **Compensation and Payment:**
  - a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Scope of Services in Exhibit "A", and as set forth in the Method of Compensation in Exhibit "B".

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- b.** The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Financial Project Number 440282-1-54-01, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Scope of Services. Any changes to the deliverables shall require written approval in advance by the Department.
- c.** Invoices shall be submitted no more often than monthly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to reimbursements. The Department will identify the Department's Project Manager to the Recipient in writing.
- d.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met.
- e.** Travel expenses are not compensable under this Agreement.
- f.** Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under s. 334.044 (29), Florida Statutes. If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the retained amount during the next billing period. If the Recipient is unable to resolve the deficiency, the funds retained must be forfeited at the end of the Agreement's term.
- g.** Recipients providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

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

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- n. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- o. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

**7. General Requirements:**

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

- a. In the event the Recipient proceeds with any phase of the Project utilizing its own forces, the Recipient will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall certify to Department that the Recipient's design consultant and/or construction contractor has secured the necessary permits. If the Recipient fails to provide such certification to Department by execution of agreement, the Department may, at its discretion, terminate this Agreement.
- c. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained.
- d. In the event the cost of the Project is greater than \$250,000.00 and the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
  - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
  - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement.
- e. The Recipient shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
- f. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Recipient will make best efforts to obtain the Department's input in its decisions.
- g.  If this box is selected, then the following provision is incorporated into this Agreement:

A portion of the Project will be located on the Department's right-of-way and the Recipient shall be responsible for ensuring that the construction work under this

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Department standards and that the work is performed in accord with Exhibit "F", Terms and Conditions of Construction, attached to and incorporated into this Agreement.

**8. Contracts of the Recipient**

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act

**9. Design and Construction Standards and Required Approvals:** In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. The Recipient must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or exhibit past project experience in the last five years that are comparable in scale, composition, and overall quality of the site identified within the scope of services of this Project.
- b. Construction Engineering Inspection (CEI) services will be provided by the Recipient by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project.
- c. The Recipient understands that it is responsible for the preparation of all design plans for the Project. The Recipient shall hire a qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project.
- d. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department's Construction Project Manager, Joseph Mastro, at 850 767-4990 or from an appointed designee. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

- e. The Recipient will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project.
- f. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.
- g. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- h. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as Exhibit "C", Engineers Certification of Completion. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**10. Maintenance Obligations:** In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient has agreed by resolution to execute a Maintenance Memorandum of Agreement ("MMOA") in which Recipient agrees to maintain the entire Project as depicted in the construction plans and specifications for the useful life of the Project, and such resolution is attached and incorporated into this Agreement as Exhibit "E". The Recipient shall execute the MMOA concurrently with execution of this Agreement. The MMOA is attached and incorporated into this Agreement as Exhibit "G". The terms of the MMOA, Exhibit "G", shall survive the termination of this Agreement. The Parties acknowledge and agree that the design plans for the Project may not yet be finalized and are subject to review by the Department. Upon completion of the Project, the Parties shall amend the MMOA to attach the latest version of the construction plans for the Project to the MMOA in order to show the extent of the Project to be maintained.

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

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:

- i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
- ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

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

And

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

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
- vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

**12. Notices and Approvals:**

- a. All notices (except invoices) pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses and the Agreement Administrators set forth below for the

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**

OLEN PETTIS \_\_\_\_\_  
1074 HWY 90 CHIPLEY, FL. 32428 \_\_\_\_\_  
PHONE: (850)330-1543 \_\_\_\_\_  
FAX: \_\_\_\_\_  
EMAIL: OLEN.PETTIS@DOT.STATE.FL.US \_\_\_\_\_

**RECIPIENT:**

MARIO GISBERT \_\_\_\_\_  
110 SOUTH ARNOLD ROAD \_\_\_\_\_  
PANAMA CITY BEACH, FL. 32413 \_\_\_\_\_  
  
PHONE: (850)233-5100 \_\_\_\_\_  
FAX: (850)233-5049 \_\_\_\_\_  
EMAIL: MGISBERT@PCBGOV.COM \_\_\_\_\_

b. All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

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

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

**14. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement. Additionally, the Recipient agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

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

*This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Recipient's sovereign immunity."*

- b. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Recipient is a state agency or subdivision of the State of Florida and elects to self-perform the Project, then the Recipient may self-insure. If the Recipient is not a state agency or subdivision of the State of Florida or if the Recipient is a state agency or subdivision of the State of Florida that elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department to be made an Additional Insured as to such insurance.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, you shall, in addition to the insurance coverage required pursuant to 7-13.2 above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 15.C above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have. The Railroad Protective Liability Coverage described above is not required if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 11.c above. This provision does not apply if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.

**15. Miscellaneous:**

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance 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).

- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- f. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- g. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- h. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- i. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.
- j. The Recipient shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

- k. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.
- l. The Recipient agrees to comply with Section 20.055(5), F.S., and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S.
- m. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

**16. Exhibits.**

- a. Exhibits A, B, C, D, and E are attached to and incorporated into this Agreement.
- b.  A portion or all of the Project will utilize the Department's right-of-way and therefore Exhibit F, Terms and Conditions of Construction, is attached and incorporated into this Agreement.
- c. **Exhibit List**  
Exhibit A: Scope of Services  
Exhibit B: Method of Compensation  
Exhibit C: Engineer's Certification of Compliance  
Exhibit D: State Financial Assistance (Florida Single Audi Act)  
Exhibit E: Recipient Resolution  
\*Exhibit F: Terms and Conditions of Construction  
Exhibit G: Maintenance Memorandum of Agreement

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

*The remainder of this page intentionally left blank.*

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

RECIPIENT  
TRANSPORTATION

STATE OF FLORIDA, DEPARTMENT OF

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Jared Perdue, P.E.  
Title: D3 Director of Transportation Development

Title:

Legal Review:

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT A  
SCOPE OF SERVICES**

This exhibit forms an integral part of the Florida Shared-Use Nonmotorized Trail Network Agreement between the State of Florida, Department of Transportation and CITY OF PANAMA CITY BEACH.

Project Description: GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT SUBDIVISION

This project is to construct a 12' wide asphalt multi-use path which will also include boardwalks.

The following special requirements and conditions shall apply:

Construction Shall not commence until 100% final plans are reviewed and approved by the FDOT. At that time the Notice To Proceed will be issued.

STATE OF FLORIDA Department OF TRANSPORTATION  
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT

EXHIBIT B

Method of Compensation

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources:						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
02	STTF	2018	55.038	Florida Shared-Use Nonmotorized (SUN) Trail Program – Wheels on Road Fund	\$904,716	5
Total Award		\$904,716				

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [<https://apps.flids.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT C**

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

**NOTICE OF COMPLETION**

**FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL PROGRAM  
GRANT AGREEMENT**  
Between  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and CITY OF PANAMA CITY BEACH

PROJECT DESCRIPTION: GAYLE'S TRAILS EAST FROM EAST OF HOLIDAY GOLF CLUB TO BREAKFAST POINT  
SUBDIVISION

FINANCIAL MANAGEMENT ID# 440282-1-54-01 \_\_\_\_\_

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20 \_\_\_\_.

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

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

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

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish FDOT a set of "as-built" plans certified by the Engineer of Record/CEI.

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

SEAL: \_\_\_\_\_

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

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

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT D**

**STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)**

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

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

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL NETWORK PROGRAM

**CSFA Number:** 55.038

**\*Award Amount:** \$904,716

\*The award amount may change with supplemental agreements.

Specific project information for CSFA Number 55.038 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

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

State Project Compliance Requirements for CSFA Number 55.038 are provided at  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

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

STATE OF FLORIDA Department OF TRANSPORTATION  
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT

EXHIBIT E  
AGENCY RESOLUTION

**PLEASE SEE ATTACHED**

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT F**

**CONSTRUCTION TERMS AND CONDITIONS**

The provisions contained in this Exhibit "F" apply to any and all portions of the Project that are constructed on the Department's right-of-way.

1. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Department Plans Preparation Manual ("PPM") Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book") and the Department Traffic Engineering Manual. The Recipient will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Recipient shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
2. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Joseph Mastro (850)-767-4990
3. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
4. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
5. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
6. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to chapter 163, Florida Statutes.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

7. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, Department RIGHT-OF-WAY.
8. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
9. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Agency, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
10. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
11. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
12. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
13. The Recipient will be required to maintain the Project at least until final acceptance by the Department and the Recipient shall be obligated to maintain the Project beyond final acceptance in accordance with this Agreement and a Maintenance Memorandum of Agreement between the Department and Recipient. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
14. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

15. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
16. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Planning and Environmental Management Office (PL&EM) must be contacted immediately at 954-777-4601.
17. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
18. ~~Restricted hours of operation will be from , (N/A), unless otherwise approved by the Operations Engineer, or designee.~~
19. ~~Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:~~

Ian Satter  
Public Information Director  
Florida Department of Transportation  
District Three  
[ian.satter@dot.state.fl.us](mailto:ian.satter@dot.state.fl.us)  
(850) 330-1205

Note: (Confirm information above for District)

STATE OF FLORIDA Department OF TRANSPORTATION  
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT

EXHIBIT G

MAINTENANCE MEMORANDUM OF AGREEMENT

Maintenance MOA Language for Off-system Multi-Use Trail Project

1. The LOCAL GOVERNMENT acknowledges that the DEPARTMENT will require the LOCAL GOVERNMENT to maintain the entire Multi-Use Trail Project, as depicted in the Construction Plans and Specifications of F.P.I.D. # 440282-1-54-01, for the useful life of the Multi-Use Trail Project, according to the DEPARTMENT standards, which include, but are not limited to, the Americans with Disabilities Act, Design Standards, and the Standard Specifications, and as amended from time to time.
2. Maintenance items to be maintained by the LOCAL GOVERNMENT shall include, but not be limited to: vegetation management, ornamental landscaping, trail heads, bathroom facilities, parking facilities, repair of slopes/erosion, removal of graffiti, boardwalks, gravity walls, sea walls, traffic barriers, railings, guardrail, signing, pavement markings, pedestrian/bicycle signals, lighting, benches, litter receptacles, aesthetic features, and all other features of the Multi-Use Trail Project. The LOCAL GOVERNMENT shall maintain pavement surfaces free from residue accumulation, algae, vegetation, and other slip or trip hazards. The LOCAL GOVERNMENT shall trim landscaping, mow, sweep, edge and provide weed control along the Multi-Use Trail Project corridor from R/W line to R/W line from East of Holiday Golf Club to Breakfast Point Subdivision. The LOCAL GOVERNMENT shall ensure the safety of the Public by repairing slope erosion and maintaining signs, sign poles, striping, pavement symbols, traffic markings, detectable warning surfaces, pavers, crosswalks, bollards, delineators, walls, railings, barriers, guardrail, lighting, pedestrian/bicycle signals and any other safety features within the Multi-Use Trail Project corridor in accordance with DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain paint on railings, sign poles, structures, etc. within the Multi-use Trail Project corridor. Repairs to any Multi-Use Trail Project structural or safety feature shall be in kind and to DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain all landscaping to DEPARTMENT standards or higher and all irrigation systems in good operational condition. The LOCAL GOVERNMENT shall maintain and repair the Multi-Use Trail Project at its sole cost and expense, in a good and workmanlike manner, and with reasonable care.
3. The Parties acknowledge and agree that the design plans for the Multi-Use Trail Project may not yet be finalized and are subject to review by the Department. Upon completion of the Multi-Use Trail Project, the Parties shall amend this Agreement to attach the latest version of the construction plans for the Multi-Use Project to this Agreement in order to show the extent of the Multi-Use Trail Project to be maintained by Recipient. The Recipient approves and delegates to Name, Title, the authority to enter into an amendment of this Agreement to attach the latest version of the construction plans as described above. No further Board or Council action shall be required to amend this Agreement for the sole purpose of incorporating the latest construction plans.
4. The LOCAL GOVERNMENT shall pay utility bills for lighting, signals, and irrigation associated with the Multi-Use Trail Project.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

