



**AGENDA**  
**FERNANDINA BEACH CITY COMMISSION**  
**REGULAR MEETING**  
**JULY 2, 2019**  
**6:00 PM**  
**CITY HALL COMMISSION CHAMBERS**  
**204 ASH STREET**  
**FERNANDINA BEACH, FL 32034**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE / INVOCATION**

*Invocation by Reverend James Tippins of Baptist Medical Center.*

**4. PRESENTATIONS**

4.1 **PRESENTATION - NASSAU HUMANE SOCIETY** - *Representatives of the Nassau Humane Society will present the "City Commission Dog of the Month."*

4.2 **PRESENTATION - IMS INFRASTRUCTURE MANAGEMENT SERVICES** - *Dave Bratton of IMS Infrastructure Management Services will provide a presentation regarding the Pavement Management Analysis.*

**5. PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA OR ITEMS ON THE CONSENT AGENDA**

**6. CONSENT AGENDA**

6.1 **FACILITIES USE AGREEMENT - DRIVING DYNAMICS, INC. - RESOLUTION 2019-105** APPROVING A FACILITIES USE AGREEMENT WITH DRIVING DYNAMICS, INC. FOR THE USE OF AIRPORT PROPERTY TO CONDUCT DEFENSIVE DRIVER SAFETY TRAINING; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Approves a Facilities Use Agreement with Driving Dynamics, Inc. for defensive driver training at the Fernandina Beach Municipal Airport on dates approved by the Airport Director for a period of one year.*

**7. RESOLUTIONS**

7.1 **DEED OF DEDICATION - SHELL COVE - RESOLUTION 2019-68** ACCEPTING A DEED OF DEDICATION FROM ROBINSON CREEK 34, LLC FOR SHELL COVE SUBDIVISION ROADS; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Accepts a deed of dedication for the roads in the Shell Cove subdivision.*

- 7.2 **WORK ORDER 19-88 - PASSERO ASSOCIATES, LLC - RESOLUTION 2019-106** APPROVING WORK ORDER 19-88 WITH PASSERO ASSOCIATES, LLC TO PROVIDE DESIGN AND BID SERVICES AT THE FERNANDINA BEACH MUNICIPAL AIRPORT FOR IMPROVEMENTS OF THE AIRPORT'S FUEL FARM; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Approves Work Order 19-88 with Passero Associates, LLC, in the not-to-exceed amount of \$40,000, to provide design and bid assistance associated with above ground fuel farm improvements at the Fernandina Beach Municipal Airport.*
- 7.3 **CHANGE ORDER APPROVAL - BRANCE DIVERSIFIED, INC. - RESOLUTION 2019-107** APPROVING CHANGE ORDER # 2 WITH BRANCE DIVERSIFIED, INC. IN THE AMOUNT OF \$168,388.80 FOR THE RECONFIGURATION OF THE DINGHY DOCKS TO INCLUDE ONE NEW DOCK AT THE FERNANDINA BEACH HARBOR MARINA; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Approves Change Order #2 with Brance Diversified, Inc. in the amount of \$168,388.80 with no increase to the total project cost.*
- 7.4 **PROPOSAL APPROVAL - ASPHALT PAVING SYSTEMS, INC. - RESOLUTION 2019-108** APPROVING A PROPOSAL FROM ASPHALT PAVING SYSTEMS, INC. IN AN AMOUNT NOT TO EXCEED \$348,513.50 FOR THE MICRO-SURFACING AND CAPE SEALING OF CITY ASPHALT RIGHTS-OF-WAY BY WAY OF A PIGGYBACK PURCHASE TO THE LEE COUNTY, FLORIDA, CONTRACT; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Approves the proposal from Asphalt Paving Systems, Inc. to perform micro-surfacing and cape sealing on City asphalt rights-of-way in an amount not to exceed \$348,513.50 as a piggyback agreement with the Lee County, Florida, Contract.*
- 7.5 **AGREEMENT APPROVAL – SWAGIT PRODUCTIONS, LLC – RESOLUTION 2019-109** APPROVING THE SECOND AMENDMENT TO THE AGREEMENT WITH SWAGIT PRODUCTIONS, LLC FOR VIDEO STREAMING SERVICES; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Approves the Swagit Productions, LLC Second Amendment to the Agreement for Video Streaming Services.*
- 7.6 **CODE ENFORCEMENT FINE REDUCTION AND RELEASE OF LIEN - MARK O'BRIEN - RESOLUTION 2019-110** APPROVING A SETTLEMENT OF CODE ENFORCEMENT FINES AND FEES FOR MARK O'BRIEN CONTINGENT UPON FULL PAYMENT OF \$20,000 NO LATER THAN AUGUST 1, 2019, FOR CODE ENFORCEMENT VIOLATIONS AT 400 SOUTH 8TH STREET AND 421 SOUTH 9TH STREET; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Authorizes full releases/satisfactions of liens be executed based upon the Code Enforcement and Appeals Board's order that fines and fees be reduced to a total of \$20,000 for violations now in compliance at 400 South 8th Street and 421 South 9th Street in the name of Mark R. O'Brien, specifically conditioned upon Mr. O'Brien paying the entire \$20,000 to the City on or before August 1, 2019.*
- 7.7 **CONTINUE DISCUSSIONS - AMELIA RIVER WATERFRONT DEVELOPMENT - RESOLUTION 2019-111** TO CONTINUE DISCUSSIONS REGARDING AMELIA RIVER WATERFRONT DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Accepts the proposal offered by one firm to provide recommendations to the City Commission related to the resiliency of the City's Amelia River Waterfront.*

## **8. ORDINANCES - FIRST READING**



8.1 **CHARTER AMENDMENT - CONSERVATION REFERENDUM - ORDINANCE 2019-15** SUBMITTING TO THE CITY ELECTORS PROPOSED AMENDMENTS TO THE CHARTER WHICH AMEND SECTION 10A TO ADD PROVISIONS TO THE CITY CHARTER REQUIRING REFERENDUM ELECTION FOR SALE OR LEASE OF CITY-OWNED CONSERVATION LAND; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends Section 10A of the City Charter to add a provision that requires a referendum for sale or lease of City-owned conservation land.*

8.2 **LAND DEVELOPMENT CODE AMENDMENT - AIRPORT DESIGN STANDARDS - ORDINANCE 2019-16** AMENDING THE LAND DEVELOPMENT CODE (LDC) TO INCORPORATE AMENDED AIRPORT DESIGN STANDARDS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends the Land Development Code specific to Airport Design Standards.*

## **9. ORDINANCE - SECOND READING**

9.1 **FY 2018/2019 AMENDED PAY AND CLASSIFICATION PLAN - ORDINANCE 2019-14** ESTABLISHING AN AMENDED CLASSIFICATION PLAN FOR FISCAL YEAR 2018/2019, PURSUANT TO SECTION 120 OF THE CITY CHARTER AND SECTION 62-247 OF THE CODE OF ORDINANCES OF THE CITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends the Pay and Classification Plan for FY 2018/2019.*

## **10. ORDINANCE - THIRD READING**

10.1 **CODE AMENDMENT - HUMAN RELATIONS - ORDINANCE 2019-10** AMENDING CHAPTER 54, HUMAN RELATIONS, CREATING SECTION 54-1 DEFINITIONS; CREATING SECTION 54-36 PURPOSE; CREATING SECTION 54-37 PROHIBITED CONDUCT; CREATING SECTION 54-38 COMPLAINTS; CREATING SECTION 54-39 EXEMPTIONS; CREATING SECTION 54-40 CRIMINAL ACTS; CREATING SECTION 54-41 FALSE CLAIMS; AMENDING SECTION 54-52 DECLARATION OF POLICY, OBJECTIVES; AMENDING SECTION 54-54 PROHIBITED CONDUCT; AMENDING SECTION 54-55 MULTIPLE LISTING SERVICES; AMENDING SECTION 54-56 EDUCATIONAL ACTIVITIES; AMENDING SECTION 54-57 BROKERAGE SERVICES; AMENDING SECTION 54-58 USE OF REMEDIES OF THIS CHAPTER, OTHER REMEDIES; AMENDING SECTION 54-59 DISCRIMINATION IN THE FINANCING OF HOUSING; AMENDING SECTION 54-60 EXEMPTIONS; AMENDING SECTION 54-61 INTERFERENCE, COERCION, OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends Chapter 54 of the City Code pertaining to Human Relations.*

## **11. BOARD APPOINTMENT**

11.1 **PLANNING ADVISORY BOARD - one appointment.**

## **12. CITY COMMISSION DISCUSSION**

12.1 **WATERFRONT PARK DEVELOPMENT -** *This item is placed on the agenda at the request of Commissioner Lednovich.*

12.2 **LAND CONSERVATION -** *This item is placed on the agenda at the request of Commissioner Lednovich.*

12.3 **JOINT LOCAL PLANNING AGENCY MEETING FOLLOW-UP -** *This item is placed on the agenda at the request of Vice Mayor Kreger.*

12.4 **BALLOON RELEASE ORDINANCE** - *This item is placed on the agenda at the request of Mayor Miller.*

12.5 **PLASTIC STRAW BAN ORDINANCE** - *This item is placed on the agenda at the request of Mayor Miller.*

**13. CITY MANAGER REPORTS**

**14. CITY ATTORNEY REPORTS**

**15. CITY CLERK REPORTS**

**16. MAYOR/COMMISSIONER COMMENTS**

**17. ADJOURNMENT**

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- A THREE (3) MINUTE TIME LIMIT MAY BE IMPOSED FOR ALL SPEAKERS (EXCEPT IN A QUASI-JUDICIAL HEARING). A "REQUEST TO SPEAK" FORM IS AVAILABLE ON THE COUNTER AT THE ENTRANCE TO THE COMMISSION CHAMBERS. THE FORM SHOULD BE GIVEN TO THE CITY CLERK UPON COMPLETION.
  - THE MAYOR WILL DETERMINE THE ORDER OF THE SPEAKERS AND MAY IMPOSE MORE RESTRICTIVE TIME LIMITS.
  - ONE PERSON WILL SPEAK AT A TIME AND ADDRESS COMMENTS TO THE MAYOR, NOT INDIVIDUAL CITY COMMISSION MEMBERS.
  - THE CITY COMMISSION MAY ASK QUESTIONS OF SPEAKERS WHO WILL HAVE ONE MINUTE TO RESPOND. ADDITIONAL TIME MAY BE GRANTED AT THE DISCRETION OF THE MAYOR OR BY A MOTION BY THE CITY COMMISSION.
  - SPEAKERS MAY FILE COPIES OF THEIR REMARKS WITH THE CITY CLERK WHO WILL MAKE THEM AVAILABLE TO THE COMMISSION.
  - FERNANDINA BEACH CITIZENS WILL SPEAK BEFORE NONRESIDENTS AND SPEAKERS WILL LIMIT REMARKS TO THE SPECIFIC SUBJECT MATTER.
  - DISCUSSION – DIRECTION - ACTIONS ITEMS MAY BE ACTED UPON BY THE CITY COMMISSION BY EITHER A MOTION AND VOTE IN ACCORDANCE WITH ROBERTS RULES OF ORDER, OR BY A CONSENSUS OF THE CITY COMMISSION.
  - PURSUANT TO RESOLUTION 95-32, IF AN ITEM IS NOT ON THE AGENDA IT REQUIRES A FOUR-FIFTHS VOTE OF THE CITY COMMISSION DECLARING THE ITEM AN EMERGENCY BEFORE ACTION CAN BE TAKEN.
  - *QUASI-JUDICIAL* - DENOTES THAT THE ITEM MUST BE CONDUCTED AS A QUASI-JUDICIAL HEARING IN ACCORDANCE WITH CITY COMMISSION ESTABLISHED PROCEDURE AND FLORIDA STATUTES. ANY PERSON WISHING TO APPEAL ANY QUASI-JUDICIAL DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSES, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.
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Persons with disabilities requiring accommodations in order to participate should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired).

**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT:                   Presentation  
                                Nassau Humane Society

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ITEM TYPE:               Presentation

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REQUESTED ACTION:

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SYNOPSIS: Representatives of the Nassau Humane Society will present the "City Commission Dog of the Month."

This item is placed on the agenda at the request of Mayor Miller.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager     6/19/2019

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Date: April 18, 2019

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Submitted By:           Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION:

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**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Presentation  
IMS Infrastructure Management Services

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ITEM TYPE: Presentation

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REQUESTED ACTION:

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SYNOPSIS: Dave Bratton of IMS Infrastructure Management Services will provide a presentation regarding the Pavement Management Analysis.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager 6/19/2019

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Date: June 07, 2019

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Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION:

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**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Resolution 2019-105  
Facilities Use Agreement - Driving Dynamics, Inc.

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-105

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SYNOPSIS: Driving Dynamics, Inc. has historically utilized multiple Facilities Use Agreements throughout the course of a year for use of the Airport's Closed Runway 18/36 on the dates specified within each agreement. On occasion, Driving Dynamics has requested use of the closed runway to support a client, however the request could not be accommodated due to the lead-time required for an agreement to be routed through the City Commission for consideration. This agreement therefore proposes a one-year term during which the Airport Director can schedule and authorize use of the closed runway under the terms specified in the Facilities Use Agreement through the term of the agreement.

The Airport Advisory Commission recommended unanimous approval of this agreement at its Regular Meeting on June 13, 2019.

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FISCAL IMPACT: The revenue produced from this Facilities Use Agreement will be deposited into the Airport Fund, Other Revenue Account, 420 36990.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission adopt proposed Resolution 2019-105.

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|---------------------------------|-----------|
| Dale Martin, City Manager       | 6/19/2019 |
| Pauline Testagrose, Comptroller | 6/20/2019 |
| Tammi E. Bach, City Attorney    | 6/20/2019 |

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Date: June 05, 2019

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Submitted By: Nathan Coyle, Airport Director

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-105

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING A FACILITIES USE AGREEMENT WITH DRIVING DYNAMICS, INC. FOR THE USE OF AIRPORT PROPERTY TO CONDUCT DEFENSIVE DRIVER SAFETY TRAINING; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Driving Dynamics, Inc. has requested to use Airport property at the Fernandina Beach Municipal Airport to conduct defensive driver training within a one-year term on dates scheduled and authorized by the Fernandina Beach Municipal Airport Director; and

WHEREAS, such use of Airport property will be the pavement area of remote parking area (closed Runway 18/36) between Runway 9/27 and Taxiway C, and such training activity will not affect normal operations of the Airport; and

WHEREAS, the Fernandina Beach Municipal Airport will receive \$925.00 for each day of use of Airport property; and

WHEREAS, the revenue from use of this facility be deposited into the Airport Fund, Other Revenue Account, 420 36990.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves a Facilities Use Agreement, attached hereto as Exhibit "A", with Driving Dynamics, Inc. for defensive driver safety training at the Fernandina Beach Municipal Airport.

SECTION 2. The City Manager and City Clerk are hereby authorized to execute said agreement, upon review and approval of the City Attorney.

SECTION 3. This Resolution shall become effective immediately upon passage.

ADOPTED this 2<sup>nd</sup> day of July, 2019.

CITY OF FERNANDINA BEACH

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John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



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Caroline Best  
City Clerk

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Tammi E. Bach  
City Attorney

## **CITY OF FERNANDINA BEACH FACILITIES USE AGREEMENT**

This FACILITIES USE AGREEMENT (herein after called the AGREEMENT) is made and entered into this \_\_\_\_\_ day of July, 2019, by and between the CITY OF FERNANDINA BEACH, a Florida municipal corporation, whose address is 204 Ash Street, Fernandina Beach, FL 32034 (herein called "CITY"), and Driving Dynamics, Inc. whose address is 258 Chapman Road, Suite 201, Newark, DE 19702 (herein called "USER").

WHEREAS, CITY owns, controls and operates that certain public facility known as the Fernandina Beach Municipal Airport (herein called "FACILITY"); and

WHEREAS, USER has expressed a desire to use said FACILITY for Defensive Driver Safety Training Classes.

NOW, THEREFORE, the parties agree as follows:

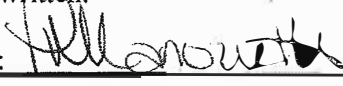
1. USER shall be permitted to use the FACILITY described above for the purpose of conducting its driver training classes during the period of July 2, 2019 through July 2, 2020 subject to the following:
  - a. The requested date(s) of use must be approved in writing by the Fernandina Beach Municipal Airport Director at least 5 business days prior to the requested event dates.
  - b. Use of the FACILITY on approved dates will be between the hours of 8 AM and 5 PM EST. Setup on the FACILITY may occur outside of these hours at the discretion of the Fernandina Beach Municipal Airport Director, however driver training will only be conducted within the hours of 8 AM until 5 PM.
2. USER will set up and use the FACILITY for days approved by the CITY on the remote parking pavement area between Runway 9/27 and Taxiway C (Closed Runway 18/36).
3. USER shall pay CITY the sum of \$925.00 per day for use of FACILITY during the period designated, payable prior to each approved use of the FACILITY. Any use of airport facilities outside of the closed runway area, such as the airport conference room, will be assessed a fee at the then current rate for use of such facility, and may require a separate agreement.
4. As condition to USER's right to use the facilities herein, USER agrees to and shall comply with the following:
  - a. USER shall not exclude any person from its services because of race, sex, age, religion, disability, national origin or other prohibited discrimination.
  - b. USER shall have competent, responsible, and able supervision on the premises at all times that its service is operational.
  - c. USER shall not interfere with emergency operations of CITY or other authorized users of the FACILITY.
  - d. USER shall keep premises in a clean and sanitary condition, and be responsible for cleanup on a daily basis and removal of temporary structures at the site upon completion of the event and returning property to same condition as when received.
  - e. CITY shall have the right, acting through its agents or employees, to enter upon the premise at reasonable hours and times for the purpose of making inspections.
  - f. USER will obtain all required Federal, State, County and City permits including any applicable fees.
  - g. USER shall not undertake any alterations or changes in the construction of the facility premises, without prior written consent of CITY.

- h. USER agrees to assume liability for and indemnify, hold harmless, and defend the CITY, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of USER, its officers, employees, agents, and representatives. USER's liability hereunder shall include all attorney's fees and costs incurred by the CITY in the enforcement of this indemnification provision. This includes claims made by the employees of USER against the CITY and USER hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the CITY may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.
- i. USER shall not rent, sublet, or assign space in the FACILITY premises without the prior written consent of CITY.
- j. USER has priority over the portion of the FACILITY as described during the time agreed upon in this AGREEMENT, and can use specified areas during the time of this AGREEMENT.
- k. CITY reserves the right to cancel this AGREEMENT at any time, without cause, by giving USER 30 days notice of such cancellation.
- l. USER shall maintain liability insurance that covers the event dates for approved use of the FACILITY, in amounts as deemed necessary and appropriate by the City Attorney, show the CITY as additional insured thereon, and shall provide proof of it to CITY, upon commencement of this AGREEMENT, and thereafter to provide coverage on all days of approved for use by CITY. USER will provide insurance on all their equipment being used in the FACILITY.
- m. USER shall, at all times, abide by Federal, State, and local laws, in the operation of its programs or services at the FACILITY. Sale and/or consumption of alcohol not allowed on Airport property unless properly permitted by the City.
5. Term of Agreement: The term of the AGREEMENT is as noted in paragraphs 1 and 2 above, unless terminated sooner.
6. The addresses for giving notices are as follows:

USER: Paula Lanouette, Logistics Manager  
258 Chapman Road, Suite 201  
Newark, DE 19702

CITY: City of Fernandina Beach  
204 Ash Street  
Fernandina Beach, FL 32034  
Attn: City Manager

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

USER: 

CITY OF FERNANDINA BEACH

By: Paula Lanouette  
Driving Dynamics  
Its: Logistics Manager

By: \_\_\_\_\_  
Dale L. Martin  
Its: City Manager

101 \_\_\_\_\_  
Employer ID #

By: \_\_\_\_\_  
Caroline Best  
Its: City Clerk



Approved as to Form and Legality:

A handwritten signature in blue ink, appearing to read 'TEB', is positioned above a horizontal line.

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Tammi E. Bach, City Attorney

## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-68  
Deed of Dedication - Shell Cove

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ITEM TYPE: Resolution (w/o fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-68

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SYNOPSIS: Ordinance 2015-23 approved a Planned Unit Development (PUD) overlay for the Shell Cove subdivision. The PUD provides that the City will accept the roads in the subdivision as public rights-of-way. The approved Shell Cove Plat did not clearly provide for dedication of the roads at the time of platting, so this Deed of Dedication serves to formalize the dedication of these roads from the developer, Robinson Creek 34, LLC to the City.

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FISCAL IMPACT: If approved, costs associated with street maintenance (lighting, signage, paving, sidewalks, street sweeping, etc.) will be included in future year budgets.

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CITY ATTORNEY COMMENTS: City Attorney and City Manager have asked the Shell Cove developer to satisfy the TRC-approved plans, nothing more.

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CITY MANAGER RECOMMENDATION(S): The City Commission previously requested that issues associated with driveway curb cuts, a property line fence, and a Citrona sidewalk be addressed (as indicated on the originally approved plans). The City Commission will have to decide whether the efforts to date satisfy City Commissioner concerns: while the driveway curb cuts appear to have been corrected, placement of the fence and construction of the sidewalk still need to be resolved.

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|------------------------------------------------|-----------|
| Tammi E. Bach, City Attorney                   | 6/24/2019 |
| Nicole Bednar, Administrative Services Manager | 6/24/2019 |
| Dale Martin, City Manager                      | 6/25/2019 |
| Katie Newton, Legal Assistant                  | 6/25/2019 |

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Submitted By: Nicole Bednar, Administrative Services Manager Date: April 17, 2019

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-68

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, ACCEPTING A DEED OF DEDICATION FROM ROBINSON CREEK 34, LLC FOR SHELL COVE SUBDIVISION ROADS; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby accepts the Deed of Dedication, attached hereto as Exhibit "A," for roads inside the Shell Cove subdivision to be dedicated as public rights-of-way in accordance with City of Fernandina Beach Ordinance 2015-23 approving a PUD overlay and creating the Shell Cove PUD.

SECTION 2. The City Clerk shall record this Deed of Dedication in the public records of Nassau County, Florida.

SECTION 3. This Resolution shall be effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.

ATTEST:

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
John A. Miller  
Commissioner-Mayor

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Tammi E. Bach  
City Attorney

Prepared by and Return to:  
Tomassetti & Prince  
406 Ash Street  
Fernandina Beach, FL 32034

**DEED OF DEDICATION**  
**(Right-of-Way)**

**THIS INDENTURE**, made this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019 between **ROBINSON CREEK 34, LLC**, a Florida limited liability company, whose address is P.O. Box 706, Fernandina Beach, FL 32035 ("Grantor"), and **CITY OF FERNANDINA BEACH**, a municipal corporation in Nassau County, State of Florida whose mailing address is 204 Ash Street, Fernandina Beach, Florida 32034 ("Grantee").

**WITNESSETH**, that for and in consideration of the acceptance of this Dedication by the Grantee, Grantor does hereby grant, dedicate, give, and convey to the Grantee, its successors and assigns, forever the following described land situate in Fernandina Beach, Nassau County, Florida, to wit:

All road Right-of-Ways shown on the Shell Cove Plat as Shell Cove Circle as recorded in Plat Book 8, Pages 150 – 151, of the public records of Nassau County, Florida (the "Shell Cove Plat") and as further described as "Shell Cove Circle North", "Shell Cove Circle East" and "Shell Cove Circle South".

**TO HAVE AND TO HOLD** the same unto the Grantee, its successors and assigns forever, in fee simple for a public right-of-way including therein the right to construct, maintain and operate, either above or below the surface of the ground, electric light and power, water, sewer and drainage lines and any other public utilities deemed necessary by the Grantee.

**AND** the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to dedicate and convey said land pursuant to the Adoption and Dedication language regarding the Road Right-of-Way retained to the property owner as recorded in the Shell Cove Plat and pursuant to requirements of Ordinance 2015-23 of the City of Fernandina Beach, Florida adopted on October 6, 2015 which requires the Right-of-Ways for Shell Cove to be dedicated to the Grantee.

**IN WITNESS WHEREOF**, the said Grantor has hereunto set their hand this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

Signed, sealed and delivered in the presence of:

Witness: \_\_\_\_\_ **Grantor:**  
**ROBINSON CREEK 34, LLC**

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

Witness: \_\_\_\_\_ By: William J. Mock, Jr.  
Its: Managing Member

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

This instrument prepared by: Law Office of Tomassetti & Prince 406 Ash Street, Fernandina Beach, FL 32034. Title to the lands described herein has not been examined by me and no warranty or other representation is made and no opinion (either expressed or implied) is given, as to the marketability or condition of the title to the subject property, the quantity of lands included therein, the location of the boundaries or the existence of liens, unpaid taxes, or encumbrances.

STATE OF FLORIDA  
COUNTY OF NASSAU

**I HEREBY CERTIFY** that on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019, before me personally appeared William J. Mock, Jr., Managing Member of Robinson Creek 34, LLC to me known to be the person described in and who executed the foregoing instrument, and acknowledged the execution thereof to be his free act and deed is personally known to me or has provided \_\_\_\_\_ as identification and has/has not taken an oath.

**WITNESS** my hand and official seal in the County and State last aforesaid, the day and year last aforesaid.

\_\_\_\_\_  
Notary Public, State of Florida  
My Commission Expires: \_\_\_\_\_

ORDINANCE 2015-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CHANGING THE CITY'S ZONING MAP TO ASSIGN A ZONING CATEGORY OF MEDIUM DENSITY RESIDENTIAL (R-2) WITH A PLANNED UNIT DEVELOPMENT OVERLAY FOR A PARCEL TOTALING 7.41 ACRES OF LAND LOCATED ON CITRONA DRIVE BETWEEN UNIMPROVED HICKORY AND INDIGO STREETS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning Advisory Board reviewed the Zoning Map Amendment application numbered PAB 2015-10 at its August 12, 2015 meeting and by a 5-2 vote recommended the change to Medium Density Residential (R-2) with a Planned Unit Development (PUD) Overlay; and

WHEREAS, notice of public hearing on such application was published in the News Leader, a newspaper of general circulation in Fernandina Beach, Nassau County, Florida, on July 24, 2015.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. PROPERTY INVOLVED. The property identified for this change of the Zoning Map is located on Citrona Drive between unimproved Hickory and Indigo Streets and identified as Parcel ID 00-00-31-1180-0020-0000, totaling approximately 7.41 acres, and is shown on the map attached hereto as Exhibit "A".

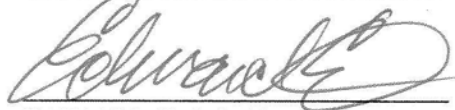
SECTION 2. ZONING MAP CHANGE. For the property in question, the City's Zoning Map is hereby changed to Medium Density Residential (R-2) with a Planned Unit Development Overlay.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof, shall be held invalid by any court, administrative agency or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses and phrases under application shall not be affected thereby.

SECTION 4. This Ordinance shall take effect immediately after its final adoption.

ADOPTED this 6th day of October, 2015.

CITY OF FERNANDINA BEACH



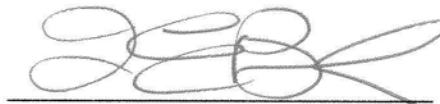
EDWARD E. BONER  
Mayor - Commissioner

ATTEST:



CAROLINE BEST  
City Clerk

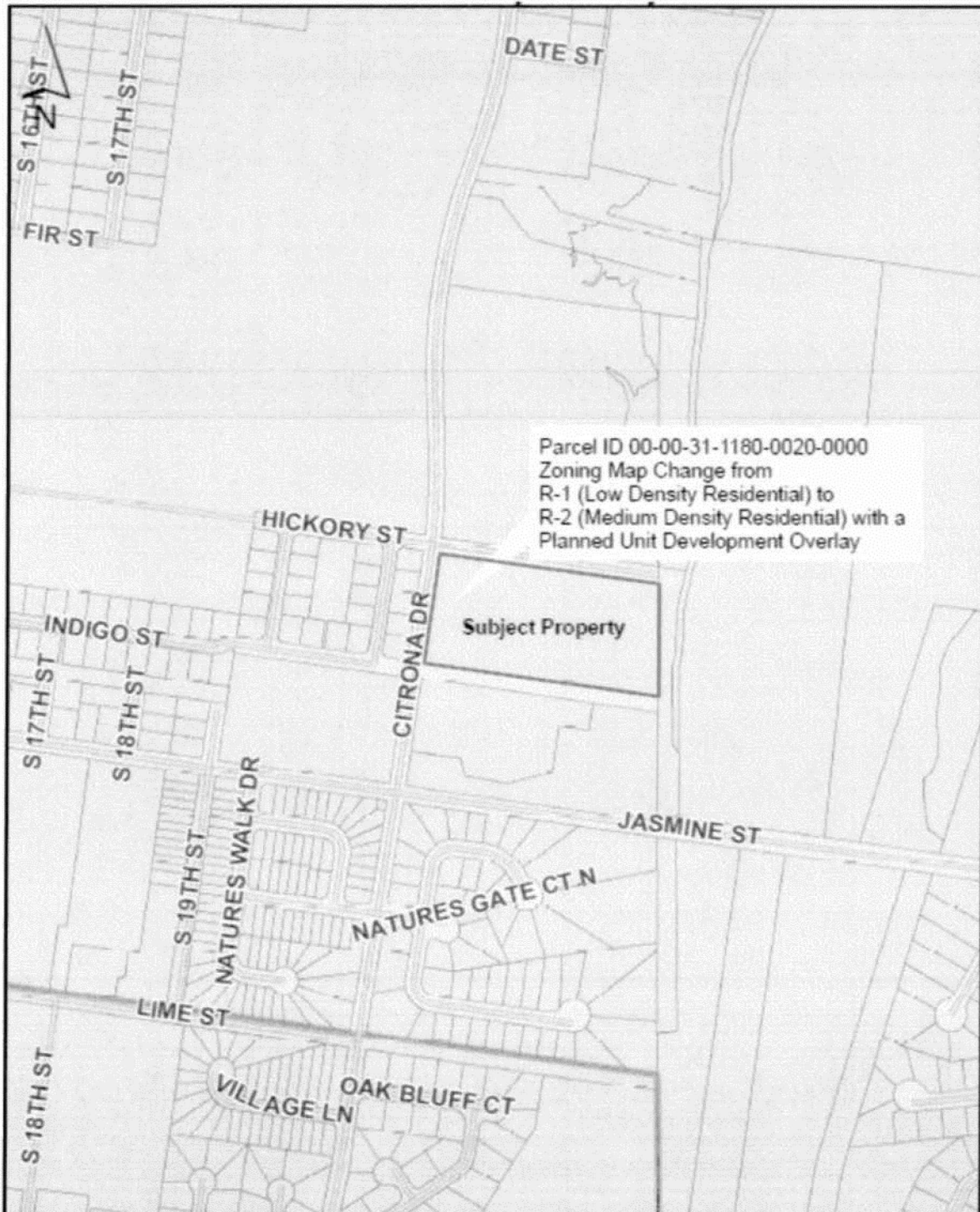
APPROVED AS TO FORM AND LEGALITY:



TAMMI E. BACH  
City Attorney

**ORDINANCE 2015-23  
EXHIBIT A**

ZONING MAP CHANGE WITH PLANNED UNIT DEVELOPMENT OVERLAY FOR A 7.41 ACRE PARCEL IDENTIFIED AS 00-00-31-1180-0020-0000 AND LOCATED ON CITRONA DRIVE BETWEEN UNIMPROVED HICKORY AND INDIGO STREETS.