5. The LOCAL GOVERNMENT shall conduct an annual inspection of the Multi-Use Trail Project to ensure that any and all safety deficiencies are addressed.
6. When the Multi-Use Trail Project is at the end of its useful life, the LOCAL GOVERNMENT shall prioritize the Replacement or Reconstruction of the Multi-Use Trail Project as if it was a new Project.
7. If at any time the LOCAL GOVERNMENT has not performed the maintenance responsibility on the Multi-Use Trail Project in accordance with this Agreement, the DEPARTMENT shall have the option of (a) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that it be corrected within a specified time; or (b) the DEPARTMENT may perform the necessary maintenance at the LOCAL GOVERNMENT'S sole cost and expense, and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the DEPARTMENT for such maintenance. Any action taken by the DEPARTMENT does not relieve any obligation of the LOCAL GOVERNMENT under the terms and conditions of this Agreement. Failure to perform maintenance of the Multi-Use Trail Project in accordance with this Agreement may impact DEPARTMENT funding participation in future LOCAL GOVERNMENT projects.
8. The DEPARTMENT may require the LOCAL GOVERNMENT to remove the Multi-Use Trail Project in whole or in part and restore the property to the condition that existed immediately prior to the effective date of this Agreement if the DEPARTMENT determines: (a) the Multi-Use Trail Project or project feature is not constructed or maintained in accordance with Section 1. of this Agreement; or (b) the LOCAL GOVERNMENT breaches a material provision (as determined by the DEPARTMENT) of this Agreement. Removal and restoration shall be completed by the LOCAL GOVERNMENT within \_\_\_\_\_ days of the DEPARTMENT'S written notice, or such time as the DEPARTMENT and the LOCAL GOVERNMENT mutually agree in writing. Removal and restoration shall be completed by the LOCAL GOVERNMENT in accordance with DEPARTMENT standards. Should the LOCAL GOVERNMENT fail to complete the removal and restoration work, the DEPARTMENT may complete the removal and restoration at the LOCAL GOVERNMENT'S sole cost and expense and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the DEPARTMENT for such removal and restoration.
9. This Agreement may be terminated under either of the following conditions: (a) by the DEPARTMENT, if the LOCAL GOVERNMENT fails to perform its duties under this Agreement, following ten (10) days written notice; or (b) by the DEPARTMENT, for refusal by the LOCAL GOVERNMENT to allow public access to public records subject to the provisions of Chapter 119, Florida Statutes.

**CITY OF PANAMA CITY BEACH  
BUDGET TRANSFER FORM BF-10**

No. BA # 16

FUND	General ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED BUDGET	BUDGET ADJUSTMENT	NEW BUDGET BALANCE
TO	001-7201-572.65-60	Construction-in-Progress	200,000.00	904,716.00	1,104,716.00
TO	001-0000-334.49-15	State Grants FL DOT Multiuse Path	0.00	(904,716.00)	(904,716.00)
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
		Check Adjustment Totals:	200,000.00	0.00	200,000.00

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To recognize DOT grant funds for the construction of a multiuse trail and to appropriate such funds for the construction of such trail; costs in excess of the DOT grant amount will be borne by the City and funded with recreation impact fees; City costs were estimated at \$200,000 in the original FY 2018 budget adopted by the Council

ROUTING FOR APPROVAL

\_\_\_\_\_ DEPARTMENT HEAD \_\_\_\_\_ DATE \_\_\_\_\_ CITY MANAGER \_\_\_\_\_ DATE

\_\_\_\_\_ FINANCE DIRECTOR \_\_\_\_\_ DATE

STATE OF FLORIDA Department of Transportation  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT F**

**CONSTRUCTION TERMS AND CONDITIONS**

The provisions contained in this Exhibit "F" apply to any and all portions of the Project that are constructed on the Department's right-of-way.

1. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Department Plans Preparation Manual ("PPM") Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book") and the Department Traffic Engineering Manual. The Recipient will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Recipient shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
2. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Joseph Mastro (850)-767-4990.
3. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
4. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
5. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
6. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to chapter 163, Florida Statutes.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

7. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, Department RIGHT-OF-WAY.
8. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
9. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Agency, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
10. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
11. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
12. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
13. The Recipient will be required to maintain the Project at least until final acceptance by the Department and the Recipient shall be obligated to maintain the Project beyond final acceptance in accordance with this Agreement and a Maintenance Memorandum of Agreement between the Department and Recipient. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
14. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

15. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
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18. Restricted hours of operation will be from , (N/A), unless otherwise approved by the Operations Engineer, or designee.
19. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Ian Satter  
Public Information Director  
Florida Department of Transportation  
District Three  
[ian.satter@dot.state.fl.us](mailto:ian.satter@dot.state.fl.us)  
(850) 330-1205

**Note: (Confirm information above for District)**

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

**EXHIBIT G**

**MAINTENANCE MEMORANDUM OF AGREEMENT**

**Maintenance MOA Language for Off-system Multi-Use Trail Project**

1. The LOCAL GOVERNMENT acknowledges that the DEPARTMENT will require the LOCAL GOVERNMENT to maintain the entire Multi-Use Trail Project, as depicted in the Construction Plans and Specifications of F.P.I.D. # 440282-1-54-01, for the useful life of the Multi-Use Trail Project, according to the DEPARTMENT standards, which include, but are not limited to, the Americans with Disabilities Act, Design Standards, and the Standard Specifications, and as amended from time to time.
2. Maintenance items to be maintained by the LOCAL GOVERNMENT shall include, but not be limited to: vegetation management, ornamental landscaping, trail heads, bathroom facilities, parking facilities, repair of slopes/erosion, removal of graffiti, boardwalks, gravity walls, sea walls, traffic barriers, railings, guardrail, signing, pavement markings, pedestrian/bicycle signals, lighting, benches, litter receptacles, aesthetic features, and all other features of the Multi-Use Trail Project. The LOCAL GOVERNMENT shall maintain pavement surfaces free from residue accumulation, algae, vegetation, and other slip or trip hazards. The LOCAL GOVERNMENT shall trim landscaping, mow, sweep, edge and provide weed control along the Multi-Use Trail Project corridor from R/W line to R/W line from East of Holiday Golf Club to Breakfast Point Subdivision. The LOCAL GOVERNMENT shall ensure the safety of the Public by repairing slope erosion and maintaining signs, sign poles, striping, pavement symbols, traffic markings, detectable warning surfaces, pavers, crosswalks, bollards, delineators, walls, railings, barriers, guardrail, lighting, pedestrian/bicycle signals and any other safety features within the Multi-Use Trail Project corridor in accordance with DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain paint on railings, sign poles, structures, etc. within the Multi-use Trail Project corridor. Repairs to any Multi-Use Trail Project structural or safety feature shall be in kind and to DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain all landscaping to DEPARTMENT standards or higher and all irrigation systems in good operational condition. The LOCAL GOVERNMENT shall maintain and repair the Multi-Use Trail Project at its sole cost and expense, in a good and workmanlike manner, and with reasonable care.
3. The Parties acknowledge and agree that the design plans for the Multi-Use Trail Project may not yet be finalized and are subject to review by the Department. Upon completion of the Multi-Use Trail Project, the Parties shall amend this Agreement to attach the latest version of the construction plans for the Multi-Use Project to this Agreement in order to show the extent of the Multi-Use Trail Project to be maintained by Recipient. The Recipient approves and delegates to the City Manager, the authority to enter into an amendment of this Agreement to attach the latest version of the construction plans as described above. No further Board or Council action shall be required to amend this Agreement for the sole purpose of incorporating the latest construction plans.
4. The LOCAL GOVERNMENT shall pay utility bills for lighting, signals, and irrigation associated with the Multi-Use Trail Project.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

5. The LOCAL GOVERNMENT shall conduct an annual inspection of the Multi-Use Trail Project to ensure that any and all safety deficiencies are addressed.
6. When the Multi-Use Trail Project is at the end of its useful life, the LOCAL GOVERNMENT shall prioritize the Replacement or Reconstruction of the Multi-Use Trail Project as if it was a new Project.
7. If at any time the LOCAL GOVERNMENT has not performed the maintenance responsibility on the Multi-Use Trail Project in accordance with this Agreement, the DEPARTMENT shall have the option of (a) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that it be corrected within a specified time; or (b) the DEPARTMENT may perform the necessary maintenance at the LOCAL GOVERNMENT'S sole cost and expense, and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the DEPARTMENT for such maintenance. Any action taken by the DEPARTMENT does not relieve any obligation of the LOCAL GOVERNMENT under the terms and conditions of this Agreement. Failure to perform maintenance of the Multi-Use Trail Project in accordance with this Agreement may impact DEPARTMENT funding participation in future LOCAL GOVERNMENT projects.
8. The DEPARTMENT may require the LOCAL GOVERNMENT to remove the Multi-Use Trail Project in whole or in part and restore the property to the condition that existed immediately prior to the effective date of this Agreement if the DEPARTMENT determines: (a) the Multi-Use Trail Project or project feature is not constructed or maintained in accordance with Section 1. of this Agreement; or (b) the LOCAL GOVERNMENT breaches a material provision (as determined by the DEPARTMENT) of this Agreement. Removal and restoration shall be completed by the LOCAL GOVERNMENT within 90 days of the DEPARTMENT'S written notice, or such time as the DEPARTMENT and the LOCAL GOVERNMENT mutually agree in writing. Removal and restoration shall be completed by the LOCAL GOVERNMENT in accordance with DEPARTMENT standards. Should the LOCAL GOVERNMENT fail to complete the removal and restoration work, the DEPARTMENT may complete the removal and restoration at the LOCAL GOVERNMENT'S sole cost and expense and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the DEPARTMENT for such removal and restoration.
9. This Agreement may be terminated under either of the following conditions: (a) by the DEPARTMENT, if the LOCAL GOVERNMENT fails to perform its duties under this Agreement, following ten (10) days written notice; or (b) by the DEPARTMENT, for refusal by the LOCAL GOVERNMENT to allow public access to public records subject to the provisions of Chapter 119, Florida Statutes.

STATE OF FLORIDA Department OF TRANSPORTATION  
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK AGREEMENT**

RECIPIENT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Name: Jared Perdue, P.E  
Title: D3 Director of Transportation Development

Legal Review:

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



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Kathy Younce, Public Works	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Staff recommends approval of Resolution No. 23-143 which authorizes submittal of the CDBG-DR application for funding to DEO through the Rebuild Florida Hurricane Sally Program.	
<b>4. AGENDA:</b>  <u>REGULAR AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> N/A  Detailed Budget Amendment Attached: N/A
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Quality of Life Attractive Community Public Safety

## **7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?**

Hurricane Sally made landfall in Northwest Florida as a Category 2 hurricane on September 16, 2020. The excessive rainfall, winds, and storm surge resulted in significant flooding and notable shoreline erosion at the beach near the Lullwater Lake and Calypso outfalls. The primary driver behind the shoreline erosion experienced by the City along its beaches can be attributed to a combination of heavy winds and storm tides exceeding 4 feet in Bay County. According to the Florida Department of Environmental Protection's (DEP) Hurricane Sally Post-Storm Beach Conditions and Coastal Impact Report, Hurricane Sally's extreme rainfall in Bay County resulted in a washout of a substantial volume of sand within the Panama City Beaches Shore Protection Project which was transported cross-shore into the nearshore zone. Businesses along Front Beach Road and the residential Lullwater community have experienced the greatest impact of beach erosion leading to outfall blockage and submersion as these areas rely on an efficient stormwater infrastructure system to prevent flooding. During Hurricane Sally, the impacted community sustained significant flooding with approximately 30 homes being damaged.

The City is proposing to combine two continuous outfalls and three intermittent outfalls along Front Beach Road into one continuous outfall to combat flooding due to beach erosion exacerbated by Hurricane Sally. The City is currently conducting a Topographic Survey, Dispersion Study, Dynamic Wave Analysis, and a Stability Analysis to ensure that this project does not produce negative environmental impacts. The results from the studies and design will determine the exact specifications for the proposed offshore outfall. The City continues its efforts to complete the Environmental Review by coordinating with the United States Army Corps of Engineers (USACE) and DEP. The City has committed to covering costs related to project design and its associated studies in an amount not to exceed \$1,200,000.00. The current total cost estimate for this project is \$ 41,375,338.52. The City is requesting \$3,000,000.00 in CDBG-DR funding to support the completion of the Offshore Outfall project. Due to the current economic environment, the current cost estimate above is significantly higher than that anticipated at this project's inception. The \$3,000,000.00 in CDBG-DR funding requested would assist in bridging the gap between original and current cost projections.

[Res 23-143.CDBG-DR Hurricane Sally Outfall Project.03.20.23.pdf](#)  
[DRAFT Hurricane Sally Outfall Project Application 03.20.2023.pdf](#)

**RESOLUTION NO. 23-143**

**RESOLUTION AUTHORIZING CITY OF PANAMA CITY BEACH, FLORIDA TO APPROVE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY PROJECTS TO BE SUBMITTED FOR FUNDING TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY REBUILD FLORIDA HURRICANE SALLY PROGRAM.**

**WHEREAS**, Hurricane Sally devastated Bay County and the surrounding area on September 16, 2020; and

**WHEREAS**, City of Panama City Beach, Florida, is submitting project applications for Front Beach Road Stormwater Offshore Outfall Project to the State of Florida, Department of Economic Opportunity (DEO) for potential Community Development Block Grant-Disaster Recovery (CDBG-DR) funding through the Rebuild Florida Infrastructure Repair Program; and

**WHEREAS**, the adoption of certain plans and policies is required for participation in the CDBG-DR Program.

**NOW, THEREFORE, be it resolved** by the City Council of the City of Panama City Beach, Florida, that:

1. The appropriate officers of the City are authorized to submit the application and request for funding to the Florida Department of Economic Opportunity Rebuild Florida Hurricane Sally Program.
2. The appropriate officers of the City are authorized to leverage the amount of One Hundred Thousand Dollars (\$100,000) from City funds for this project should it be awarded.
3. This Resolution shall take effect immediately upon passage.

**PASSED, APPROVED AND ADOPTED** at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

**By: \_\_\_\_\_**  
**Mark Sheldon, Mayor**

**ATTEST:**

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**Lynne Fasone, City Clerk**



## Applicant Information

### General Information:

Local Government Applicant Name:	The City of Panama City Beach
Official Project Title:	Front Beach Road Stormwater Offshore Outfall Project
Unique Entity Identifier (UEI):	
Federal Employer Identification Number (FEIN):	596045116

**Please select which qualifying county the project is located in.**

X	Bay
	Escambia
	Okaloosa
	Santa Rosa
	Walton

**Application Preparer: (This is the person that DEO will contact regarding any question within your submitted application.)**

First and Last Name:	Kathy Younce, E.I., CFM
Title:	Assistant Public Works Director
Mailing street address:	116 South Arnold Road
City:	Panama City Beach
State:	FL
Zip:	32413
Phone Number:	(850) 233-5100, ext. 2407
Email Address:	kathy.younce@pcbfl.gov

**Does the Application Preparer also serve as the project lead?**

X	Yes
	No

**Local project manager/lead contact: (This is the person who will lead the project locally.)**

First and Last Name:	Kathy Younce, E.I., CFM
Title:	Assistant Public Works Director
Mailing Street Address:	116 Arnold Road

City:	Panama City Beach
State:	FL
Zip:	32413
Phone Number:	(850) 233-5100, ext. 2407
Email Address:	kathy.younce@pcbfli.gov

<b>Total CDBG-DR requested (in dollars):</b>	\$3,000,000.00
<b>Total CDBG-MIT requested (in dollars):</b>	
<b>Total Project Budget (in dollars):</b>	\$41,375338.52

Select which leveraged funds have been procured for the program or project, if any (select all that apply).

FEMA		Private Funds	
Local Match	X	Other	X
State Funds			

If you selected "Other" in the previous question, please specify which leveraged funds have been procured.

The City of Panama City Beach ("the City") committed to covering the costs of project design/planning not to exceed \$1,200,000.00 for the Hurricane Michael CDBG-DR-funded portion of the Front Beach Road Stormwater Offshore Outfall Project. The City will commit to leverage an additional \$100,000.00 for construction costs not covered by Hurricane Sally CDBG-DR.

Does the proposed recovery activity reside within any tribal governments?

	Yes
X	No

*Please state which tribal government(s) the project resides within.*

Not Applicable

Does the proposed recovery activity exist within any municipality(s)?

X	Yes
	No

*Please state which municipality(s) the proposed project effects.*

The City of Panama City Beach

Does the proposed recovery activity involve any unincorporated area(s)?

	Yes
X	No

<i>Please state which unincorporated area(s) the proposed project effects.</i>	Not Applicable
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**Is the local government covered by the National Flood Insurance Program?**

X	Yes
	No

*Applicants must be covered by the National Flood Insurance Program to receive CDBG-DR funding, or they will be disqualified.*

**Are there any co-applicants involved in this project?**

	Yes
X	No

<i>Who are the co-applicants involved in this project?</i>	
Entity Name	Not Applicable
Contact Name	Not Applicable
Contact Email	Not Applicable

**Are there additional co-applicants?**

	Yes
X	No

<i>Who are the co-applicants involved in this project?</i>	
Entity Name	Not Applicable
Contact Name	Not Applicable
Contact Email	Not Applicable

**Proposal Information**

**Location of Proposed Project:**

Street Address:	Various Sites (SOW)
City:	Panama City Beach
State:	FL
Zip:	32413

**Please give a brief description of the proposed project (1-2 sentences).**

The City of Panama City Beach will combine two continuous outfalls and three intermittent outfalls along Front Beach Road into one continuous outfall to combat flooding due to beach erosion caused

by Hurricane Michael and further exacerbated by Hurricane Sally. Existing outfalls within those basins from State Road (SR) 79 to Hill Road will be the focus of this project with the proposed outfall potentially located near the City pier. The newly constructed outfall will be extended approximately 1,500 feet and buried approximately 20 feet under the Gulf floor to transport stormwater from the basins within this area into the Gulf of Mexico.

**Please select which National Objective the project addresses:**

<input checked="" type="checkbox"/>	Low-Moderate Income Area
	Urgent Need

Total service area population served:	795
Total LMI Population served:	500
Total number of households served:	344.16
Total number of LMI households served:	216.45

**How was the LMI data obtained for this project?**

	Survey Data
<input checked="" type="checkbox"/>	Census Block Data

**Please specify which census blocks were used in calculating LMI area. (Get from the HUD LMISD Map Application – you can download this information)**

Block Group 2, Census Tract 27.03, Bay County, Florida

**Select which Congressional District the Project or Program resides in (select all that apply).**

	District 1
<input checked="" type="checkbox"/>	District 2

**Select which Florida Senate District the Project or Program resides in (select all that apply).**

	District 1
<input checked="" type="checkbox"/>	District 2
	District 3

**Select which Florida House District the Project or Program resides in (select all that apply).**

District 3		District 4	
District 5	<input checked="" type="checkbox"/>	District 6	
District 7		District 8	
District 9			

**Please select which eligible Infrastructure activity that best describes the proposed program or project:**

<input checked="" type="checkbox"/>	Restoration of Infrastructure
	Public Facilities such as emergency community shelters
	Re-nourishment of protective coastal dunes systems
	Demolition, rehabilitation of publicly or privately owned commercial or industrial buildings
	Repairs to water lines and systems, sewer lines and systems, drainage, and flood mitigation systems.
	Other

**Please select which eligible Mitigation activity that best describes the proposed program or project, if applicable:**

	Development of mitigation standards, regulations, policies, and programs
	Adherence to FEMA code+, statewide building code, and floodplain management regulations
	Dam safety programs, seawalls, and levee systems
	Acquisition of flood prone and environmentally-sensitive lands
<input checked="" type="checkbox"/>	Retrofitting/hardening/elevating structures and critical facilities
	Relocation of structures, infrastructure, and facilities out of vulnerable areas; permanent relocation of public facilities located in high-risk areas, appropriate relocation assistance and rebuilding in low-risk areas within the neighborhood or areas of opportunity
	Enlarge a dam or levee beyond the original footprint of the structure that existed prior to the disaster event, after obtaining pre-approval from HUD and any federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam
	Public awareness/education campaigns
	Improvement of warning and evacuation systems
	Other

### **Project Description**

**Write an overview/summary of the project being proposed.**

- **What is the project purpose?**
- **Describe how the work will be completed and the team that will be responsible.**
- **Explain the method(s) used to determine project funding requirements.**
- **Describe the anticipated outcomes.**
- **Describe how the project will be maintained after it is completed.**

**Response must be 1,500 words or less.**

The City of Panama City Beach (“the City”) is responsible for maintaining 31 intermittent and continuous flow outfall structures that discharge onto the beach. The City is proposing to combine two continuous outfalls and three intermittent outfalls along Front Beach Road into one continuous outfall to combat

flooding due to beach erosion exacerbated by Hurricane Sally. Existing outfalls within those basins from SR 79 to Hill Road would be the focus of this project with the proposed outfall potentially located near the City pier. The newly constructed outfall will be extended approximately 1,500 feet and buried approximately 20 feet under the Gulf floor to transport stormwater from the basins within this area into the Gulf of Mexico.

Offshore outfalls are proposed as an efficient alternative for the final destination of stormwater in densely populated coastal areas due to the high dispersal capacity, reduced risk of organic matter in the marine environment such as oils and fatty acids which are not soluble in water, and because they require smaller areas for outfall implementation. The City is currently conducting a Topographic Survey, Dispersion Study, Dynamic Wave Analysis, and a Stability Analysis to ensure that this project does not provide negative environmental impacts and is designed to properly channel stormwater from the five continuous and intermittent outfalls to the ocean.