## **EXHIBIT B DEVELOPMENT NARRATIVE**

("SHELL COVE")

### **I. General Conditions:**

The SHELL COVE PUD consists of approximately 7.41 acres of land that is located on the eastern side of Citrona Drive and northern side of Jasmine Street in Fernandina Beach, Florida. The Shell Cove PUD will consist of forty eight (48) single family homes and open space.

- A. The Shell Cove PUD will be developed as delineated on the preliminary development plan (attached hereto as Exhibit "B"). The Shell Cove PUD Preliminary Development Plan incorporates by reference the terms of these PUD Conditions and the Developer's statements made in the related rezoning application, which collectively set forth the Developer's written plan of development for the Shell Cove PUD, and which are intended to clearly demonstrate that approval of the Shell Cove PUD will benefit the community as a whole and fulfill the applicable policies of the Fernandina Beach Comprehensive Plan, and Ordinance 2006-14, as amended, the Fernandina Beach Zoning Code (the "Zoning Code").
- B. The Developer may, at their discretion, develop the Shell Cove PUD in phases, but the proposed Preliminary Development Plan contemplates one phase.
- C. All commons areas in the Shell Cove Subdivision will be constructed to serve the entire Shell Cove Subdivision and will be owned and controlled by one Homeowner's Association (HOA).
- D. Within one (1) year after approval by the Fernandina Beach City Commission of the Shell Cove PUD Preliminary Development Plan, the Developer shall submit a final development plan for the Project to the Technical Review Committee for review.
- E. The Developer may, at their discretion, simultaneously submit engineering plans for the Project as a whole for approval by the Technical Review Committee. The City Commission, upon request from the Developer and for good cause shown, may extend the one (1) year time period for submitting the final development plan. Such extension shall not exceed one (1) year.
- F. The location and size of all lots, roads, project entrances, recreation/open space and other areas shown on the Shell Cove PUD Preliminary Development Plan is conceptual such that the final location of any roads, project entrances, recreation/open space and other areas will be depicted on the final development plan and the final engineering plans so long as the changes do not constitute a Major Amendment to the PUD. However, a significant change to the location/size of the proposed open space or significant change to the location of roadways or transportation improvements will be considered a substantial deviation and will require approval from the Planning Advisory Board.

### **II. Specific Conditions:**

#### **A. Open Space and Common Areas.**

- 1. Open space and common areas shall be provided for the project. The location of these areas is indicated on the Shell Cove Preliminary Development Plan. All common area open space for the applicable phase of the project shall be included in the final development plan of the Project.



2. Any active recreational facilities and accessory structures in the Project shall be subject to site plan approval by the Technical Review Committee and shall be constructed within the upland portion of the open space provided in the Preliminary Development Plan.
3. The Developer, or the HOA after acquiring title to the common areas and recreational amenities within the Shell Cove Subdivision, may adopt rules and regulations governing the use of the same by the residents of the Shell Cove Subdivision. The Developer will have no obligations to maintain or improve the open space or common areas after conveyance to the homeowners association or property owners association, subject to fulfillment of the recreation and open space requirements set forth herein. However, the developer shall not convey any common areas to any homeowners' association until all improvements are constructed and approved by the City of Fernandina Beach.
4. The open space areas and related maintenance and use restrictions shall be evidenced by recorded deed restrictions or recorded Declaration(s) of Covenants and Restrictions (collectively, the "Covenants and Restrictions"). All privately owned open space shall continue to conform to its intended use as shown in the final development plan and final engineering plans for the project.
5. As shown on the Site Data Table in the Shell Cove Preliminary Development Plan, the Developer has committed approximately 2.5 acres of the Shell Cove PUD for use as active recreation and/or open space, and such calculation has been made in accordance with the requirements of the Zoning Code.
6. The Shell Cove PUD shall be subject to the Recreation Impact Fees for Regional Parks unless cash and land or a combination thereof contributions are given to Fernandina Beach to satisfy concurrency requirements. The construction of onsite amenities and active recreation areas within the Shell Cove Subdivision will qualify for local park impact fee credits due to the provision local parks for the use by the residents.

B. Administration of Community Space and Facilities:

1. The Developer will administer common open space through the Shell Cove HOA and shall conform to the following requirements:
  - a. The Developer shall establish the applicable association or nonprofit corporation prior to the sale of any lots or units by the Developer to any third party within the Shell Cove PUD.
  - b. Membership in the association or nonprofit corporation shall be mandatory for all property owners within the Shell Cove PUD and the Shell Cove Subdivision governed by such entity.
  - c. The Developer may elect to form separate and/or multiple property owners and/or homeowners association within the Shell Cove PUD and Subdivision. If so, the Developer shall establish a master property owners and/or homeowners association for the Shell Cove Subdivision that shall be responsible for the maintenance of master drainage and open space areas, subject to the conditions set forth herein. All improvements including roads, master drainage facilities, storm sewers, etc. shall be completed and approved by Fernandina Beach before being transferred to any homeowners' organization or dedicated to the City of

Fernandina Beach, as applicable.

- d. The applicable association or nonprofit corporation shall manage all common areas, recreational and open space and recreational facilities that are not otherwise dedicated to the public and that are within the lands that are subject to the jurisdiction of such association or nonprofit corporation; shall provide for the maintenance, administration and operation of such portions of the Shell Cove PUD and any other lands located within the Shell Cove PUD that is not publicly or privately owned; and shall secure adequate liability insurance governing such areas owned or operated by such association or nonprofit corporation.

C. Stormwater Facilities:

1. The Shell Cove PUD shall be served by a stormwater system, which shall adhere to the applicable standards of the St. Johns River Water Management District and City of Fernandina Beach for residential stormwater systems, and said system shall be conveyed to the homeowners association and/or property owners association by deed and/or easement for maintenance and operation by the homeowners association and/or property owners association.
2. All St. Johns River Water Management and Fernandina Beach permits for stormwater facilities shall be obtained by the Developer. The developer shall obtain an operating permit for these facilities before transferring them to any HOA.

D. Residential Development Standards:

1. The Shell Cove PUD shall include not more than forty eight (48) single family dwelling units. Below are the site development standards:
  - a. Single Family Standards: Single-family lots shall adhere to the requirements as set forth below:
    - (1) Minimum Lot Requirements:
      - (a) Minimum lot width: Forty two (42) feet
      - (b) Maximum height: Thirty-five (35) feet
      - (c) Maximum impervious area: Seventy-five percent (75%)
    - (2) Minimum Required Yard Setbacks:
      - (a) Front: Zero (0) feet; Maximum ten (10) feet
      - (b) Side yard: Zero (0) feet; no maximum
      - (c) Rear yard: Zero (0) feet; no maximum

The intent of the reduced yard requirements is to provide flexibility in locating structures. Under no circumstance can setbacks for any individual lot be 0 feet for all yards. The maximum front yard setback is provided to ensure that primary structures are located in close proximity to the abutting street in order to provide for community continuity.

2. All screened pool enclosures, whether attached, semi-attached or detached from the principal building, shall adhere to a minimum yard setback requirement of three (3) feet and shall not be located in the front yard.
  3. Accessory uses shall be permitted and shall not exceed 625 square feet of enclosed ground floor area. Permitted accessory uses include those identified in Table 2.02.03 of the Land Development Code, as amended, for the R-1 zoning classification, with the exception of Home Occupation. The building setbacks for all accessory uses shall match the principal structure setbacks described in Section II(D)(1)(a)(2) of this document, with the exception that there shall be no maximum yard setback. Maximum building height for accessory structures shall be 25 feet.
- E. Home Occupations: Home occupations shall be permitted with special exception (subject to supplemental standards), as granted individually by the City of Fernandina Beach.
- F. Off-Street Parking & Loading: Residential development within the Shell Cove PUD shall be subject to the applicable off-street parking and loading required for such use, pursuant to Section 7.01.04 of the Land Development Code.
- G. Signage:
1. The Shell Cove PUD may have project identification signage at all external entrances to the Shell Cove PUD. External entrance project identification signs shall not exceed fifty (50) square feet on each face. All project signs will be designed as ground-mounted signs or integrated into or mounted on landscape features such as walls and fences. All lighting of signs will be sign mounted or ground mounted units projecting onto the sign. The signs at each external project entrance or recreational area will be single faced or double faced and the external entrance signage may include one (1) separate sign, one (1) on each side of the entrance, not to exceed a total number of two (2) signs for the entire development.
  2. Each open area within the Shell Cove PUD shall also be entitled to identification signage.
- Open space area identification signage shall not exceed ten (10) square feet on each sign face.
3. The location of signage shall be delineated on the site plan submitted to the Development Review Committee for approval.
  4. Traffic and street name signage may include aesthetic framing. However, any applicable FDOT/Fernandina Beach standards for sign face, elevations, etc. shall be maintained by the Developer and/or homeowners' association as appropriate.
  5. There is no other specific reserved signage approvals requested for the Shell Cove PUD. Home occupations, which are approved as a supplemental use as detailed herein, shall not be allowed any signage rights.

H. Sidewalks, Street Lights and Walking Path:

1. Four (4) foot wide sidewalks with a minimum accessible passing zone every two hundred (200) feet shall be provided on one side of the roadway in compliance with the Fernandina Beach Land Development Code. Driveways may act as passing zones if they do not exceed a two percent (2%) cross slope.
2. Streetlights shall be provided along all streets. The Developer shall submit a lighting plan, demonstrating the location of streetlights, with final engineering plans for approval by the Technical Review Committee.
3. If acceptable to City Staff and the City Commission, the Developer will install a 5-foot wide sidewalk along the eastern side of Citrona Drive in front of the project. This sidewalk will connect the southern internal sidewalk stub within the Shell Cove Community to the Hickory Street/Citrona Drive intersection. This connection will occur within the Citrona Drive right of way and will be dedicated for public use. The Developer will also install a pedestrian crosswalk on Citrona Drive at the Hickory Street intersection. If the City Commission determines that upgrades to other offsite sidewalks within the Citrona Drive right of way are more critical, the Developer monies that would have been spent to fund the afore-mentioned sidewalk improvements can be paid in cash to the City for use elsewhere, as determined by the Commission. The Developer is not obligated to fund any more in offsite sidewalk improvements than the cost that would have been incurred to construct the improvements described within this section.

I. Amenities:

1. Developer will dedicate and/or construct the following amenities within the Shell Cove Subdivision:
  - a. Buffers shown on the Preliminary Development Plan
  - b. Wetland and wetland buffer areas shown on the Preliminary Development Plan
  - c. Pedestrian Access to Hickory Street for access to the Egan's Creek Greenway property

Developer may, at its option, construct additional amenities. All amenities constructed within the Shell Cove Subdivision, when operational, are intended to serve all homeowners within the Shell Cove Subdivision.

J. Visual Screen/Buffer:

1. A visual screen/buffer shall be provided along the western boundary line of the property as depicted on the Preliminary Development Plan (Exhibit "B") which screen/buffer shall be at least ten (10) feet in depth. The buffer/screen may include a wood, wood composite, masonry wall, or vinyl fence, existing or planted landscaping, earth mounds or combination thereof so long as such measures shall provide at the time of installation a minimum of 85 percent opacity for that area between the finished grade level at the common boundary line and eight (8) feet above such level and horizontally along the length of all common boundaries.

K. Construction Standards:

1. Except as specifically provided herein, all development in the Shell Cove PUD shall be in accordance with Fernandina Beach's subdivision and land development standards, and any

applicable State standards, in effect at the time of submittal of the Final Development Plans and Plat of record and any applicable utility providers standards with respect to any water, sewer, or electrical utilities for the Shell Cove PUD served by the City of Fernandina Beach or any other utility provider.

2. All utilities shall be located underground.

L. Wetland Buffers:

1. All wetlands within the Shell Cove PUD shall be protected with buffers in accordance with applicable St. John's River Water Management District criteria and City of Fernandina Beach Land Development Code.
2. The exact boundaries of wetlands and wetland buffers indicated on the Shell Cove PUD Preliminary Development Plan will be subject to a final determination on the final engineering plans consistent with the above requirement.

M. Temporary Uses:

1. Temporary sales offices, including modular units, not to exceed two (2) units, for the sale of the lots and/or completed residences, shall be permitted within the Shell Cove PUD until all of the residential lots and completed residences are sold. The developer shall indicate with a note on any site plan submitted to the Technical Review Committee for approval of the location of said units.
2. The Developer, or its designated successor, assign or designee, will be required to maintain a copy of the approved Planned Unit Development Ordinance, including the Final Development Plan and PUD Conditions in any sales office located upon the Shell Cove PUD, which is available for inspection by project residents and landowners, including the posting for public viewing of the Final Development Plan in any sales office, and this obligation shall be contained in the Covenants and Restrictions that are placed on the residential lands within the project.
3. The siting of temporary construction trailers shall be allowed on the Shell Cove PUD during construction. The temporary construction trailers must be removed within thirty (30) days of completion of the improvements, for which the temporary construction trailers are being utilized, provided the right to temporary construction trailers shall continue until build-out of the project.

- N. Alterations: Changes in the location of the road(s), project entrances, stormwater system improvements, and to the boundaries, size and configuration of lots and Recreation/Open Space areas, as depicted on the Shell Cove PUD Preliminary Development Plan to accommodate environmental, permitting and design factors, conditions and requirements of the Developer is allowed, so long as the change does not constitute a Major Amendment to the PUD, provided the integrity of the original application is maintained and provided the same shall be finalized by the Developer during final engineering plan approval for the applicable phase of development. The Fernandina Beach Land Development Code will govern all applicable procedures for changes to the PUD.

O. Ownership and Maintenance:

1. The Shell Cove PUD and related uses/facilities associated therewith (other than individual lots), will be owned, maintained and or operated as follows:
  - a. Any areas associated with the development (i.e., recreation/open space areas, signage, landscape, stormwater systems, etc.) will be managed through a homeowners association(s) and/or a property owners association(s).
  - b. To ensure that all of the recreation and open space areas described in these PUD Conditions and depicted in the approved Shell Cove Preliminary Development Plan for any phase of the project will be used as intended, the Covenants and Restrictions described above will contain provisions consistent with terms of these PUD Conditions and any deed from the Developer to third party purchasers in the project will incorporate such Covenants and Restrictions by reference to the Covenants and Restrictions in each deed.
  - c. Such deed restrictions created by the Covenants and Restrictions shall run with the land in order to protect both present and future property owners within the Shell Cove PUD. The deed restrictions created by the Covenants and Restrictions shall prohibit the partition of any open space areas. The water/sanitary sewer improvements will be the responsibility of the private utility company, which provides service for this area, which is currently the City of Fernandina Beach.