A similar project completed in Myrtle Beach, South Carolina has guided the City's vision for this project due to the relatable circumstances faced in both locations. The results from the studies and design will determine the exact specifications for the proposed offshore outfall. To determine the funding required to complete this project, the City utilized a combination of the costs associated with the comparable Myrtle Beach outfalls project and RSMeans data, one of the most commonly used and updated cost estimating tools in the construction industry. The City has committed to covering costs tied to project design and its associated studies not to exceed the estimated \$1,200,000.00; therefore, the total amount is estimated at \$ 41,375,338.52. The City is requesting \$3,000,000.00 in CDBG-DR funding to fulfill the City's unmet need to support the completion of the Outfalls project.

Hurricane Sally made landfall in Northwest Florida as a Category 2 hurricane on September 16, 2020. The excessive rainfall, winds, and storm surge resulted in significant flooding and notable shoreline erosion at the beach near the Lullwater Lake and Calypso outfalls. The primary driver behind the shoreline erosion experienced by the City along its beaches can be attributed to a combination of heavy winds and storm tides exceeding 4 feet in Bay County. According to National Oceanic and Atmospheric Administration, Panama City Beach, specifically, experienced a peak water level of 3.8ft which contributed to beach erosion. In much of Bay County, the frontal dunes were essentially removed, and large amounts of eroded material were deposited upland. According to the Florida Department of Environmental Protection's (DEP) *Hurricane Sally Post-Storm Beach Conditions and Coastal Impact Report*, Hurricane Sally's extreme rainfall in Bay County resulted in a washout of a substantial volume of sand within the Panama City Beaches Shore Protection Project which was transported cross-shore into the nearshore zone. Hurricane Sally shared a path similar to that of Hurricane Michael, which devastated the area in 2018. Many communities are still in the process of recovering from Hurricane Michael and the compounding effects of Hurricane Sally in 2020 have exacerbated issues related to storm recovery and risk prevention. The overlap of these storm events has inhibited quick recovery due to already weakened infrastructure in Panama City Beach.

Prior to the impact of Hurricane Sally, the City engaged in efforts to restore the damaged shoreline from Hurricane Michael. Amid restoration efforts, the COVID-19 pandemic coupled with Hurricane Sally's intense rainfall interrupted and delayed significant gains made in the interim. Post-Hurricane Sally, the mass quantity of sustained beach erosion has completely altered the landscape. The effects of beach erosion have resulted in intermittent and continuous outfall blockage and submersion leading to frequent maintenance to dig up the outfalls. To unclog and remove the sand covering these outfalls, the City relies on costly heavy machinery such as a 310SK tractor to dig up the outfalls on the beach,

creating an environmental hazard by further endangering turtle nests among other marine wildlife. This poses a critical threat to the life safety of City staff due to the utilization of heavy equipment on and around the unsecure sand covering the outfall. Staff operating the heavy machinery must carefully maneuver around submerged outfalls to avoid sinking into a soft spot which would not only result in significant damage to City equipment but would also position staff in harm's way. In the event the heavy machinery sinks and becomes submerged in the sand, additional City equipment would be needed to remove the sunken tractor resulting in heightened costs, increased delays in unclogging the outfall, and the continuation of flood inundation in the LMI area surrounding Lullwater Lake which relies on the outfall to transport storm runoff to the beach. Beach erosion has also resulted in a critical environmental and public health hazard as the outfalls transporting excess stormwater and other water potentially contaminated with substances such as pesticides and pathogens have to travel down an extended path before hitting the sand and flowing into the ocean. Visitors of the beach, including local families and tourists, often walk through and play in outfall runoff. Parents of small children, for example, are more likely to take their small children to the runoff as it is less threatening than taking their children to the ocean which is a much larger body of water in which parents have minimal control over the situation. As the outfalls channel stormwater to the ocean on the beach, children run the risk of being exposed to pollutants and toxins in the sand and water as it outflows into the ocean. Individuals walking and playing in the outfalls are not aware of the potentially contaminated runoff, even with the dark tint of the water.

Hurricane Sally further compounded the issue of submerged outfalls. This lead to the blockage and submersion of the outfalls responsible for the residential Lullwater community surrounding Lullwater Lake. According to the *Panama City Herald*, Hurricane Sally damaged approximately 30 homes throughout the Panama City Beach community. The bridge at Lakeview Point serves as the primary point of egress for subdivision residents and also serves as the primary point of ingress for emergency and life-saving services. Flooding in the area lasted approximately five days total, with it fully dissipating two days after the outfalls were dug up and unclogged. In addition to the flooding seen in the Lullwater community, three intermittent outfalls responsible for transporting stormwater from Front Beach Road, one of the most tourist-heavy areas within City limits, to the beach also clogged resulting in roadway flooding. The flooding of Front Beach Road quickly became a threat to the economic well-being of the City as the popular tourist destination contains businesses, restaurants, hotels, and condominiums.

The project area consists of two continuous outfalls and three intermittent outfalls, as well as the residential Lullwater community affected by outfall blockage, submersion, and localized flooding. The City's Front Beach Road Stormwater Offshore Outfall Project meets the requirements for Low- and Moderate-Income Area Benefit (LMA) according to HUD and Department of Economic Opportunity (DEO) guidelines. The census data used to determine the LMA is the 2020 fiscal year ACS 5-year 2011-2015 LMI summary data for Bay County. The LMI percentage that the service area boundary resides within is 62.89%.

The Community Development Block Grant-Disaster Recovery (CDBG-DR) funding for the Front Beach Road Stormwater Offshore Outfall Project will provide a tremendous environmental, economic, and resiliency benefit for the City. In addition, both the City and State of Florida will benefit from a reduction in disaster response and post-disaster costs including, but not limited to, beach restoration, maintenance to unclog and dig up the outfalls, rescue missions to assist in the evacuation of service area residents affected by flooding, and the repairs associated with the flooding of the Lullwater community, commercial areas, and along Front Beach Road. The Front Beach Road Stormwater

Offshore Outfall Project design phase is 90% completed and is in the process of receiving the appropriate environmental permits. The City continues its efforts to complete the Environmental Review by coordinating with the United States Army Corps of Engineers (USACE) and DEP. This project will be shovel-ready by the time the Request for the Release of Funds is issued, if awarded. The City works in partnership with contracted engineers, construction firms, and City staff. In addition, the City will provide educational outreach through community engagement to ensure the public is informed of the City's and State of Florida's investment in a healthier, safer, and more resilient stormwater infrastructure system. All City outfalls follow a routine scheduled maintenance regimen and will follow the same City maintenance policy. The City is requesting consideration from the Rebuild Florida Infrastructure Repair Program to fill this urgent unmet need following Hurricane Sally.

### **Damage Summary**

- **Write an overview/summary of how Hurricane Sally's damage impacted the service area.**
  1. **How did Hurricane Sally impact the service area?**
  2. **Describe if and how Hurricane Sally exacerbated any previous service area issues.**

**Submit your response in the text box in 1,500 words or less.**

According to The National Oceanic and Atmospheric Administration (NOAA), several sites between Pensacola and Panama City reported sustained winds of 50 knots or higher during Hurricane Sally. The devastating impacts associated with Category 2 Hurricane resulted in severe flooding and significant beach erosion along the City of Panama City Beach's ("the City") famous and highly utilized beaches. The Florida Department of Environmental Protection (DEP) asserts that coastal beach erosion from Hurricane Sally's storm surge caused extensive natural infrastructure losses, damage to hundreds of feet of structure flood protection systems, significant deposits of sand on roadways, scour damage to road surfaces, and significant needs for beach and dune renourishment. The project service area consists of five continuous and intermittent outfalls, as well as the residential Lullwater community, which was previously decimated by Category 5 Hurricane Michael, with beach erosion losses averaging -8.4 erosion cubic yards per foot (cy/ft) and a total erosion volume of -786,984 cubic yards. Hurricane Sally's storm event further contributed to the repetitive loss of this recovering community. Prior to 2018, the shoreline provided sufficient protection for beach facing infrastructure including residential homes, commercial structures, and the five continuous and intermittent outfalls. Beach erosion due to two recent storm events has completely altered the landscape, significantly reducing the shoreline to the point where Bay County has implemented a costly beach restoration project that provides a level of storm protection benefits for upland properties, has the least impact on the coastal system, and quickly restores shorebird and marine turtle habitats.

As Lullwater Lake floods due to a combination of a loss of natural barriers and urban development, the residential area surrounding the lake braces for flooding with water often submerging low-lying decks, approaching driveways, and completely covering residential roads. As seen during Hurricane Sally, the residential Lullwater community sustained substantial flood damages due to the flooding of Lullwater Lake. Approximately 30 homes in the impacted community flooded and residents became trapped in the area as the bridge at Lakeview Point became blocked due to high floodwaters. The bridge at Lakeview Point serves as the primary point of egress for subdivision residents and also serves as the primary point of ingress for emergency and life-saving services. The Lullwater outfall, which is responsible for transporting stormwater from Lullwater Lake and the surrounding community, has struggled to maintain pace with the increased post-Hurricane Sally capacity and eventually became

clogged and submerged by water and sand due to the severe beach erosion experienced in the area. As the Lullwater outfall, in addition to the four other continuous and intermittent outfalls, becomes clogged and submerged by sand, there is no longer a discharge point for the release of stormwater further exacerbating the flooding in the area. Instead of the stormwater flowing out of the outfall into the ocean, it remains in the pipes placing strain on the system and backs up at Lullwater Lake or at inlets. To excavate the submerged outfalls, the City relies on costly heavy equipment; however, there are often delays in getting City employees onto the beach during and after storms due to the life safety risk. As a result, the Lullwater Community often floods for days at a time with the most recent example showing a two-day response time by the City, and flooding lasting in the service area for approximately five days.

The combination of pre-Hurricane Sally flooding during high rain events and post-Hurricane Sally beach erosion has become a critical situation requiring immediate action. The Bay County Community Rating System Progress Report 2021 identified Bay County as an area highly prone to flooding during storms and high rain events. Due to the flat land the City is located on, stormwater flows over land and ponds in areas with lower elevations. The City's Pre-Hurricane Sally development resulted in the creation of impervious areas including, but not limited to, parking lots, sidewalks, buildings, and driveways, which has led to increased flooding in surrounding areas. Impervious surfaces are primarily artificial structures covered by water-resistant material such as asphalt, concrete, brick, and stone to withstand long-term usage and environmental impacts. On July 4, 2013, for example, a heavy rainstorm passed over the City causing substantial flooding along Front Beach Road, Joan Avenue, Laurie Avenue, Anne Avenue, and Dorothy Avenue. History repeated itself less than a year later in April of 2014 when a band of thunderstorms made its way across Bay County dropping rainfall amounts that equaled that of the July 4th rain the year before. This resulted in isolated flooding of some areas. Areas containing residential and commercial structures that rely on effective outfalls to transport stormwater have seen more frequent flood events with beach erosion resulting in increased outfall blockage and submersion. If this project is not undertaken by the City, the service area and its residents will continue to experience recurring flooding along with the consistent degradation of the beach.

**Describe how the proposed CDBG DR-funded program and/or project will pro-actively invest in resilience to damage from future storms as specified in the Federal Register and Action Plan.**

**Submit your response in the text box in 1,500 words or less.**

The Front Beach Road Stormwater Offshore Outfall Project serves as a long-term commitment to the safety of the City's residents and an investment in a resilient stormwater system, as required by the State of Florida's Action Plan and HUD Federal Register Notice. The implementation of this project provides a multitude of benefits including, but not limited to, addressing a strained stormwater system, reducing the number of residential and commercial structures damaged by flooding, and mitigating against further beach erosion due to Hurricane Sally by relocating critical outfalls that are relied on by service area residents. Further straining the stormwater system, the City has seen a high influx of displaced families relocating from heavily impacted neighboring communities since Hurricane Michael and again during the COVID-19 pandemic. The City is currently maximizing its efforts to increase overall capacity for new residents by constructing a new school and fire station, allowing new residential development throughout the City, and is currently planning to expand one of its pre-existing fire stations to account for a larger service area population. Although these efforts satisfy a portion of the City's need to enhance capacity for the influx of displaced families, there is a current need to bolster the stormwater system to account for flooding seen in areas relying on outfalls affected by beach

erosion. Moreover, congruous with Bay County's Local Mitigation Strategy (LMS), rectifying this system will positively affect the City's economic development goal of minimizing the threat to the economic vitality of the community from a disaster by strengthening components of the infrastructure needed by the community's businesses and industries from the impact of disaster.

By combining the five continuous and intermittent outfalls into one offshore outfall traveling underneath the beach and out to the Gulf, the City's stormwater drainage system will be upgraded with an emphasis on resilience and efficiency. As the outfalls have become clogged and submerged due to the beach continues erosion caused by Hurricane Sally, the upgraded offshore outfall will not face similar circumstances due to the added protection from damages associated with wind and beach erosion. The residents of the Lullwater community, who have faced routine flooding during normal and high rain events, will substantially benefit from the Front Beach Road Stormwater Offshore Outfall Project as the offshore outfall will no longer risk becoming clogged and submerged allowing stormwater at Lullwater Lake to freely flow out into the ocean. This will provide Lullwater residents with a critical flood mitigation component to combat damages associated with Hurricane Sally and future storms. In addition, residents will benefit from the elimination of flooding at Lullwater Lake which keeps their homes safe and insurance premiums affordable.

The Front Beach Road Stormwater Offshore Outfall Project also provides crucial environmental safety and public health components as the five continuous and intermittent outfalls discharge potentially contaminated water on the beach. As stormwater flows out of the outfall, the sand and ocean are contaminated by pollutants channeled from streets and surrounding areas. Local families and tourists visiting the beach often walk through and play in the outfall runoff, unaware of the potential exposure to pollutants in the water. Local marine life is also impacted by outfall discharge as they are exposed to an abundance of nutrients which may lead to algae blooms and red tide. Algae blooms are the result of excess nitrogen or phosphorus from fertilizer runoff entering the aquatic system. Consequences of algae blooms include, but are not limited to, blocking sunlight from reaching other organisms, depleting oxygen levels, and secreting toxins into the water. To ensure this project does not cause negative environmental impacts and is designed to properly channel stormwater from the two continuous and three intermittent outfalls to the beach, the City is in the process of conducting studies including, but not limited to, a Topographic Survey, Dispersion Study, Dynamic Wave Analysis, and a Stability Analysis. The results from the studies and design will then determine the exact specifications for the proposed offshore outfall. The completion of the 24-month Front Beach Road Stormwater Offshore Outfall Project provides a great benefit to the City and the State of Florida as it shows an investment in a hardened and resilient stormwater infrastructure that will provide long-term impacts for residents and the environment including reduced flood loss and decreased post-disaster response costs.

### **Unmet Needs**

**Describe how the proposed activity will address an Unmet Need tied to the impact of damage from the disaster (Note: All CDBG-DR activities must clearly address an impact of the disaster.:**

**Submit your response in the text box in 2,500 words or less.**

Funding the Front Beach Road Stormwater Offshore Outfall Project will provide a tremendous environmental and economic benefit for the City of Panama City Beach ("the City"). In addition, both the City and State of Florida will benefit from an investment in system resilience and a reduction in disaster response and post-disaster costs including, but not limited to, beach restoration, maintenance

to unclog and dig up the outfalls, and repairs associated with the flood damages. The City's beaches sustained continued erosion during Hurricane Sally. As a result of beach erosion, Lullwater Lake and areas along Front Beach Road, containing residential and tourist-centric commercial structures, have experienced recurring flooding during normal and high rain events. The added loss of tree coverage throughout the City post Hurricane Michael has contributed to flooding with increased groundwater levels that have strained the existing stormwater infrastructure system. With stormwater levels exceeding the system's pre-storm design, the outfalls are continuously discharging runoff onto the beach. This has led to the outfalls becoming clogged and submerged by sand and water during subsequent storms, restricting the flow of stormwater from flooded areas to the discharge point. Hurricane Sally further compounded these existing recovery challenges. Businesses along Front Beach Road and the residential Lullwater community have received the greatest impact of beach erosion leading to outfall blockage and submersion as these areas rely on an efficient stormwater infrastructure system to prevent flooding. During Hurricane Sally the impacted community sustained significant flooding with approximately 30 homes receiving damages. In addition, the Lakeview Point Bridge, which serves as the primary point of ingress and egress for Lullwater residents, became completely submerged resulting in evacuations utilizing City Fire Rescue and high-water vehicles. Flooding remained in the area for 5 days due to the City waiting for the storm to pass before digging up the outfalls.

Approximately \$2,500,000 has been spent on the costs associated with Hurricane Michael and Hurricane Sally response and recovery efforts. The City is requesting \$3,000,000.00 in CDBG-DR funds from Hurricane Sally's allocation to address remaining unmet needs. This project is critical to the well-being of the 62.89% Low- to Moderate-Income (LMI) service area as the effects of Hurricane Sally still impact the City's residents, businesses, and local economy. Without the allocation of CDBG-DR funding for this project, the City will continue to have a long-term urgent unmet need due to Hurricane Sally.

**Describe how the proposed activity will address an Unmet Need and harden the project against future disasters (Note: All CDBG-MIT activities must clearly address hardening and resiliency against future disasters).:**

**Submit your response in the text box in 1,500 words or less.**

HUD defines mitigation as “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.” Resilience and mitigation are at the forefront of activities undertaken by the City of Panama City Beach (“the City”). After 2018’s Hurricane Michael devastated the region, 2020’s Hurricane Sally’s overlap complicated recovery and mitigation efforts that were initiated in the time between the storm events. Both hurricanes caused significant damage to the City’s infrastructure systems and water control structures. The City has participated in the National Flood Insurance Program (NFIP) since June of 1977, and as a coastal community, minimizing the risks related to coastal erosion and flooding are imperative to ensuring the integrity of our community structures, character, and vibrance.

Historically, the outfalls in question have filled with sand during storm events due to erosion of the shoreline which builds up and disallows the flow of water into the Gulf of Mexico. This area was inundated under Hurricane Michael and again under Hurricane Sally. If this remains unchanged, repetitive flooding is highly likely to occur with future storm events. According to the Hurricane Sally State Action Plan, Bay County has a high Severity of Consequence (SOC) score in the hazards this project aims to mitigate against. The SOC scores are as follows for these identified hazards: 1) Hurricane/Tropical Storm/Storm Surge: 5, 2) Flooding: 4.32, 3) Flash Flood: 4.52. Each of these hazards has a high historical score, a high score for climate sensitivity, and a high score for frequency/severity.

The implementation of the outfall project shows a quantifiable reduction of flood risk. The installation of two double 84” pipes (7 feet in diameter) in this area of critical concern will vastly increase stormwater management flow. With this flood reduction measure in place, future storm events will have less of an impact on community assets and residential structures. Expanded outfall capabilities will support all FEMA Community Lifelines, but most notably will impact the Transportation, Health and Medical, and Food Water and Shelter lifelines by ensuring ease of access to necessary community resources pre and post disaster. Keeping these lifelines afloat is an essential component to supporting the City’s resilience efforts.

Furthermore, this activity is also in alignment with Bay County’s existing Local Mitigation Strategy (LMS), which outlines regional efforts related to coordination and prioritization of resiliency activities. Namely, this proposed project satisfies the LMS goal *to minimize threats of disasters to the health, safety and welfare of the community’s residents and visitors by seeking to reduce the vulnerability of facilities in the community posing an extra health or safety risk when damaged or disrupted by the impact of a disaster.* Flood waters can carry and spread bacteria, disease, and, in the worst cases, contribute to loss of life. Decreasing the chances of flooding during storm events through the implementation of this project is essential to supporting the resiliency initiatives to create a stronger community.

## **Management Capacity**

**Describe the roles of key staff, contractors and/or vendors in operations management of the proposed CDBG-DR/CDBG-MIT funded program and/or project. List any additional staff to be hired and/or procured and for what roles.**

**Submit your response in the text box in 1,500 words or less.**

Drew Whitman is the City Manager and authorized signatory for the City of Panama City Beach ("the City"). The office of the City Manager is responsible for maintaining the management functions of City government and administering the day-to-day operations of most facets of the City. Mr. Whitman will provide oversight of the Front Beach Road Stormwater Offshore Outfall Project ("Outfall Project") throughout the project development and construction phases.

Kathy Younce, EI, CFM, is the Assistant Public Works Director, an Engineer in Training, and will serve as the Project Management Lead for the Outfall Project. Ms. Younce has a background in providing technical and logistical support to all City departments and enterprises. Ms. Younce will additionally serve as the Project Management Lead for this project and will be heavily involved throughout all phases. Ms. Younce will work closely with contractors and will ensure the project remains on schedule with minimal disruptions.

Wyatt Rothwell, EI, is a Design Engineer for the City of Panama City Beach and has a background in infrastructure design and construction. Mr. Rothwell will serve as an Engineer on this project and will assist the project management team with reviewing cost estimates, bids, and construction documents.

There will be two Disaster Recovery Consultants assigned to this project. One is considered key personnel for the team and is a Professional Engineer and Recovery Consultant for the City. The consultant has managed mitigation grants at the local, state, and federal level for 5 years, including Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation Grant Program, Florida State Revolving Funds, Public Assistance grants, and CDBG. This Disaster Recovery Consultant will assist the City in reviewing bid submissions for cost reasonableness, assist when meeting with and responding to contractor inquiries/questions, and will provide recommendations regarding the materials utilized to complete this project.

The second Disaster Recovery Consultants is a CDBG subject matter expert and Recovery Consultant for the City. The consultant has 5 years of CDBG experience developing housing programs and its associated Quality Assurance/Quality Control (QA/QC) process and preparing solicitations for state- and HUD-funded programs. This Disaster Recovery Consultant will be responsible for assisting the Project Management and Procurement Leads with ensuring the project remains on track and is in compliance with HUD procurement and construction regulations.

The Construction Contractor will be determined through a competitive construction bid process meeting FDOT and City requirements including contractor FDOT certification. The construction engineering and inspection consultant phase will be determined through competitive qualifications-based solicitation for professional services utilizing the FDOT approved process. After the bidding process is secured and notice to proceed is established, the construction contractors will be geared

toward delivering on a timely basis the best value product or service, while maintaining the public's trust and fulfilling public policy objectives.