P. Access:

1. Access to and from the Shell Cove PUD will be provided as shown on the Shell Cove PUD Preliminary Development Plan.
2. The location of all external and internal project entrances, accesses and roadways may change based on environmental, permitting and design factors, conditions and requirements of the Developer, so long as the changes do not constitute a Major Amendment to the PUD. The Developer will finalize the location of all external project entrances, accesses and roadways during the final engineering approval for the applicable phase of development. The Fernandina Beach Land Development Code will govern all applicable procedures for changes to the PUD.
3. Model home building permits will be issued upon installation of all necessary water mains and fire hydrants, and stabilization of all roadways internal to the development, and plat recording. Up to 10% of the total lots for each phase of the development may be issued as model lots; however, Certificates of Occupancy will not be issued for these models until all improvements for that phase are complete.
4. Each dwelling unit or other permitted use shall be provided access, either directly or indirectly, by a public right-of-way, private vehicular or pedestrian way or commonly owned easement.
5. City owned vehicles shall be permitted access on privately owned roads, easements and common open spaces in order to perform basic City services such as fire and

police protection, emergency service needs of PUD residents, and site inspection by Fire-Rescue, Community Development, Engineering and Code Enforcement departments to monitor adherence to City regulations and the conditions contained herein. If any road is gated, the gate shall automatically open in response to a “yelp” electronic siren.

6. The proposed rights of ways are to be a minimum of 30 feet in width and shall be dedicated to the City of Fernandina Beach for use and maintenance upon completion and acceptance by the City. The right of way reduction beyond typical City standards is proposed to accomplish the following:
  - a. One way traffic flow resulting in less impervious area;
  - b. Introduction of more open space into the development; and
  - c. Greater tree retention due to less impacted area

All roads will be constructed to City standards and will be subject to traditional testing and inspections methods commonly performed by the City and described within the City Land Development Code.

- Q. Notification: The Applicant shall incorporate into the covenants and restrictions notification to all property owners that they are living in a Planned Unit Development (PUD).

**III. Justification for Planned Unit Development Classification for this Project and Approval of the Preliminary Development Plan:**

The proposed project allows for development of the Shell Cove PUD for single-family residential uses in a manner that warrants flexibility in the application of land use controls for Fernandina Beach, Florida consistent with the intent of Section 2.02.02 of the Fernandina Beach Land Development Code. The project design is also in harmony with the general purpose and intent of the Fernandina Beach Comprehensive Plan. The design and layout of the Shell Cove Planned Unit Development (PUD) requirements:

1. Is of less intensity than the requested Future Land Use Map designation accompanying this application;
2. Accomplishes a more desirable environment with minimal impact to environmentally sensitive lands;
3. Provides for an efficient use of the Shell Cove PUD, resulting in small well designed networks of utilities and streets and thereby lowers development costs;
4. Enhances the appearance of the area through preservation of natural features, the provision of underground utilities, where possible, and the provision of open space areas in excess of existing Zoning Code and subdivision requirements;
5. Provides an opportunity for home ownership by a broad range of individuals;
6. Provides an environment of stable character compatible with the surrounding areas;
7. Retains property values over the years and makes a substantial improvement of the quality of development of the Shell Cove PUD after the date hereof; and

8. The Shell Cove PUD Preliminary Development Plan which incorporates by reference the terms of these PUD Conditions and the statements made by the Developer in the related rezoning application includes the criteria required for the Fernandina Beach Planning Advisory Board and the Fernandina Beach City Commission to review and approve the Shell Cove PUD Preliminary Development Plan.



Accepted by: \_\_\_\_\_ Time: \_\_\_\_\_ Date: \_\_\_\_\_

NOTICE OF PUBLIC HEARING  
CITY COMMISSION  
CITY OF FERNANDINA BEACH

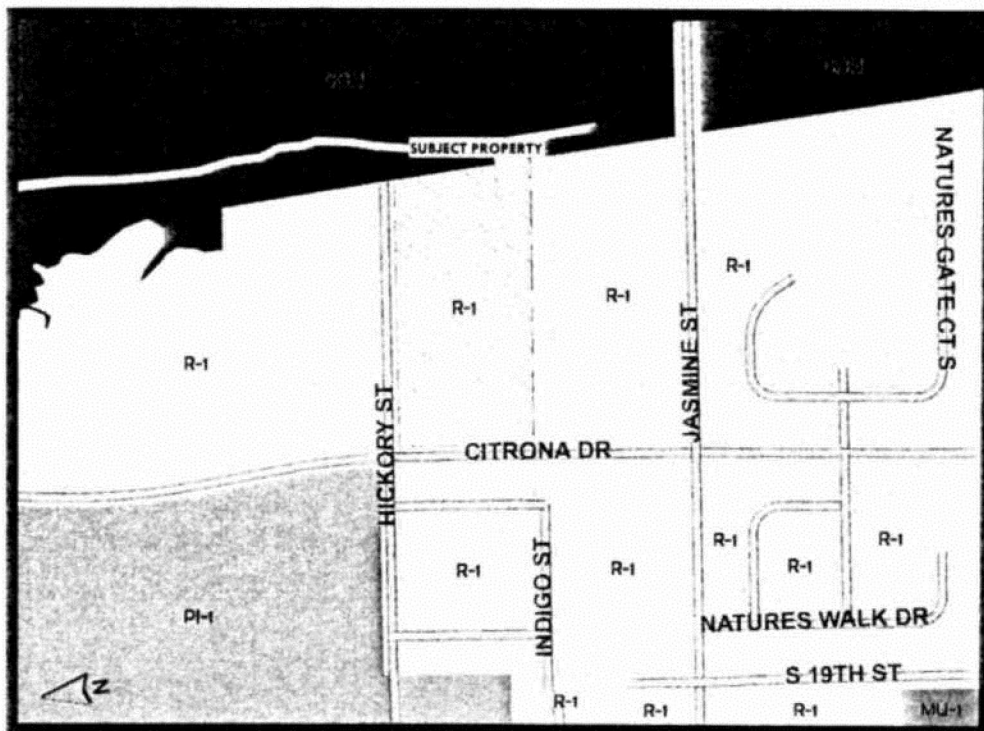
NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Tuesday, October 6, 2015, at 6:00 PM** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following application:

**ORDINANCE 2015-22**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CHANGING THE CITY'S FUTURE LAND USE MAP FROM LOW DENSITY RESIDENTIAL (LDR) TO MEDIUM DENSITY RESIDENTIAL (MDR) AND CONSERVATION (CON) FOR A PARCEL TOTALING 7.41 ACRES OF LAND LOCATED ON CITRONA DRIVE BETWEEN UNIMPROVED HICKORY AND INDIGO STREETS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CHANGING THE CITY'S ZONING MAP TO ASSIGN A ZONING CATEGORY OF MEDIUM DENSITY RESIDENTIAL (R-2) WITH A PLANNED UNIT DEVELOPMENT OVERLAY FOR A PARCEL TOTALING 7.41 ACRES OF LAND LOCATED ON CITRONA DRIVE BETWEEN UNIMPROVED HICKORY AND INDIGO STREETS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**



requiring accommodations in order to participate in this program or activity should contact 310-3115, TTY/TDD 711 or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD/COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, S/HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Copies of the applications with description by metes and bounds and the ordinance can be obtained in the office of the City Clerk, City Hall, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday. For information on the application, please contact the Staff of the City Clerk's Office at 310-3115.

*Note:*

***Please run as a DISPLAY in the September 23, 2015 edition of the News Leader.***

***Please send proof of publication to:***

*City Clerk's Office*

*City Hall, 204 Ash Street*

*Fernandina Beach, FL 32034*

*904-310-3115*

September 23, 2015  
Newsleader Edition

SCANNED  
KB

**NOTICE OF PUBLIC HEARING  
CITY COMMISSION  
CITY OF FERNANDINA BEACH**

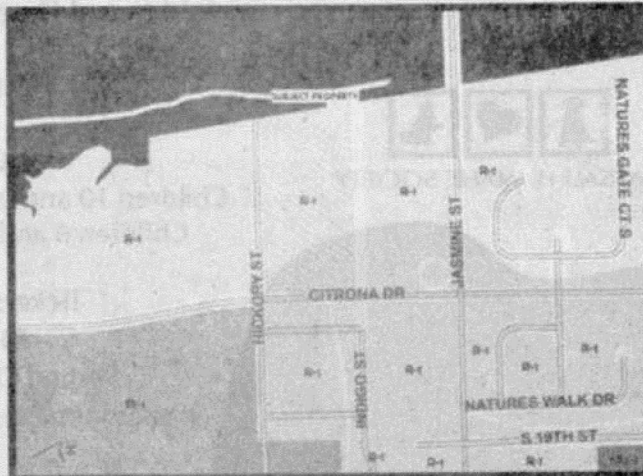
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**ORDINANCE 2015-23**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CHANGING THE CITY'S ZONING MAP TO ASSIGN a ZONING CATEGORY of MEDIUM DENSITY RESIDENTIAL (R-2) with a planned unit development overlay FOR A PARCEL TOTALING 7.41 ACRES OF LAND LOCATED ON citrona drive between unimproved hickory and indigo streets; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.



Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 310-3115, TTY/TDD 711 or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

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Shel: Adrienne

CITY COMMISSION AGENDA ITEM  
CITY OF FERNANDINA BEACH

SUBJECT: Ordinance 2015-23  
Zoning Map Amendment with Planned Unit Development Overlay – 7.41 Acres on Citrona Drive between unimproved Hickory and Indigo Streets

DEPARTMENT: Community Development Department

ATTACHMENTS: ☒ Ordinance ☐ Resolution  
☐ Support Documents ☐ Other

RECOMMENDED ACTION: Approve Ordinance 2015-23 at 2<sup>nd</sup> Reading, Zoning Map Change with Planned Unit Development (PUD) Overlay for 7.41 acres on Citrona Drive between unimproved Hickory and Indigo Streets.

SUMMARY: The applicant, Robinson Creek 34, LLC has applied for a small-scale future land use map change and zoning map change with a Planned Unit Development (PUD) overlay for the subject property. The property is currently vacant land with the intent to develop a single-family detached subdivision. Planned Unit Developments are intended to provide flexible land use and design and to allow planned diversification per Section 4.03.00 of the Land Development Code. The applicant has requested a PUD overlay specifically in order to deviate from lot width requirements to accommodate smaller building sizes and have flexible setbacks in order to accomplish more tree preservation. This project will have approximately 48 single-family homes and also incorporate open space. The project will not encroach into the wetlands and will comply with wetland buffering requirements.

The requested land use and zoning changes are sufficiently compliant with the Comprehensive Plan, Land Development Code, and Municipal Code. Therefore, staff recommends approval of the applications. The Planning Advisory Board recommended approval of the request in a 5-2 vote at their August 12, 2015 meeting. It is anticipated second reading will be at the first meeting in October.

This Ordinance was approved at 1st reading by the City Commission on September 1, 2015.

FISCAL IMPACT: None

CITY ATTORNEY COMMENTS: No Additional Comments

|                    |                                                                          |                      |
|--------------------|--------------------------------------------------------------------------|----------------------|
| DEPARTMENT HEAD    | Submitted by: Adrienne Burke <i>AB</i><br>Community Development Director | Date: 9/11/15        |
|                    | Requested Agenda                                                         | Date: 10/6/15        |
| FINANCE DEPARTMENT | Approved as to Budget Requirements                                       | Date: <i>9/14/15</i> |
| CITY ATTORNEY      | Approved as to Form and Legality <i>TEB</i>                              | Date: <i>9/14/15</i> |
| CITY MANAGER       | Approved Agenda Item for 10/6/15 <i>JB</i>                               | Date: 9/11/15        |

COMMISSION ACTION: ☒ Approved As Recommended ☐ Disapproved  
☐ Approved With Modification ☐ Postponed to Time Certain  
☐ Other ☐ Tabled

Approved at the City Commission Meeting  
Held on *9/10/15*  
Voted: *5-0* Initial: *AB*



## CITY OF FERNANDINA BEACH

Planning Department

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April 22, 2018

CBC National Bank  
1891 S. 14<sup>th</sup> Street  
Fernandina Beach, Florida 32034

**Re: Release of Maintenance Bond Letter of Credit No. 165/ Shell Cove Subdivision**

Dear Mr. Powell,

The Standard Maintenance Bond issued to Shell Cove in the amount of one hundred fifty-five thousand dollars (\$155,000) expired on April 21, 2018. This bond was required by the City under the terms of Section 11.05.05 of the Land Development Code which directs that a two (2) year maintenance guarantee be provided for infrastructure improvements within new subdivisions.

The requirement to maintain this bond expired on April 21, 2018 and the City is in agreement with the release of the bond as of this date.

If you have any questions concerning this information, please contact this office at 904.310-3135.

Sincerely,

A handwritten signature in blue ink that reads "Kelly N. Gibson". The signature is written in a cursive style and is enclosed in a light blue rectangular box.

Kelly N. Gibson, AICP  
Planning Manager

cc: Robinson Creek 34, LLC – Jay Mock



**Civil & Environmental Engineering • Mechanical & Structural Engineering • Construction Management**

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March 25, 2019

Ms. Tammi Bach  
City Attorney  
City of Fernandina Beach  
204 Ash Street  
Fernandina Beach, FL 32034

**Re: Shell Cove Circle right of way dedication**

Ms. Bach:

Through our legal counsel, we received several stipulations concerning the City's willingness to accept the Shell Cove rights of ways. These stipulations are generally described below as they were conveyed to us:

1. *The curb cuts in the neighborhood which are not to code or according to the Plans and must be fixed.*
2. *Written proof from the County that the County will not allow the sidewalk on the East Side of Citrona Drive.*
3. *Install the 6' PVC fence on the northern boundary adjacent to Hickory Street Right of Way, which was shown on the plans.*
4. *Install the 6' PVC fence on the eastern boundary of the project as shown on the plans.*
5. *The City is going to restrict and not allow on street parking. They want proof it is in the Declaration as required by the PUD documents or an amendment to the governing documents if not already in the docs.*
6. *Landscaping in the common areas is dead and they want it restored.*

Below are our responses to the requested conditions:

1. We have identified numerous curb cuts that were not removed and re-installed correctly during the housing construction. We estimate this number to be approximately half of the cuts installed within the development. These will be torn out and replaced by the Builder and overseen by the Developer. We welcome the City Streets Department to participate in the reconstruction.
2. Attached is the correspondence from Nassau County dated November 9, 2015, March 10, 2016 and March 11, 2016 and correspondence from the City of Fernandina Beach TRC Chairman dated March 1, 2016, discussing the sidewalk construction. The directive from the TRC Chairman was to remove and replace approximately 310 linear feet of sidewalk that was in disrepair in front of the Fernandina Beach High School in lieu of the sidewalk in front of the development. Based on this direction from the City and County, the Developer performed this work. Please note that the "Streets" department is copied on this correspondence.

The correspondence references a Comprehensive Plan mandating intergovernmental coordination.

Even though the County has made their position known and the TRC Chairman acknowledged this, the Developer is willing to extend a sidewalk from the northern driveway of Shell Cove Circle to the Hickory Street right of way. Additionally, the Developer will install a crosswalk across Citrona Drive to the western side of the road. This is all conditioned upon Nassau County approving and accepting for ownership and maintenance these improvements in their right of way. We cannot force the County to accept an improvement that they do not approve.

3. This submittal is being prepared for a right of way dedication internal to the development. A letter dated May 3, 2016 states that the improvements for the development have been completed in general compliance of the approved plans. This compliance letter was issued by the TRC Chairman who oversees this committee, as well as the department that regulates fences.

The houses are set back and landscaped in such a manner that going back and installing a fence is an unreasonable request.