**What is the experience and capacity of key members of the management team?**

**Submit your response in the text box in 1,500 words or less.**

*Drew Whitman, City Manager*

Mr. Whitman will provide oversight of the Front Beach Road Stormwater Offshore Outfall Project ("Outfall Project") throughout all stages of the project. He is the authorized signatory for the City and is responsible for maintaining the management functions of the City government and administering day-to-day operations. Mr. Whitman has two years of experience with the Community Development Block Grant-Disaster Recovery (CDBG-DR) Program and its requirements as the City is currently administering the Hurricane Michael CDBG-DR-funded Outfall Project. Mr. Whitman is available to support the Outfall Project as needed.

*Kathy Younce, EI, CFM, Assistant Public Works Director*

Ms. Younce is a Project Manager and Engineer in Training. Ms. Younce will serve as the Project Management Lead and will provide lead oversight over the Outfall Project ensuring it remains on track, is in compliance with HUD regulations, and is completed without timely and/or costly setbacks. Ms. Younce will work closely with DDC Engineers, Hagerty Consulting, and the procured construction contractor(s) to ensure the project remains on schedule and to review and provide an initial level of invoice approval. Ms. Younce has approximately three years of experience with the CDBG-DR Program in her current roles as the Project Management Lead for the Hurricane Michael CDBG-DR funded Outfall Project and Front Beach Road and South Thomas Drive Roadway Lighting Repair and Improvement Project. Ms. Younce is available to support the Outfall Project up to 20 hours per week.

*Michael Martin, Grants/Contracts Administrator*

Mr. Martin will serve as the Grant Management Lead assisting Ms. Younce with the provision of HUD compliance support and required reporting. Additionally, Mr. Martin is the contract manager for the City's Disaster Recovery Consultant, responsible for the review of consultant timesheets and billing for accuracy. Mr. Martin is the former Chief Financial Officer for Habitat for Humanity of Bay County, FL, and has approximately four years of experience with the CDBG-DR Program. Mr. Martin is available to support the Outfall Project up to 20 hours per week.

*Debra Gibson, Finance Director*

Ms. Gibson will serve as the Financial Management Lead for the Outfall Project. Ms. Gibson will oversee the procurement process and will provide a final level of invoice approval. Ms. Gibson has

approximately one year of experience with the CDBG-DR Program and has developed the City's HUD-compliant electronic financial management system and policies and procedures related to procurement and administrative financial management which have been approved by the Florida Department of Economic Opportunity (DEO) for the on-going Hurricane Michael CDBG-DR Front Beach Road and South Thomas Drive Roadway Lighting Repair and Improvement Project and the Outfall Project. Ms. Gibson is available to support the Outfall Project as needed.

*Lori Philput, Human Resources & Risk Management Director*

Ms. Philput is the City's designated Fair Housing Coordinator, Equal Employment Opportunity (EEO) Coordinator, Americans with Disabilities Act (ADA) Coordinator, and Title VI Coordinator. Ms. Philput has approximately three years of experience supporting the City's CDBG-DR projects and is available to support the Outfall Project as needed.

*Debbie Ward, Director of Communications/Public Information Officer*

Ms. Ward is the City's Director of Communications and Public Information Officer (PIO). Ms. Ward will be responsible for all communications with the public pertaining to the Outfall Project and the City's current and potential CDBG-DR/CDBG-MIT funding. All physical and electronic informational and outreach materials will be developed by Ms. Ward, including project updates on the City's website. Ms. Ward is available to support the Outfall Project as needed.

*Wyatt Rothwell, E.I., Public Works Engineer*

Mr. Rothwell is an Engineer in Training and will directly support Ms. Younce throughout all phases of the project. Mr. Rothwell is currently the City's designated Title VI and ADA Officer. Mr. Rothwell is available to support the Outfall Project as needed.

*Lillian Mulligan, Public Works Engineer*

Ms. Mulligan is a recent college graduate with a master's degree in engineering and will directly support Ms. Younce throughout all phases of the project. Ms. Mulligan is available to support the Outfall Project up to 10 hours per week.

Contractors:

*Hagerty Consulting*

Hagerty Consulting is responsible for assisting the City with Grant Administration including, but not limited to, HUD compliance support, program launch, policy and procedure development, and financial management. Additionally, the Disaster Recovery Consultants will provide Quality Assurance and Quality Control (QA/QC) requests for funds/reimbursements, the environmental review, procurements, and contracts to ensure program and HUD compliance. The Disaster Recovery Consultants directly assisting the City have extensive experience with CDBG-DR, CDBG-MIT, Federal Emergency

Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) and Hazard Mitigation Assistance (HMA), environmental planning, and National Environmental Protection Act (NEPA) requirements with a cumulative total of 50 years of experience.

*DDC Engineers*

DDC Engineers is responsible for completing the engineering, design, specifications, and environmental studies for the Outfall Project.

*Construction Contractor*

The City will competitively procure a construction contractor to complete the Outfall Project.

**Describe any projects comparable to the one in this application that the applicant has administered in the last five (5) years.**

**Submit your response in the text box in 1,500 words or less.**

The City is currently administering two projects that are budgeted at over \$20,000,000 each. Due to the large scale of these two projects, the City is dependent on the partnerships that have been formed between contractors and other government agencies. Described below are the Front Beach Road Segment 3/SR 79 Redevelopment Project and the Front Beach Road Stormwater Offshore Outfall Project.

The City of Panama City Beach's ("the City") Front Beach Road Segment 3/SR 79 Redevelopment Project ("the Project") was initiated in 2009 with the final design phase of the project beginning in fiscal year 2010 and completing in 2014. The Project includes four travel lanes with turn lanes/landscaped medians, two stormwater retention ponds, sidewalks, underground utilities, streetscape, landscape, and roadway lighting. The Front Beach Road Segment 3 and SR 79 Reconstruction Projects were designed at the same time to maintain continuity of the roadway, landscaping, stormwater, and utilities for these intersecting projects. A redesign of the Project was necessary beginning in 2018 to address stormwater treatment and attenuation concerns from the Florida Department of Environmental Protection (FDEP) and has been completed. The City's stormwater consultant provided calculations and updated the stormwater model which used new methodology to present to FDEP. This analysis was submitted to FDEP and was receptive to the different options. As of March 7, 2019, FDEP expressed their concurrence with the proposed stormwater design, therefore, allowing the project to move forward.

Surveys were finalized for portions of the right of way and temporary construction easements for Front Beach Road Segment 3 and Highway 79 project. A policies and procedures manual was prepared to ensure that the City would be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Act (URA) to ensure compliance with all federal regulations. The City has acquired two parcels for the purpose of stormwater retention, located at the intersection of Front Beach Road and SR 79.

This project is currently ongoing with the estimated cost of construction, including land acquisition, totaling approximately \$41,000,000.

The City has a projected completion date in December 2023.

The City of Panama City Beach's ("the City") Front Beach Road Stormwater Offshore Outfall Project ("Outfall Project") was awarded by the Florida Department of Economic Opportunity (DEO) under the Hurricane Michael Rebuild Florida Infrastructure Repair Program in May 2021. The City was awarded \$21,330,720.33 in Hurricane Michael CBDG-DR funds to implement and administer the Outfalls Project. Prior to Hurricane Michael, the shoreline provided sufficient protection for the outfalls and beach fronting infrastructure. Post-Hurricane Michael, the mass quantity of sustained beach erosion has completely altered the landscape. The effects of beach erosion have resulted in intermittent and continuous outfall blockage and submersion leading to frequent maintenance to dig up the outfalls. To unclog and remove the sand covering these outfalls, the City relies on costly machinery such as a 310SK tractor to dig up the outfalls of the beach, creating an environmental hazard by furthering the endangerment of marine wildlife.

The City has initiated the design phase of this project which combines two continuous outfalls and three intermittent outfalls along Front Beach Road into one continuous outfall to combat flooding due to beach erosion created by Hurricane Michael. Existing outfalls within those basins from SR79 to Hill Road are the focus of the project with outfalls being located near the City pier. The newly constructed outfall will be extended approximately 1,500 feet and buried approximately 20 feet beneath the Gulf of Mexico to transport stormwater from the basins within this area into the Gulf of Mexico. Design for this project is underway.

Through a partnership with contracted engineers, construction firms, and City staff, the City will procure the following services: engineering (after final design has been completed), construction contractor(s), construction engineering, and inspection services.

The City is working closely with DEO on the completion of the environmental review to obtain their Authority to Use Grant Funds upon approval. Monthly and Quarterly reports are provided to DEO in an effort to keep the partners in this project engaged. The City will continue to work closely with its vendors to finalize all design plans and to ensure that construction is completed on time.

The City anticipates construction beginning in fall of 2023.

**Have you participated in the CDBG Small Cities Program in the past 5 years?**

	Yes
X	No

**Are you a CDBG entitlement community?**

	Yes
X	No

**Is the management team fully formed?**

X	Yes
	No

**Please provide a description of the procurement process the Applicant will follow to cultivate program and project management capacity.**

**Submit your response in the text box in 1,500 words or less.**

The City has established compliant standards for construction. Construction contractors will be qualified through an invitation to bid process, to ensure full and open competition. The City will follow 24 CFR 570.489(g) at a minimum, 2 CFR 200, and Florida procurement laws. Contractors will comply with Section 3 of the Housing and Urban Development Act of 1968 (12. U.S.C. 1700lu) and implementing regulations at 24 CFR part 153. Contractor procurement procedures will be monitored by the City.

The following sections of the City of Panama City Beach Financial Policies and Procedures are presented to describe the procurement policy: Required, Request for bids, Contents of request for bids, Awards, Rejection and Resubmission for bids, Purchases on failure to receive bids, Emergency purchases, and Piggybacking. All procurement processes will comply with the terms and requirements set forth in 2 CFR 200.

**Required.** No purchase by or on behalf of the City requiring the expenditure of a hundred thousand dollars (\$100,000.00) or more shall be awarded, let or made except through competitive bidding after the advertisement for the bids in the form and manner prescribed in the City's Financial Policies and Procedures. No purchase or the quantity thereof shall be split for the purpose of avoiding the requirements of this section.

**Public Notice/Advertisements.** Published notice of each intended purchase by competitive bid shall be posted on a designated web-page noticed upon and linked to the landing page on the City's official web site for 30 consecutive days or published in a newspaper of general circulation within the City once each week for three consecutive weeks prior to the opening date of the bid. In addition to the posting requirements of this section, the City Council may direct the City Manager to notify by mail, or by whatever means it chooses, additional potential suppliers of such requests for bids whenever the City Council determines that the website posting requirement of this section is inadequate to produce sufficiently competitive bidding.

**Competitive Procurement.** Each request for the submission of bids shall contain an acceptance clause granting the City a minimum of forty-five (45) days in which to accept or reject the bid, during which time the tendered bid shall remain valid.

**Awards.** The City Council shall award the contract to the lowest fully responsive and responsible bidder; provided, that the City Council may award the contract to a bidder other than the lowest bidder should it find that the lowest bidder does not offer the reliability, quality of service or product afforded by such other bidder. Where a bid other than the lowest bid is taken, the City Council shall state the reasons upon which such award was made.