Please note that there were 12 building permits issued for these lots that did not show fences. There have also been numerous Certificates of Occupancies issued for these lots that abut the Hickory Street right of way and this concern was never raised.

4. The response to this comment mirrors the response to comment number 3.
5. Please find attached on page 24 of the Declaration of Covenants Conditions, Article IX, Section 7, the condition that restricts parking in the City right of way.
6. Even though this has nothing to do with the right of way dedication, the Builder/Developer have agreed to restore some dead vegetation, as discussed with the HOA.

Please also find attached pages 11 and 12 from the PUD stating the following: "The proposed rights of ways are to be a minimum of 30 feet in width and shall be dedicated for use and maintenance upon completion and acceptance by the City of Fernandina Beach."

Finally, attached is a letter from the City dated April 22, 2018, that releases the Maintenance Bond in accordance with Section 11.05.05 of the Land Development Code in the amount of \$155,000. Please note that the dollar amount was determined based on costs for roadway, curbing, sidewalk, stormwater, water, and sewer (cost estimate attached).

In summary, we have provided PUD language that was approved by the City Commission that binds the City to accept the rights of ways upon completion and acceptance. We have also provided an Acceptance Letter from the City that states that the project has been constructed in accordance with the approved plans and that the work has been accepted by applicable City

Departments, which would include the "Streets" Department. Finally, the City returned the Maintenance Bond which designates the expiration of the maintenance period. Based on the City's own correspondence, the project is complete and accepted.

We trust that these responses adequately address the concerns on this right of way dedication request and trust the deed that our legal counsel has prepared is adequate. Upon acceptance, the curbs described herein will be replaced, the sidewalk described herein will be constructed (if approved by Nassau County), and dead vegetation as described herein will be replaced.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Gillette", written in a cursive style.

Nick E. Gillette, P.E.  
Principal/Engineer



## Nick Gillette

---

**From:** Scott Herring <sherring@nassaucountyfl.com>  
**Sent:** Monday, November 09, 2015 1:14 PM  
**To:** Nick Gillette  
**Cc:** Shelley Caldwell; Jonathan Page; Josephine Craver  
**Subject:** RE: Shell Cove - Citrona

Nick,

The County has no objection to the sidewalk being constructed on the east side of Citrona. However as part of the permit, the County would require the Developer/HOA to maintain the sidewalk as it will be only a section of sidewalk and not connecting.

The County has no objection to the relocation of the school zone flasher. However this flasher is currently the maintenance responsibility of the City and the City would have to agree to continue maintenance as part of the relocation.

The County does object to the crosswalk installation as the crosswalk is not "connecting anything".

Hope this helps and let me know if you have any questions or if we misunderstood anything.

Thanks!  
Scott

**Our New Phone Number is 904-530-6225**

Scott Herring

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

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**From:** Nick Gillette [mailto:nick@GILLETTEASSOCIATES.COM]  
**Sent:** Monday, October 26, 2015 11:30 AM  
**To:** Scott Herring <sherring@nassaucountyfl.com>  
**Subject:** Shell Cove - Citrona

Scott,

Thanks for meeting on the proposed Shell Cove project that will require a driveway connection and utility permit from Nassau County. The contractor will be submitting the requisite application and supporting material shortly.

The City of Fernandina Beach, as part of their local review, has requested that a sidewalk be constructed on the eastern side of Citrona Drive along our project frontage. They also requested a crosswalk be installed on Citrona Drive at the Hickory Street intersection. Our thoughts were that it may be more beneficial to estimate the cost of these improvements and place those dollars for sidewalk upgrades on the other side of Citrona Drive where a sidewalk exists and is in disrepair. Since this is a County right of way, it requires your approval on this subject. The City of FB entertained both of these options, but ultimately requested the new sidewalk installation.

We also request your input on whether the County would allow the relocation of the existing school zone flashing light and power supply equipment about 150 feet south of where they exist today. They currently exist along the project frontage, where the Developer was hoping he could install some landscaping and enhance the right of way. This would place the equipment just north of the existing access connection to the adjacent apartment complex to the south. It would lengthen the school zone by about 150 feet for this area. We have received notification from the School Board that they do not oppose this relocation. If acceptable, we will submit a plan outlining all proposed relocations as part of the permit application.

Thanks.

Nick E. Gillette, P.E.  
Principal/Engineer  
Gillette & Associates, Inc.  
20 South 4<sup>th</sup> Street  
Fernandina Beach, FL 32034  
904-261-8819 – P

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**Nick Gillette**

**From:** Scott Herring <sherring@nassaucountyfl.com>  
**Sent:** Friday, March 11, 2016 8:52 AM  
**To:** Nick Gillette  
**Cc:** Pat Gilroy; Shelley Caldwell; Becky Liddell  
**Subject:** RE: sidewalk - Shell Cove

I have no problem with this.  
Thanks!  
Scott

**Our New Phone Number is 904-530-6225**

Scott Herring

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**From:** Nick Gillette [mailto:nick@gILLETTEASSOCIATES.COM]  
**Sent:** Thursday, March 10, 2016 3:20 PM  
**To:** Scott Herring <sherring@nassaucountyfl.com>  
**Cc:** Pat Gilroy <pgilroy@nassaucountyfl.com>; Shelley Caldwell <scaldwell@nassaucountyfl.com>; Becky Liddell <bliddell@nassaucountyfl.com>  
**Subject:** RE: sidewalk - Shell Cove

Scott,

Thanks for the quick response. Aerial attached.

Nick E. Gillette, P.E.  
Principal/Engineer  
Gillette & Associates, Inc.  
20 South 4<sup>th</sup> Street  
Fernandina Beach, FL 32034  
904-261-8819 – P

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**From:** Scott Herring [<mailto:sherring@nassaucountyfl.com>]  
**Sent:** Thursday, March 10, 2016 3:17 PM  
**To:** Nick Gillette <[nick@GILLETTEASSOCIATES.COM](mailto:nick@GILLETTEASSOCIATES.COM)>  
**Cc:** Pat Gilroy <[pgilroy@nassaucountyfl.com](mailto:pgilroy@nassaucountyfl.com)>; Shelley Caldwell <[scaldwell@nassaucountyfl.com](mailto:scaldwell@nassaucountyfl.com)>; Becky Liddell <[bliddell@nassaucountyfl.com](mailto:bliddell@nassaucountyfl.com)>  
**Subject:** RE: sidewalk - Shell Cove

Nick,  
Sounds reasonable to me. However, I still need to see the “screenshot” referenced in your email. Didn’t come through over here.  
Thanks!  
Scott

**Our New Phone Number is 904-530-6225**

Scott Herring

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**From:** Nick Gillette [<mailto:nick@GILLETTEASSOCIATES.COM>]  
**Sent:** Thursday, March 10, 2016 12:42 PM  
**To:** Scott Herring <[sherring@nassaucountyfl.com](mailto:sherring@nassaucountyfl.com)>  
**Cc:** Pat Gilroy <[pgilroy@nassaucountyfl.com](mailto:pgilroy@nassaucountyfl.com)>; Shelley Caldwell <[scaldwell@nassaucountyfl.com](mailto:scaldwell@nassaucountyfl.com)>  
**Subject:** sidewalk - Shell Cove

Scott,

The City has taken the position that if there cannot be a crosswalk installed on Citrona at the Shell Cove project, then the requirement for a sidewalk is being removed (email attached). They have recommended that we replace the approximate same length of sidewalk on the western side of Citrona just north of Hickory Street (see screenshot below-sidewalk in blue). The sidewalk is in disrepair and doesn’t meet ADA so we feel like this is a win-win for everyone.

Pat mentioned that this part of Citrona may be in the City’s jurisdiction, but the City tells me they own from Date Street north and the County owns from Date Street south. I’m not sure who’s right, but I’d like to modify our permit at a minimum to remove the sidewalk in front of Shell Cove since the City believes it is a safety hazard. Additionally, if the County owns the area in question where the sidewalk replacement is proposed in front of the high school, we would like to add this installation to the permit. The replacement is 310 linear feet of 5-foot wide sidewalk. We are hoping to install this over spring break (which is the week after next) so kids using the sidewalk don’t compromise the installation or have to be diverted into the roadway. We will construct the replacement sidewalk with the same specifications as the one that was originally permitted.

Thanks for your patience on this matter.

## Nick Gillette

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**From:** Marshall, D. McCrary <dmccrary@fbfl.org>  
**Sent:** Tuesday, March 01, 2016 11:39 AM  
**To:** Nick Gillette  
**Cc:** Rex Lester; Kelly Gibson; Jay Mock  
**Subject:** RE: Sidewalk - Citrona Shell Cove

I continue to disagree with Scott's impression that this crosswalk will not connect anything! It will connect a sidewalk to a sidewalk!

However, we have to honor their decision making authority here (there's an entire Element in the Comprehensive Plan about Intergovernmental Coordination!). And, yes, it would be a safety issue to install this easterly sidewalk segment without a connecting crosswalk.

I say move forward with permit revisions to replace the crappy segment of sidewalk on the west side of Citrona. Your future residents will just have to take their chances running across Citrona without benefit of a crosswalk. (And, you know, that crosswalk would've serve folks entering the Hickory Street entrance to the greenway.)

Marshall McCrary, Deputy City Manager  
City of Fernandina Beach  
204 Ash Street  
Fernandina Beach, FL 32034  
(904) 310-3102  
(904) 310-3452 (FAX)

*Disclaimer: According to Florida Public Records Law, email correspondence to and from the City of Fernandina Beach, including email addresses and other personal information, is public record and must be made available to the public and media upon request, unless otherwise exempt by the Public Records Law. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

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**From:** Nick Gillette [mailto:nick@GILLETTEASSOCIATES.COM]  
**Sent:** Tuesday, March 01, 2016 8:07 AM  
**To:** Marshall, D. McCrary  
**Cc:** Rex Lester; Kelly Gibson; Jay Mock  
**Subject:** Sidewalk - Citrona Shell Cove

Marshall,

I reached back out to Scott Herring at the County to see if his opinion had changed on the subject of the sidewalk installation in front of Shell Cove. As you may remember, the TRC approval requested the installation of a sidewalk in front of Shell Cove (eastern side of Citrona) and a crosswalk at the Hickory Street intersection.



# City of Fernandina Beach

Community Development Department

May 3, 2016

Mr. Nick E. Gillette, P.E.  
Gillette & Associates, Inc.  
22 S. 4<sup>th</sup> Street  
Fernandina Beach, FL 32034

RE: Acceptance Letter for Shell Cove Construction Improvements  
City of Fernandina Beach, FL (SPR 2015-01)

Dear Nick:

This is to certify satisfactory completion of the construction improvements for the above-referenced project. All work has been completed in accordance with the approved plans on file with the City of Fernandina Beach; construction work has been inspected and accepted by applicable City Departments.

The required Maintenance Agreement has been delivered to the City and remains effective until April 21, 2018.

Thank you.

Sincerely,

Marshall McCrary  
Community Development Department Director

cc: File

underground, or placed within an enclosure or concealed by means of a screening wall, structure or landscaping approved by the ARB.

Section 6. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view, and same may be installed only within an approved accessory building, within a screened area, or buried underground, and shall otherwise comply with standards established from time to time by the ARB or applicable law.

Section 7. Vehicles. No vehicle may be parked on the Property except in garages or on paved driveways. For Lots with ribbon driveways, vehicles must be parked so that the wheels are parked on the paved ribbons. No vehicles may be parked on the streets, within the City right-of-way or within the development, except temporarily (less than 6 hours). Notwithstanding the foregoing, no vehicles may be parked on the streets, within the City right-of-way or within the development, overnight. No inoperative vehicles shall be allowed to remain on the Property in excess of forty-eight (48) hours unless kept in a garage and not visible from the street or any other Lot. No commercial vehicles of any kind shall be parked on the Property except for construction or service vehicles temporarily present on business. A commercial vehicle for the purposes of this section shall mean any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, For-Hire or Not-For-Hire. No trailers, boats, campers, motorized or non-motorized recreational vehicles may be parked in the Property unless parked inside a garage. Notwithstanding the foregoing, non-commercial trucks and vans, will be permitted provided that they comply with the following:

1. they may not exceed one (1) ton carrying capacity;
2. they may not have camper shells extending more than twelve inches (12”) over the cab roof;
3. they may not have commercial applications, as indicated by, including, but not limited to, a logo or insignia on the exterior of the vehicle;
4. the frame to ground clearance may not exceed twenty four inches (24”);
5. they may not have added frames, racks, wooden shells or boxes; and
6. they may not have an attached trailer, or any other commercial characteristic.

Section 8. Visibility of Intersections. No obstruction to visibility at street intersections shall be permitted; provided that the Association shall not be liable in any manner to any person or entity, including Owners, their guests, tenants and invitees, for any damages, injuries or deaths arising from any violation of this Section.

Section 9. Temporary Structures. No building or structure of a temporary or portable character such as trailers, tents or shacks shall be permitted in the Property, except as approved by the ARB, and except for temporary improvements used solely in connection with the construction of approved permanent improvements and removed immediately upon completion of such construction. Neither Declarant nor any residential builder doing business in the Property shall be prohibited from erecting or maintaining temporary dwellings, model homes and other structures for development and marketing purposes, provided such are in compliance with

P. Access:

1. Access to and from the Shell Cove PUD will be provided as shown on the Shell Cove PUD Preliminary Development Plan.
2. The location of all external and internal project entrances, accesses and roadways may change based on environmental, permitting and design factors, conditions and requirements of the Developer, so long as the changes do not constitute a Major Amendment to the PUD. The Developer will finalize the location of all external project entrances, accesses and roadways during the final engineering approval for the applicable phase of development. The Fernandina Beach Land Development Code will govern all applicable procedures for changes to the PUD.
3. Model home building permits will be issued upon installation of all necessary water mains and fire hydrants, and stabilization of all roadways internal to the development, and plat recording. Up to 10% of the total lots for each phase of the development may be issued as model lots; however, Certificates of Occupancy will not be issued for these models until all improvements for that phase are complete.
4. Each dwelling unit or other permitted use shall be provided access, either directly or indirectly, by a public right-of-way, private vehicular or pedestrian way or commonly owned easement.
5. City owned vehicles shall be permitted access on privately owned roads, easements and common open spaces in order to perform basic City services such as fire and police protection, emergency service needs of PUD residents, and site inspection by Fire-Rescue, Community Development, Engineering and Code Enforcement departments to monitor adherence to City regulations and the conditions contained herein. If any road is gated, the gate shall automatically open in response to a “yelp” electronic siren.
6. The proposed rights of ways are to be a minimum of 30 feet in width and shall be dedicated to the City of Fernandina Beach for use and maintenance upon completion and acceptance by



the City. The right of way reduction beyond typical City standards is proposed to accomplish the following:

- a. One way traffic flow resulting in less impervious area;
- b. Introduction of more open space into the development; and
- c. Greater tree retention due to less impacted area

All roads will be constructed to City standards and will be subject to traditional testing and inspections methods commonly performed by the City and described within the City Land Development Code.

- Q. Notification: The Applicant shall incorporate into the covenants and restrictions notification to all property owners that they are living in a Planned Unit Development (PUD).

**III. Justification for Planned Unit Development Classification for this Project and Approval of the Preliminary Development Plan:**

The proposed project allows for development of the Shell Cove PUD for single-family residential uses in a manner that warrants flexibility in the application of land use controls for Fernandina Beach, Florida consistent with the intent of Section 2.02.02 of the Fernandina Beach Land Development Code. The project design is also in harmony with the general purpose and intent of the Fernandina Beach Comprehensive Plan. The design and layout of the Shell Cove Planned Unit Development (PUD) requirements:

1. Is of less intensity than the requested Future Land Use Map designation accompanying this application;
2. Accomplishes a more desirable environment with minimal impact to environmentally sensitive lands;



## CITY OF FERNANDINA BEACH

Planning Department

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April 22, 2018

CBC National Bank  
1891 S. 14<sup>th</sup> Street  
Fernandina Beach, Florida 32034

**Re: Release of Maintenance Bond Letter of Credit No. 165/ Shell Cove Subdivision**

Dear Mr. Powell,

The Standard Maintenance Bond issued to Shell Cove in the amount of one hundred fifty-five thousand dollars (\$155,000) expired on April 21, 2018. This bond was required by the City under the terms of Section 11.05.05 of the Land Development Code which directs that a two (2) year maintenance guarantee be provided for infrastructure improvements within new subdivisions.

The requirement to maintain this bond expired on April 21, 2018 and the City is in agreement with the release of the bond as of this date.

If you have any questions concerning this information, please contact this office at 904.310-3135.

Sincerely,

A handwritten signature in blue ink that reads "Kelly N. Gibson". The signature is written in a cursive style and is enclosed in a light blue rectangular box.

Kelly N. Gibson, AICP  
Planning Manager

cc: Robinson Creek 34, LLC – Jay Mock

**From:** Nick Gillette <nick@gilletteassociates.com>

**Sent:** Monday, April 15, 2019 8:30 AM

**To:** Dale Martin <dmartin@fbfl.org>; Tammi Bach <tbach@fbfl.org>

**Cc:** Teresa Prince <tprince@tpislandlaw.com>; Jaime Herrmann <info@tpislandlaw.com>; M. Bradley Manning <mbmanning@tpislandlaw.com>; Nicole Bednar <nbednar@fbfl.org>; Katie Newton <knewton@fbfl.org>; Rex Lester <rlester@fbfl.org>; Kelly Gibson <kgibson@fbfl.org>; Jacob Platt <jplatt@fbfl.org>; Tricia Bowen <tricia@gilletteassociates.com>

**Subject:** RE: Shell Cove Streets

Mr. Martin,

After conversations with legal counsel, City personnel, County personnel, and the Shell Cove HOA representatives, we propose the following to bring closure to this right of way dedication issue:

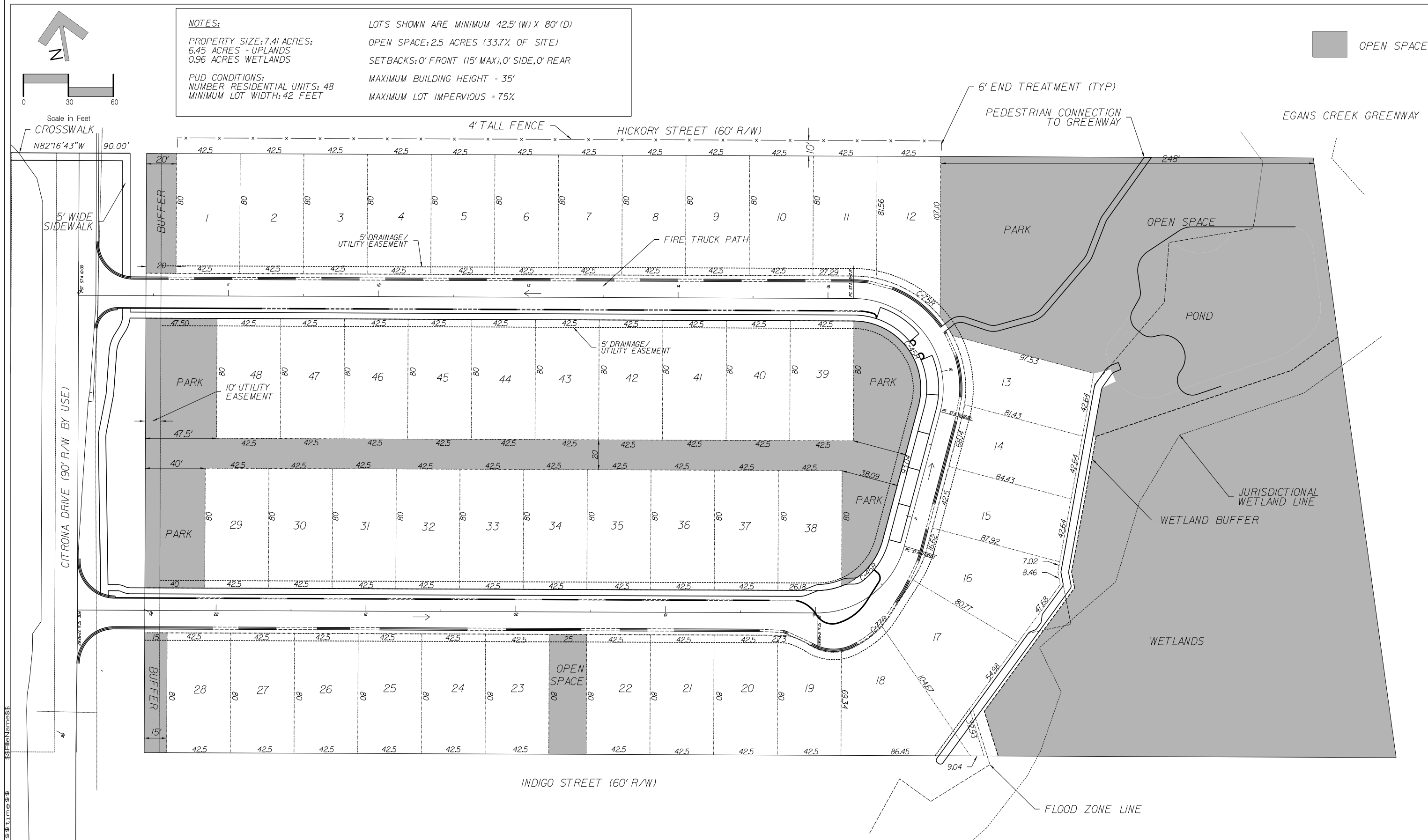
1. Curbs that were improperly installed by the builder as part of the building construction will be replaced.
2. Some isolated curb and sidewalk near common areas that was damaged by people other than the builder will also be replaced.
3. Install a 5' wide sidewalk within Citrona Drive right of way to connect the 4' wide sidewalk that was constructed internal to Shell Cove. This requires permitting through Nassau County, which we do not control. However, preliminary conversations with new personnel at the County sounded like this proposal was favorable.
4. Install a crosswalk across Citrona Drive at Hickory Street to connect the eastern and western sidewalks.
5. Install a 4' tall aluminum fence with railings (open fence style) along the backs of the lots that abut Hickory Street. The fence is proposed to be installed 10 feet within the Hickory Street right of way and will be maintained by the Shell Cove HOA. A separate maintenance agreement can be created if necessary for this item.

A plan is attached showing the proposed improvements. We believe this accomplishes the intent of defining a barrier between the development and the Greenway.

We respectfully request that this proposal be considered by staff and the Commission, as necessary, before permitting and construction begins. We are prepared to complete these construction items prior to the dedication of the rights of ways. As a result, we request that the agenda item for tomorrow's meeting be postponed until this proposal can be considered by the City.

Thanks.

Nick E. Gillette, P.E.  
Principal/Engineer  
Gillette & Associates, Inc.  
20 South 4<sup>th</sup> Street  
Fernandina Beach, FL 32034  
904-261-8819 – P



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|--------------------|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|



# City of Fernandina Beach

Community Development Department

May 3, 2016

Mr. Nick E. Gillette, P.E.  
Gillette & Associates, Inc.  
22 S. 4<sup>th</sup> Street  
Fernandina Beach, FL 32034

RE: Acceptance Letter for Shell Cove Construction Improvements  
City of Fernandina Beach, FL (SPR 2015-01)

Dear Nick:

This is to certify satisfactory completion of the construction improvements for the above-referenced project. All work has been completed in accordance with the approved plans on file with the City of Fernandina Beach; construction work has been inspected and accepted by applicable City Departments.

The required Maintenance Agreement has been delivered to the City and remains effective until April 21, 2018.

Thank you.

Sincerely,

Marshall McCrary  
Community Development Department Director

cc: File







PERMIT SET  
NOT FOR CONSTRUCTION

ENGINEERING PLANS

FOR

SHELL COVE

FOR

ROBINSON CREEK 34

SHELL COVE

FOR

ROBINSON CREEK 34

RELEASED FOR CONSTRUCTION BY

GILLETTE & ASSOCIATES, INC.

CIVIL & ENVIRONMENTAL ENGINEERING  
MECHANICAL & STRUCTURAL ENGINEERING  
PERMITTING & CONSTRUCTION MANAGEMENT

20 SOUTH 4TH STREET AMELIA ISLAND, FLORIDA 32034  
PHONE: 904/261-8819

PERMITTING AGENCIES

CITY OF FERNANDINA BEACH: 904-310-3421  
SJRWMD: 904-730-6270

UTILITY PROVIDERS

WATER/SEWER: CITY OF FERNANDINA BEACH  
ELECTRIC: FLORIDA PUBLIC UTILITIES  
CABLE: COMCAST  
TELEPHONE: AT&T

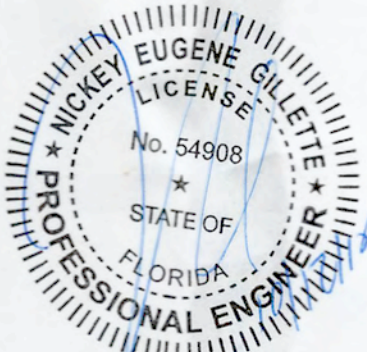
G&A Project  
No.:15-10.18

G & A

Issue Date: September 3, 2015  
Revision Date: September 25, 2015

| City Of Fernandina Beach Site Plan Review |     |    | Approval | Signature |
|-------------------------------------------|-----|----|----------|-----------|
|                                           | Yes | No |          |           |
| Facility Mntnc. (ADA)                     |     |    |          |           |
| Streets / Storm Water                     |     |    |          |           |
| Water                                     |     |    |          |           |
| Waste Water                               |     |    |          |           |
| Fire Department                           |     |    |          |           |
| Police Department                         |     |    |          |           |
| Parks and Recreation                      |     |    |          |           |
| Engineering                               |     |    |          |           |
| Planning                                  |     |    |          |           |
| Building                                  |     |    |          |           |

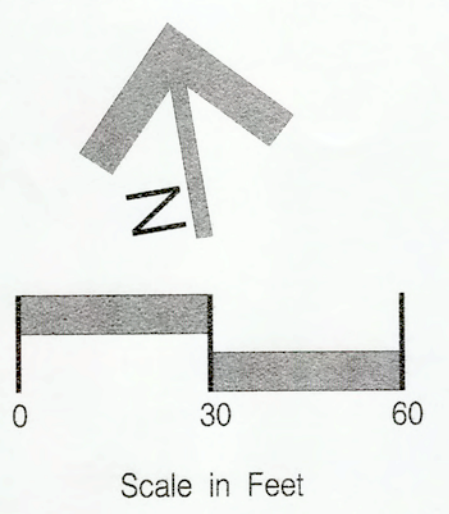
SITE LOCATION MAP





[illegible]





| REVISIONS |    |         |
|-----------|----|---------|
| No.       | By | Date    |
| 1         | NG | 9-25-15 |
| 2         | AD | 10-1-15 |
| 3         | AG | 10-1-15 |
| 4         | AG | 10-1-15 |
| 5         | AG | 10-1-15 |
| 6         | AG | 10-1-15 |
| 7         | AG | 10-1-15 |
| 8         | AG | 10-1-15 |
| 9         | AG | 10-1-15 |
| 10        | AG | 10-1-15 |

|                                                                                                             |    |
|-------------------------------------------------------------------------------------------------------------|----|
| Scale:                                                                                                      |    |
| Project Mgr:                                                                                                | NG |
| Designed by:                                                                                                | NG |
| Drawn by:                                                                                                   | AD |
| QA/QC:                                                                                                      | AG |
| DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34" |    |

**G & A<sup>+</sup>**  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

SHELL COVE

ROBINSON CREEK 34

PRE-DEVELOPMENT DRAINAGE PLAN

|                                           |          |           |
|-------------------------------------------|----------|-----------|
| City of Fernandina Beach Site Plan Review | Approval | Signature |
| Facility Mntnc. (ADA)                     | Yes No   |           |
| Streets / Storm Water                     | Yes No   |           |
| Water                                     | Yes No   |           |
| Waste Water                               | Yes No   |           |
| Fire Department                           | Yes No   |           |
| Police Department                         | Yes No   |           |
| Parks and Recreation                      | Yes No   |           |
| Engineering                               | Yes No   |           |
| Planning                                  | Yes No   |           |
| Building                                  | Yes No   |           |