**Rejection and resubmission for bids.** The City Council may reject all submitted bids and provide for the request of additional bids whenever it finds that the bids submitted are not responsive to the request for bids, that the bids are not responsible or that the bid prices are unacceptable. Requests for such additional bids shall comply with the provisions of this section.

**Emergency purchases.** The City Council may substitute competitive quotes for the competitive bidding required by this section upon a finding by extraordinary vote that a public emergency exists making the bid delay contrary to the public interest. An Emergency Purchase is a procurement necessitated by a situation where the competitive procurement delay would be detrimental to the health, safety, and welfare of the citizens of the City. It may also be a condition that stops or seriously impairs the necessary function of City government.

**Cooperative Purchasing (Piggybacking).** A purchase of goods made by or on behalf of the City on the same terms and conditions as were obtained by federal, state or municipal governments or cooperative purchasing entities through an advertised, competitive bidding process shall be deemed to be made through competitive bidding under the City Charter. The Purchasing Manager shall have the authority to purchase from and join with other units of governments in cooperative purchasing ventures when the best interest of the City would be served thereby. It is standard policy of the City to cooperate with other government agencies in the purchase of goods and services required by the City. When any other government agency has awarded a Contract for any goods, the City may purchase those goods from the awarded vendor at the awarded price if the original bid specifications and award allow it. Where the public purchasing unit administering a cooperative purchase complies with the requirements of this manual, the City when participating in such a purchase, shall be deemed to have complied. Such purchases shall be made without additional City competitive procurement provided that the funding has been appropriated and the purchase has been authorized by proper signatory authority along with Purchasing Manager approval. The City may Bid and award the purchase of any goods with the stipulation that any other government agency may also purchase the awarded product or service at the same awarded price. The following documentation is the minimum required to use another government entity's awarded Contract.

1. A complete copy of the original procurement;
2. A copy of award letter/memo/agenda item with minutes by the government entity to the vendor to document award;
3. A complete copy of the vendor's proposal;
4. A complete copy of the current Contract with the vendor and any amendments thereto.

If federal funds are used (with the exception of CDBG-DR funds), the City may exercise the option to utilize other government contracts, provided that:

The original Contract was procured in compliance with federal procurement standards in the "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" 2 C.F.R. Sections 200.213 and 200.317-326 and City's Charter;

An assignability clause is included in the originating government's contract, the terms and conditions are substantially similar to the terms and conditions of the option as stated in the original Contract at the time it was awarded;

The option price is better than prices available in the market, or that when it intends to exercise the option, the option is more advantageous;

The original Contract contained an assignability clause and that the terms and conditions of that Contract meet the Federal Transit Administration (FTA) requirements (if funded by FTA);

The original Contract contains appropriate assignability provisions that permit the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions;

The Contract price is fair and reasonable;

The Contract provisions are adequate for compliance with all federal requirements;

The quantities the assigning party acquired, coupled with the quantities the acquiring grantee or subgrantee seeks, do not exceed the amounts available under the assigning entity's Contract.

**Federally Funded Projects** The City will not utilize cooperative purchasing (piggybacking) for federally funded contracts unless prior authorization has been granted by the federal award agency and the Contract is compliant with federal regulations.

**In what aspects of the project, if any, do you plan to augment existing staff with contractors or vendors? If so, please list.**

**Submit your response in the text box in 1,500 words or less.**

The project management team for the City of Panama City Beach is fully formed. The function of the Purchasing Department is to procure services, materials, supplies, and equipment which: meet the needs of the users, are consistent with the quality and standards established by the City's staff; and, ensure cost effective decisions for implementation of tax dollars. The City has an on-going contract with Hagerty Consulting that provides grant administration and compliance support for all CDBG-DR activities. This support included development of a CDBG-DR Policy Manual and a comprehensive System of Record. Additionally, the City procured DDC Engineers who is involved with all design, engineering, and environmental studies. A solicited contractor will be procured to complete construction on this project. The City anticipates smooth cooperation among all entities involved at every level for this critical project. All reasonable efforts will be made to effectively communicate with all project stakeholders throughout the project lifecycle.

**Does the applicant have a citizen complaint policy, acquisition and relocation policy, housing assistance plan and procurement policy in place that meets HUD guidelines? (Select all that apply)**

<input checked="" type="checkbox"/>	Citizen Complaint Policy
<input checked="" type="checkbox"/>	Housing Assistance Plan
<input checked="" type="checkbox"/>	Prohibition of Use of Excessive Force Policy
<input checked="" type="checkbox"/>	Acquisition and Relocation Policy

X	Procurement Policy
---	--------------------

#### **Readiness to Proceed**

Select "Yes" or "No" for key factors achieved to support that the program or project is ready to proceed. If "Yes" is selected, you will be prompted to provide any supporting documentation with the file upload link for the pertaining question.

#### **Is Land Acquisition required?**

	Yes
X	No

#### **Site Control?**

X	Yes
	No

*Please provide supporting documentation for Site Control.*

#### **Zoning and Community Approval?**

X	Yes
	No

*Please provide supporting documentation for Zoning and Community Approval.*

#### **Environmental Clearance?**

	Yes
X	No

*Please provide supporting documentation for Environmental Clearance.*

#### **Project Design Status**

X	Completed
	Conceptual
	None

#### **Have you procured and Contracted Members of Development and Construction Team?**

	Yes
X	No

*Please provide supporting documentation for Procured and Contracted Members of Development and Construction Team.*

**Commitment of Matching Funds?**

X	Yes
	No

*Please provide supporting documentation for Commitment of Matching Funds.*

**Budget**

Upload the completed budget template into the following file link. Use the provided template.

**General Infrastructure Repair Program Project Budget Template Instructions**

*Provide any quotes related to the program or project in the link below. It is recommended that a combined PDF format is used for single submission of multiple quotes.*

*Provide any bids related to the program or project in the link below. It is recommended that a combined PDF format is used for single submission of multiple quotes.*

*Provide any schedules related to the program or project in the link below. It is recommended that a combined PDF format is used for single submission of multiple quotes.*

*Provide any estimates related to the program or project in the link below. It is recommended that a combined PDF format is used for single submission of multiple quotes.*

**Describe how the proposed project shall not duplicate benefits as specified in CDBG-DR Action Plan.  
(Get all other sources of funding for project and documentation of the other funding)**

**Submit your response in the text box in 1,500 words or less.**

The City of Panama City Beach ("the City") was awarded \$21,330,722.33 in CDBG-DR funds by the Florida Department of Economic Opportunity (DEO) under Round 1 of the Hurricane Michael Rebuild

Florida General Infrastructure Repair Program. The City has not received any additional external funding for this project.

With an anticipated total project cost of \$38,765,402.50, there will not be a duplication of benefits if the City is awarded the \$3,000,000.00 requested in Hurricane Sally funding. If awarded, the City will ensure that both CDBG-DR funding streams are maintained separately and utilized for different project activities, ensuring that a Duplication of Benefits will not take place.

### **Supporting Documents**

Please provide three (3) maps with an overlay that clearly shows each of the following criteria:

1. Project Location and/or Service Area
2. Low-and-Moderate-Income Service Area
3. Most Recent Flood Plain Map

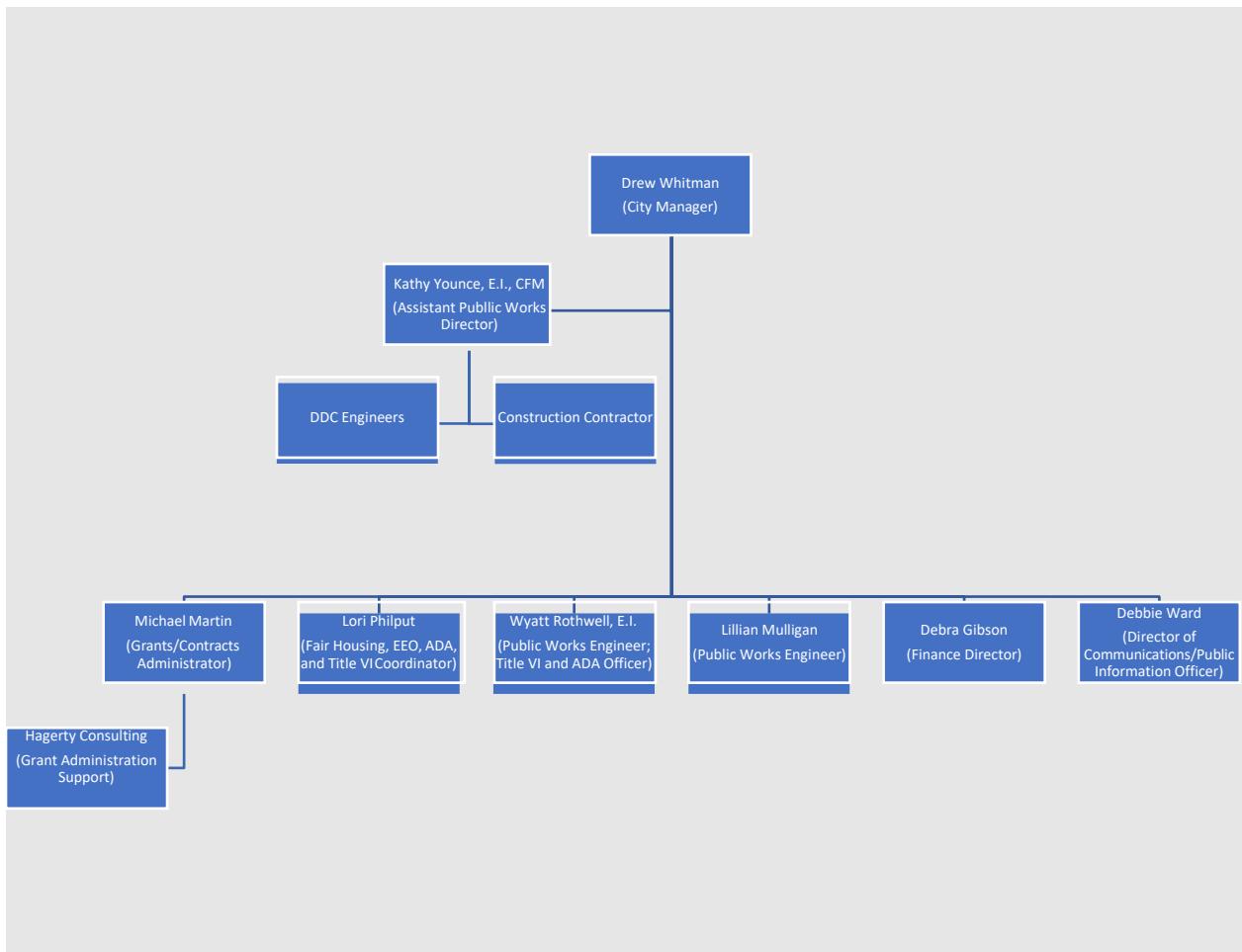
SEE ATTACHED MAPS

### **Work Plan**

Fill out the attached Work Plan Template for the project:

### **Organization Chart**

Use the following template to complete and upload the Organizational Chart for the proposed program or project, and upload to the file box:



## Pictures

Upload either a Word document or PowerPoint document with up to ten (10) photos of the service area or any other relevant photos for the scoring team to review regarding the program or project.