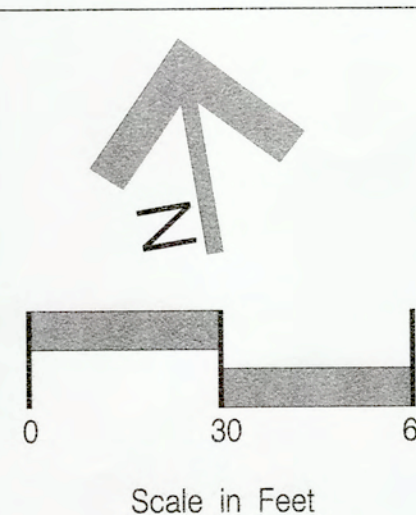
SHEET NO.  
PRE-1

3 of 15

Issue Date  
SEPTEMBER 2015

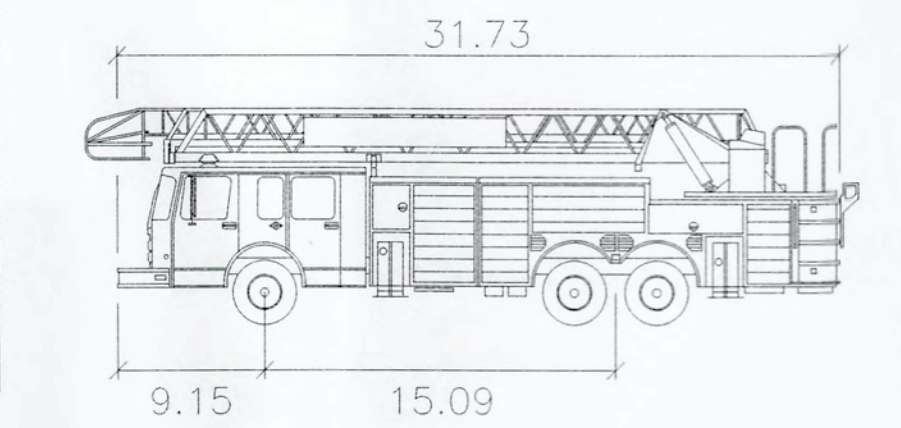
Project No.  
15-10.18



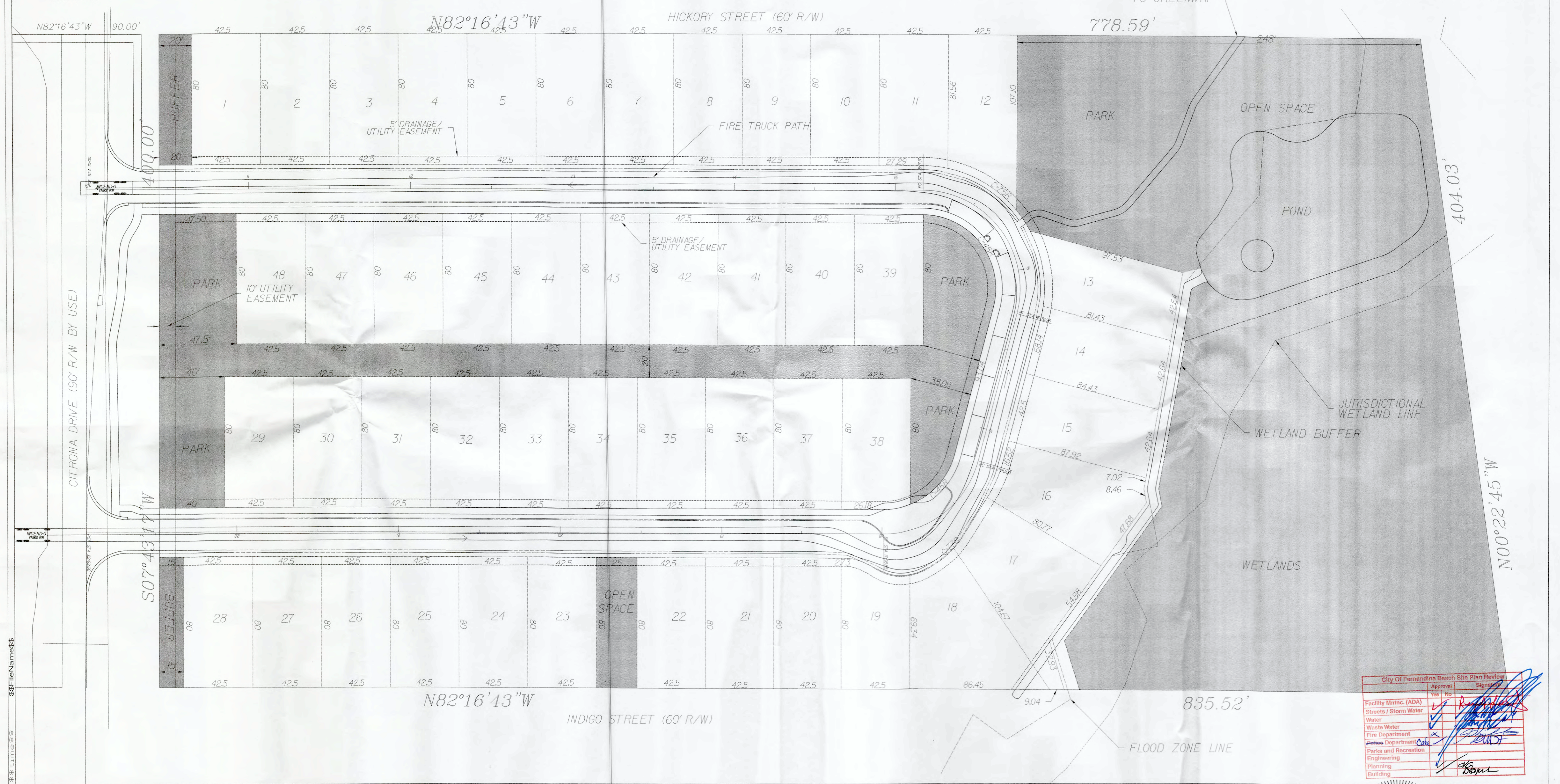


NOTES:  
PROPERTY SIZE: 7.41 ACRES;  
6.45 ACRES - UPLANDS  
0.96 ACRES WETLANDS  
PUD CONDITIONS:  
NUMBER RESIDENTIAL UNITS: 48  
MINIMUM LOT WIDTH: 42 FEET

LOTS SHOWN ARE MINIMUM 42.5' (W) X 80' (D)  
OPEN SPACE: 2.5 ACRES (33.7% OF SITE)  
SETBACKS: 0' FRONT (15' MAX), 0' SIDE, 0' REAR  
MAXIMUM BUILDING HEIGHT = 35'  
MAXIMUM LOT IMPERVIOUS = 75%



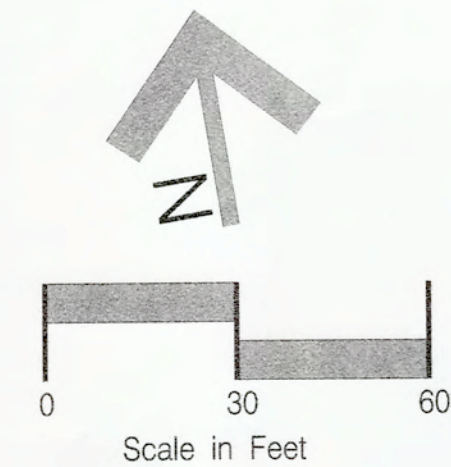
INCEND-G  
Width : 8.14  
Track : 7.61  
Lock to Lock Time : 6.0  
Steering Angle : 41.3



| City of Fernandina Beach Site Plan Review |           |
|-------------------------------------------|-----------|
| Approval                                  | Signature |
| Facility Mntnc. (ADA)                     |           |
| Streets / Storm Water                     |           |
| Water                                     |           |
| Waste Water                               |           |
| Fire Department                           |           |
| Police Department                         |           |
| Parks and Recreation                      |           |
| Engineering                               |           |
| Planning                                  |           |
| Building                                  |           |

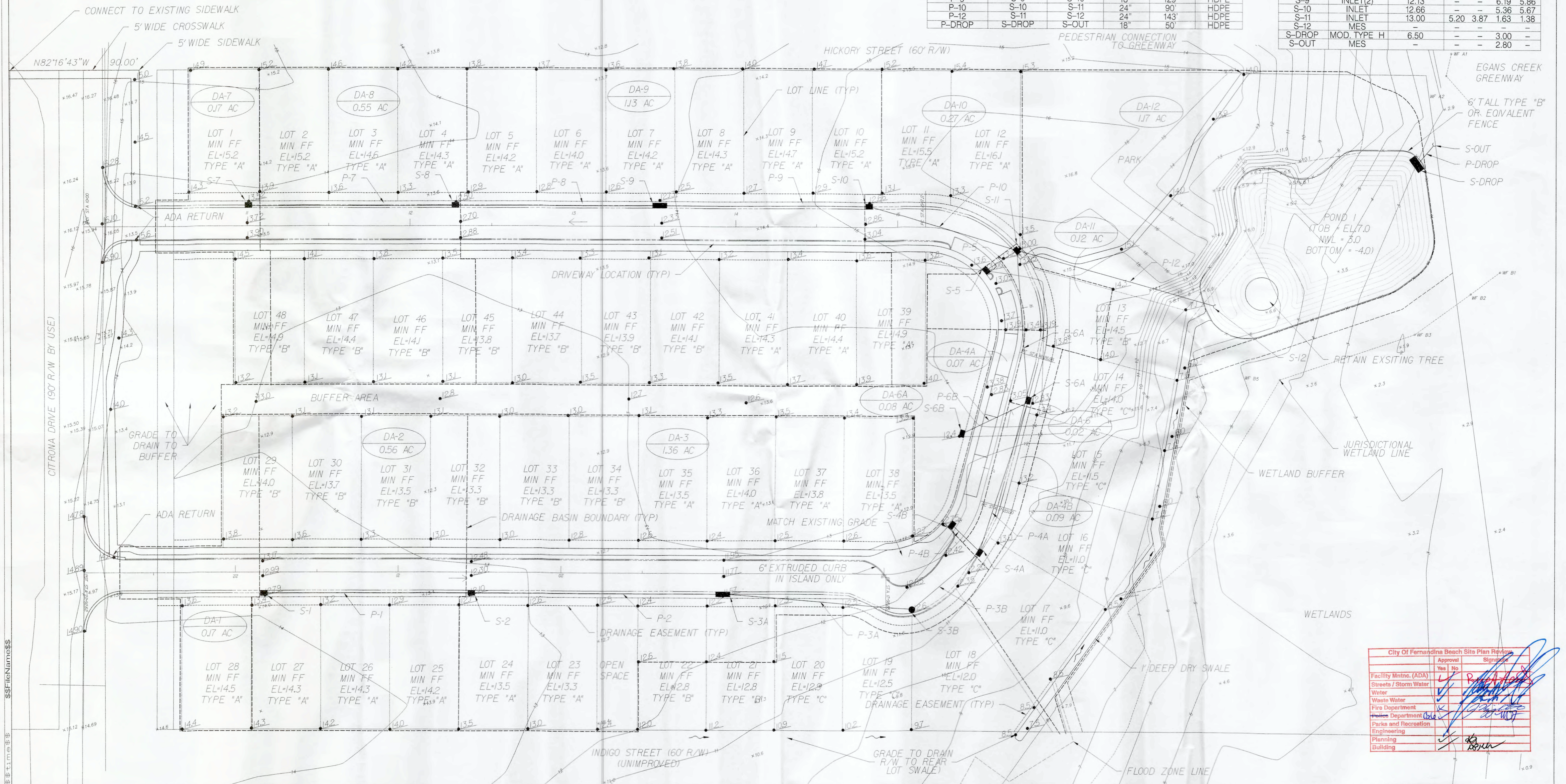
|            |  |                                       |  |                 |  |              |  |           |  |                                                                                                                                 |  |                                                                                          |  |
|------------|--|---------------------------------------|--|-----------------|--|--------------|--|-----------|--|---------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------|--|
| Scale:     |  | Project Mgr: NG                       |  | Designed by: NG |  | Drawn by: AD |  | QA/QC: AG |  | G & A <sup>+</sup><br>GILLETTE & ASSOCIATES, INC.<br>20 SOUTH 4TH STREET<br>FERNANDINA BEACH, FL 32034<br>PHONE: (904) 261-8819 |  | SHEET NO.<br>LLP-1<br>4 of 15<br>Issue Date<br>SEPTEMBER 2015<br>Project No.<br>15-10.18 |  |
| NG 9-25-15 |  | Revised to address COFBSJRWD comments |  |                 |  |              |  |           |  | DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34"                     |  |                                                                                          |  |
| No.        |  | By                                    |  | Date            |  | Revision     |  |           |  |                                                                                                                                 |  |                                                                                          |  |





| PIPE TABLE |        |       |      |        |          |
|------------|--------|-------|------|--------|----------|
| NAME       | FROM   | TO    | SIZE | LENGTH | MATERIAL |
| P-1        | S-1    | S-2   | 15"  | 128'   | HDPE     |
| P-2        | S-2    | S-3   | 15"  | 152'   | HDPE     |
| P-3A       | S-3A   | S-3B  | 18"  | 116'   | HDPE     |
| P-3B       | S-3B   | S-4B  | 18"  | 42'    | HDPE     |
| P-4A       | S-4A   | S-6   | 15"  | 32'    | HDPE     |
| P-4B       | S-4B   | S-4A  | 24"  | 110'   | HDPE     |
| P-5        | S-5    | S-11  | 15"  | 29'    | HDPE     |
| P-6A       | S-6A   | S-11  | 24"  | 100'   | HDPE     |
| P-6B       | S-6B   | S-6A  | 15"  | 42'    | HDPE     |
| P-7        | S-7    | S-8   | 15"  | 127'   | HDPE     |
| P-8        | S-8    | S-9   | 15"  | 129'   | HDPE     |
| P-9        | S-9    | S-10  | 18"  | 129'   | HDPE     |
| P-10       | S-10   | S-11  | 24"  | 90'    | HDPE     |
| P-12       | S-11   | S-12  | 24"  | 143'   | HDPE     |
| P-DROP     | S-DROP | S-OUT | 18"  | 50'    | HDPE     |

| STRUCTURE TABLE |             |                 |                  |      |                |
|-----------------|-------------|-----------------|------------------|------|----------------|
| NAME            | TYPE        | TOP/INLET ELEV. | INVERT ELEVATION |      |                |
|                 |             |                 | N                | S    | E W            |
| S-1             | INLET       | 12.79           | -                | -    | 9.29 -         |
| S-2             | INLET       | 12.10           | -                | -    | 5.87 8.87      |
| S-3A            | INLET(2)    | 11.57           | -                | -    | 5.13 5.38      |
| S-3B            | MH          | 12.60           | -                | -    | 4.94 4.94      |
| S-4A            | INLET       | 12.20           | -                | -    | 5.38 4.24 4.74 |
| S-4B            | INLET       | 12.20           | 5.46             | -    | -              |
| S-5             | INLET       | 13.00           | -                | -    | 5.75 -         |
| S-6A            | INLET       | 12.83           | 4.05             | 4.05 | - 4.05         |
| S-6B            | INLET       | 12.40           | -                | -    | 4.08 -         |
| S-7             | INLET       | 13.52           | -                | -    | 6.92 6.86      |
| S-8             | INLET       | 12.50           | -                | -    | 6.86 6.44      |
| S-9             | INLET(2)    | 12.13           | -                | -    | 6.19 5.86      |
| S-10            | INLET       | 12.66           | -                | -    | 5.36 5.67      |
| S-11            | INLET       | 13.00           | 5.20             | 3.87 | 1.63 1.38      |
| S-12            | MES         | -               | -                | -    | -              |
| S-DROP          | MOD. TYPE H | 6.50            | -                | -    | 3.00 -         |
| S-OUT           | MES         | -               | -                | -    | 2.80 -         |



| City Of Fernandina Beach Site Plan Review |                                     |                          |
|-------------------------------------------|-------------------------------------|--------------------------|
| Approval                                  | Yes                                 | No                       |
| Facility Mntnc. (ADA)                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Streets / Storm Water                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Water                                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Waste Water                               | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Fire Department                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Police Department                         | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Parks and Recreation                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Engineering                               | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Planning                                  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Building                                  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

| No. | By | Date    | Revised to address COFB/SJRWMD comments |
|-----|----|---------|-----------------------------------------|
| 1   | NG | 9-25-15 | Revised to address COFB/SJRWMD comments |

Scale:  
Project Mgr: NG  
Designed by: NG  
Drawn by: AD  
QA/QC: AG

Gillette & Associates, Inc.  
20 South 4th Street  
Fernandina Beach, FL 32034  
Certificate of Authorization No. 9332  
DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34"

**G & A**  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

SHELL COVE

ROBINSON CREEK 34

POST DEVELOPMENT  
DRAINAGE PLAN



SHEET NO.  
DR-1  
5 of 15  
Issue Date  
SEPTEMBER 2015  
Project No.  
15-10.18





| City Of Fernandina Beach Site Plan Review |    |                       | Approval | Signature |
|-------------------------------------------|----|-----------------------|----------|-----------|
| Yes                                       | No |                       |          |           |
|                                           |    | Facility Mntnc. (ADA) |          |           |
|                                           |    | Streets / Storm Water |          |           |
|                                           |    | Water                 |          |           |
|                                           |    | Waste Water           |          |           |
|                                           |    | Fire Department       |          |           |
|                                           |    | Police Department     |          |           |
|                                           |    | Parks and Recreation  |          |           |
|                                           |    | Engineering           |          |           |
|                                           |    | Planning              |          |           |
|                                           |    | Building              |          |           |



|                              |
|------------------------------|
| SHEET NO.<br>PP-1            |
| 6 of 15                      |
| Issue Date<br>SEPTEMBER 2015 |
| Project No.<br>15-10.18      |

|     |    |         |                                        |
|-----|----|---------|----------------------------------------|
| NO. | BY | DATE    | REVISION                               |
| 1   | NG | 9-25-15 | Revised to address COFB/SJRWD comments |