*Pictures can be images of storm damage, additional maps, other relevant image to document storm tie-back and justify project.*

Photo #1 Major dune erosion along the waterfront following Hurricane Sally

Photo #2 Major Dune Erosion with park infrastructure damage following Hurricane Sally



Photo #3 Additional beachfront erosion following Hurricane Sally



Photo #4 Showing the rough ocean water directly before the storm made landfall



Photo #5 Post- Hurricane Sally street flooding making it difficult for the residents to resume their daily life.



Photo #6 Additional doc flooding throughout the community



Photo #7 Image of Panama City Beach outfall on a



Photo #8 Bird's eye view of Panama City Beach

normal day	outfall
	
Photo #9 Homeowner showing how high the floodwater stood in his home.	Photo #10 Homeowner wading through flood water to assess the damages to his property.
	

#### Public Notice

Submit the project's public meeting notice, meeting minutes, meeting agenda, and any received public comments.

#### Signature of authorized Executive Officer

As authorized Executive Officer, I certify that staff, contractors, vendors and Community partners of our storm recovery initiative:

- A. Will comply with all HUD and Florida requirements in the administration of the proposed CDBG-DR funded activities;
- B. Will work in a cooperative manner to execute the Subrecipient Agreement that provides the pathway for successful CDBG-DR program(s) and/or project(s) and;
- C. Certify that all information submitted in this Application is true and accurate.

---

Authorized Executive Officer

---

Date

DRAFT



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Amy Myers, Legal	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Consideration of 4% merit increase for City Clerk, City Manager and Assistant City Manager for each of the last two years.	
<b>4. AGENDA:</b>  <u>REGULAR AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> No  Detailed Budget Amendment Attached: Yes
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Financial Health
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  At the March 9, 2023 Council meeting, the Mayor requested discussion by the Council of 4% merit increases for the City Manager and City Clerk for each of the past two years. Per Charter, these two employees serve at the pleasure of the City Council, and their compensation must be set by the Council. The employment agreements for both the City Clerk and City Manager entitle them to cost of living adjustments when such are provided for other employees, but specifically require a performance evaluation and formal action of the City Council to make any other adjustments to their compensation.  Contemporaneous with the Council's consideration of adjustments to his salary, the City Manager requests that the Council approve an adjustment to the salary of the Assistant City Manager, Holly White, equivalent to any adjustment he receives. Pursuant to her contract, the City Manager may increase her salary in amounts approved by the City Council.  The proposed non-COLA adjustments were not budgeted, and so a budget amendment has been prepared if the Council is inclined to approve proposed salary adjustments for the City Clerk, City Manager and Assistant City Manager.	
<a href="#"><b>Res 23-144.Budget Amendment.Merit Raises CM ACM and CC.pdf</b></a> <b>FY 2023 BA #29.pdf</b>	

**RESOLUTION NO. 23-144**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH,  
FLORIDA, AUTHORIZING A BUDGET AMENDMENT FOR  
SALARY ADJUSTMENTS FOR THE CITY CLERK, CITY  
MANAGER AND ASSISTANT CITY MANAGER.**

**BE IT RESOLVED** that the following budget amendment #29, is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2022, and ending September 30, 2023, as shown in and in accordance with the **attached** and incorporated Exhibit A.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

**CITY OF PANAMA CITY BEACH  
BUDGET TRANSFER FORM BF-10**

BA# 29

#### **BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:**

To appropriate funds from available reserves for merit increases for the City Manager, City Clerk, and Assistant City Manager.

## FINANCE REVIEW:

**RESOLUTION #:**

DATE:



## **CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY**

<b>1. DEPARTMENT MAKING REQUEST/NAME:</b> Mark Shaeffer, Utilities	<b>2. MEETING DATE:</b> March 23, 2023
<b>3. REQUESTED MOTION/ACTION:</b>  Staff recommends Council approval of the proposed Task Order in the amount of \$246,180.00 under the consultant's current Master Services Agreement.	
<b>4. AGENDA:</b> <u>REGULAR AGENDA</u>	<b>5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:</b> Yes  Detailed Budget Amendment Attached: No
	<b>6. IDENTIFY STRATEGIC PRIORITY:</b> Transportation Economic Development
<b>7. BACKGROUND: WHY IS THE ACTION NECESSARY? WHAT GOAL WILL BE ACHIEVED?</b>  The City's CRA department has awarded the roadway design engineering services contract for CRA segment 4.3 to Volkert, Inc. Utilities Department staff have requested a proposal for utilities relocation engineering services for this segment from McKim & Creed, Inc. as they are both familiar with the Department's design requirements and are well-positioned to coordinate impacts of planned roadway and associated utilities on the underlying existing and proposed City-owned water, sewer and reclaimed water utilities.  Staff has reviewed the proposed Scope of Work and fees totaling \$246,180.00 (including \$81,400.00 for field data acquisition) and find them consistent with the level of effort/estimated value of work to be constructed and corresponding task orders for CRA Segment 3. Fees for the field data acquisition are an allowance and any unused fees are retained by the City. Proposed design and bid phase consulting fees as a percentage of construction cost are also within limits of standard USDA fee curve values. Construction costs for this project are projected to be between \$4.2M and \$5M. A proposed Task Order for the design engineering services is attached for Council consideration.	
<a href="#">Res 23-146.McKim and Creed.Task Order.Seg 4.3.pdf</a> <a href="#">Proposal CRA 4.3 PCB rev.pdf</a> <a href="#">McKim &amp; Creed Large WW TO2022-2_CRA 4.3 Utilities Relocation_draft_r1.pdf</a>	

**RESOLUTION NO. 23-146**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A TASK ORDER WITH MCKIM & CREED, INC. RELATING TO ENGINEERING DESIGN AND BIDDING PHASE SERVICES FOR THE CRA SEGMENT 4.3 UTILITIES RELOCATION, IN THE TOTAL AMOUNT OF \$246,180.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Task Order to its Master Services Agreement with McKim & Creed, Inc., relating to Engineering Design and Bidding Phase Services for the CRA Segment 4.3 Utilities Relocation, in the total amount of Two Hundred Forty-Six Thousand, One Hundred Eighty Dollars (\$246,180.00), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this \_\_\_\_\_ day of March, 2023.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

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Lynne Fasone, City Clerk

March 9, 2023

Mark Shaeffer, PE  
 Utilities Director  
 City of Panama City Beach  
 17007 Panama City Beach Parkway  
 Panama City Beach, FL 32413

RE: PCB CRA 4.3 Utilities Relocation: Middle Beach Road to just West of Richard Jackson Blvd.

Dear Mr. Shaeffer,

Based upon the scope of work as discussed in our meetings on the referenced project, we offer the following proposal for providing professional engineering services. The utility relocation/design will include potable water, sanitary sewer, and reclaimed water systems along this CRA 4.3 project length and as referenced above. Below is a summary description of tasks and associated fee:

<b>TASK NO. and DESCRIPTION</b>	<b>FEE</b>
1. <b><u>Data Collection and Preliminary Design:</u></b> Obtain and review available data on existing conditions with Volkert/FDOT plans in hand, inspect existing conditions, identify other utility conflicts, coordination with PCB Utility Department, Volkert/FDOT and other utility owners and private utility owners. Volkert base drawings/survey will be used as provided by the design engineers. This effort includes a "zero" percent first month opinion of probable cost.	\$71,200
2. <b><u>Final Design/Construction Documents:</u></b> Finalize design based on input from PCB Utilities Department, Volkert/FDOT and other utility owners from preliminary design; prepare final construction plans, specifications, and contract documents; coordinate with PCB Utilities Department, Volkert/FDOT and other utilities at sequence of construction, Utility Work Schedules, and identify SUE locations needed for the PCB utilities.	\$89,240
3. <b><u>Bidding:</u></b> Assist with questions regarding bidding for PCB utility relocation plans and specifications, review PCB utility bids.	\$4,340
4. <b><u>SUE Investigation Allowance</u></b> To be determined during preliminary design phase and only utilized as needed.	\$81,400
<b>TOTAL</b>	<b>\$246,180</b>

1206 N. Palafox St.  
 Pensacola, FL 32501  
 Work: 850-994-9503

This proposal is based on the 60% plan set as obtained from Volkert Inc. and dated November, 2022. SUE data has not been made available so the allowance provided above includes cross-sections at approximately 100' intervals for all utilities within the project area. This should be a conservative estimate as SUE work by others is believed to be underway.

Attached is the detail of hours projected for Task Items 1. thru 3.. Task 4, if determined to be needed, will be performed by McKim & Creed or sub-consultants and billed accordingly. Construction plan sets will be produced for review at the 90% level and again at the 100%/Final Bid set. Interim plan sets will be available for PCB monthly meetings to discuss options for design. This proposal does not include right-of-way acquisition or permitting. As indicated above, limited bidding services are included as Volkert will handle the majority of tasks for this item. Volkert plans with ACAD/DWG electronic files will be made available and used as our base drawings for this project.

If acceptable, please sign and return one copy for our file. Thank you for the opportunity to provide this proposal and we look forward to working with the PCB Utility Department.

Sincerely,

Glenn P. Halstead, P.E.  
Technical Director

Attachment

**Approved:** \_\_\_\_\_

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

## COMBINED TASK ORDER AND NOTICE TO PROCEED

**TASK ORDER NO. 2022-02**

DATE \_\_\_\_\_, 2023

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND MCKIM & CREED, RELATING TO PROFESSIONAL ENGINEERING SERVICES FOR PROFESSIONAL ENGINEERING SERVICES FOR WASTEWATER TREATMENT FACILITIES, RECLAIMED WATER STORAGE AND PUMPING FACILITIES; RECEIVING WETLAND FACILITIES; REGIONAL WASTEWATER PUMPING STATIONS (>300,000 GPD ADF); WASTEWATER AND RECLAIMED WATER TRANSMISSION MAINS OVER 12" IN DIAMETER, dated August 17., 2022, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Engineer agrees to perform the specific professional engineering tasks set forth upon incorporated Attachment A, Scope of Services, relating to CRA Segment 4.3 Utilities Relocation.

Engineer's compensation shall be paid in monthly installments as specified in the Agreement. Engineer's total compensation for the services to be provided under this Task Order shall be determined as follows:

Pursuant to the Agreement, Engineer agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to

Engineer's total compensation shall be (check one):

a stipulated sum of \$ \_\_\_\_\_; or

a stipulated sum of \$164,780.00 plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his designee,

Allowance of \$Subsurface Utilities Engineering for \$81,400.00, and

Allowance of \$ \_\_\_\_\_ for \_\_\_\_\_; or

\_\_\_\_ a fee determined on a time-involved basis with a maximum cost of \$ \_\_\_\_\_:

As set forth upon incorporated Attachment B, Fee Breakdown.

If reimbursable expenses are to be paid hereunder, such expenses must be specifically AUTHORIZED AND IDENTIFIED in this section.

The parties agree that reimbursable expenses shall not exceed \$ \_\_\_\_\_.

Work shall begin on \_\_\_\_\_, 2023, and shall be substantially completed by \_\_\_\_\_, 202\_\_\_\_\_. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this Task Order by both Engineer and City, Engineer is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

MCKIM & CREED.

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By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## CITY OF PANAMA CITY BEACH, FL

ATTEST:

## City Clerk

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_