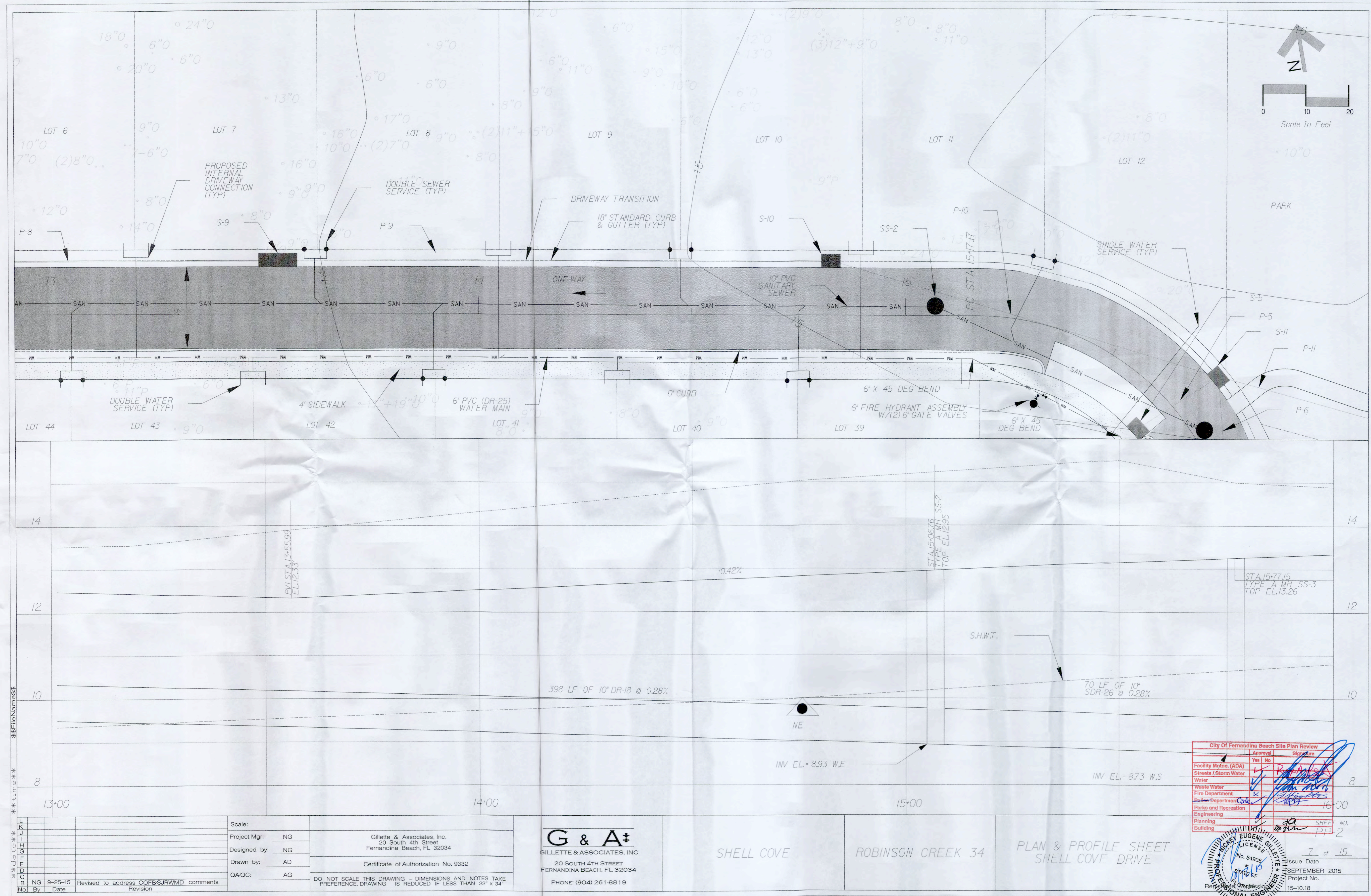
|              |    |
|--------------|----|
| Scale:       |    |
| Project Mgr: | NG |
| Designed by: | NG |
| Drawn by:    | AD |
| QA/QC:       | AG |

|                                                                                                             |
|-------------------------------------------------------------------------------------------------------------|
| Gillette & Associates, Inc.<br>20 South 4th Street<br>Fernandina Beach, FL 32034                            |
| Certificate of Authorization No. 9332                                                                       |
| DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34" |

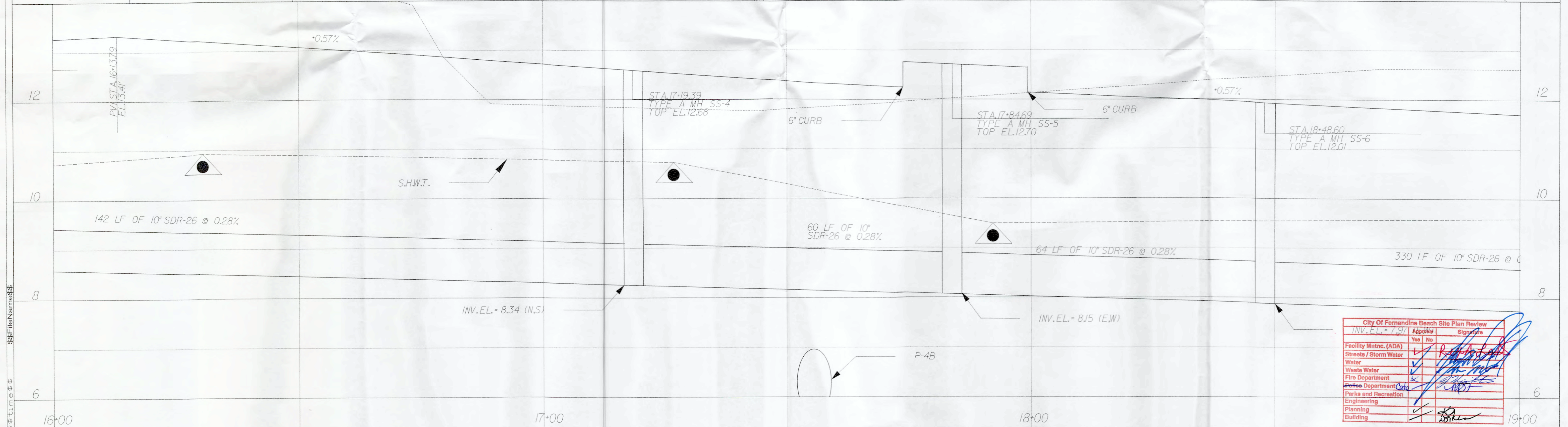
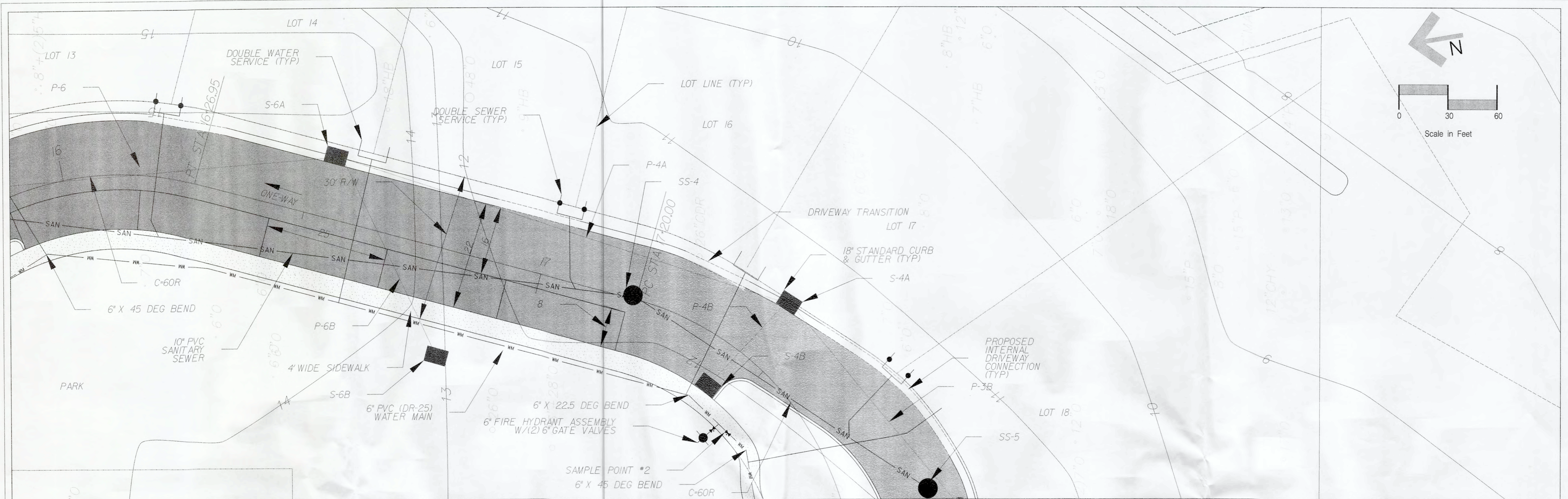
**G & A<sup>+</sup>**  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

|            |                   |                                          |
|------------|-------------------|------------------------------------------|
| SHELL COVE | ROBINSON CREEK 34 | PLAN & PROFILE SHEET<br>SHELL COVE DRIVE |
|------------|-------------------|------------------------------------------|



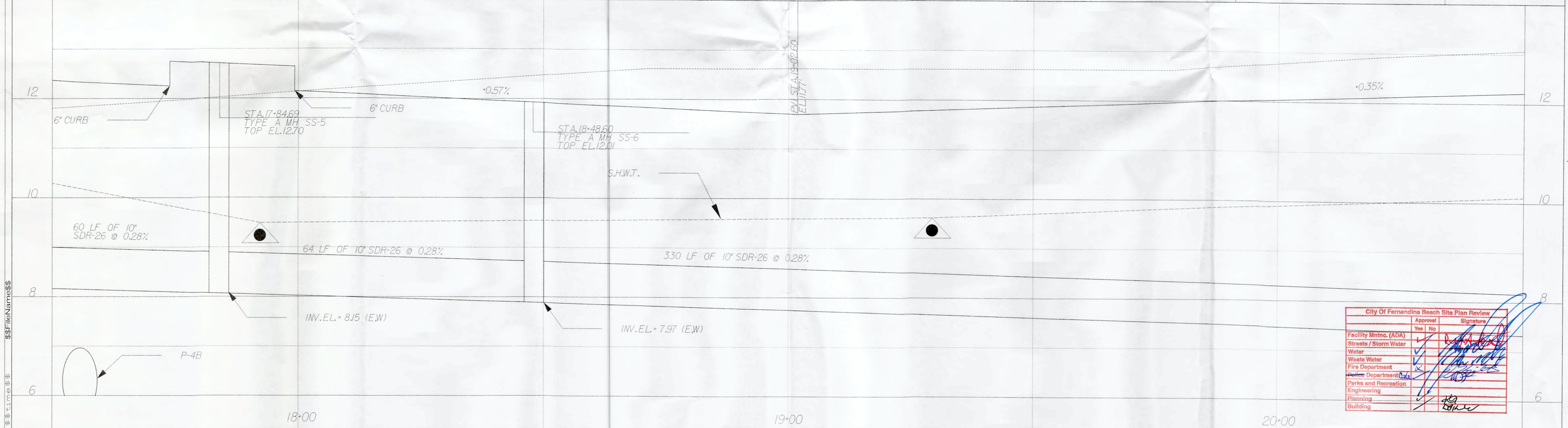
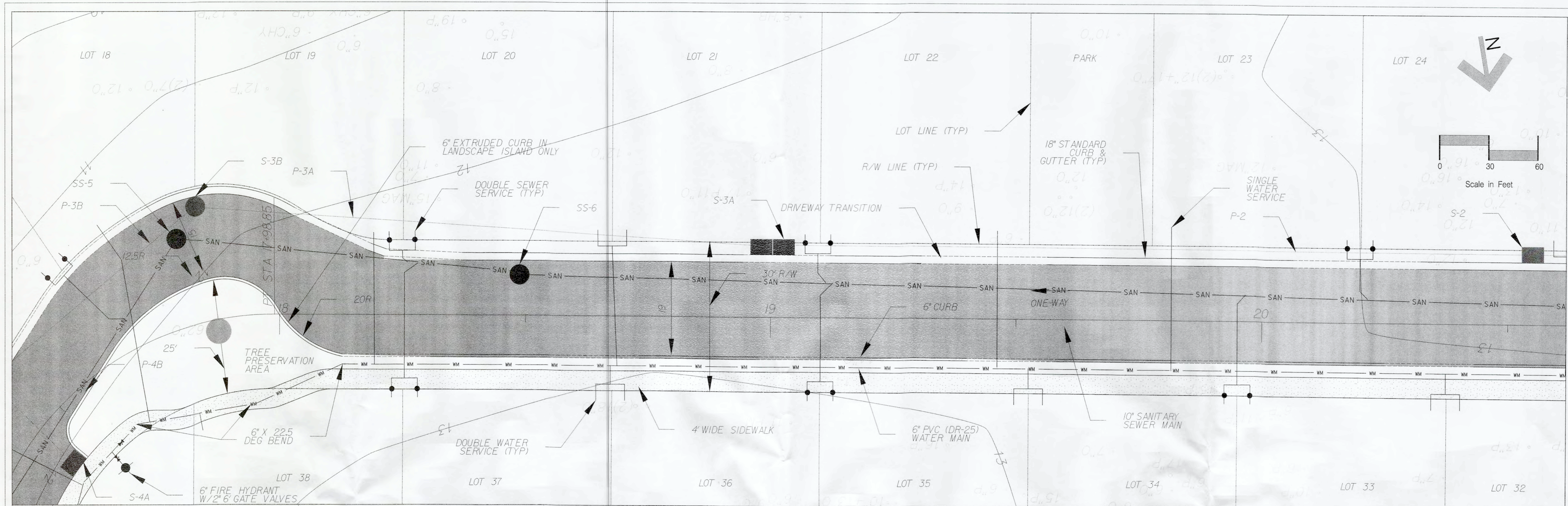






| <b>REVISIONS</b><br>No. By Date Description<br>1 NG 9-25-15 Revised to address COFBS/JRWMD comments<br>2 NG 9-25-15 Revised to address COFBS/JRWMD comments |          | Scale:<br>Project Mgr: NG<br>Designed by: NG<br>Drawn by: AD<br>QA/QC: AG | Gillette & Associates, Inc.<br>20 South 4th Street<br>Fernandina Beach, FL 32034<br>Certificate of Authorization No. 9332<br>DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34" | <b>G &amp; A<sup>+</sup></b><br>GILLETTE & ASSOCIATES, INC.<br>20 SOUTH 4TH STREET<br>FERNANDINA BEACH, FL 32034<br>PHONE: (904) 261-8819 | SHELL COVE<br>ROBINSON CREEK 34<br>PLAN & PROFILE SHEET<br>SHELL COVE DRIVE | <table border="1"> <tr> <th colspan="3">City of Fernandina Beach Site Plan Review</th> </tr> <tr> <th>INV. E.L. = 7.91</th> <th>Approval</th> <th>Signature</th> </tr> <tr> <td>Facility Maint. (ADA)</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Streets / Storm Water</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Water</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Waste Water</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Fire Department</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Police Department</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Parks and Recreation</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Engineering</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Planning</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Building</td> <td>Yes</td> <td>No</td> </tr> </table> | City of Fernandina Beach Site Plan Review |  |  | INV. E.L. = 7.91 | Approval | Signature | Facility Maint. (ADA) | Yes | No | Streets / Storm Water | Yes | No | Water | Yes | No | Waste Water | Yes | No | Fire Department | Yes | No | Police Department | Yes | No | Parks and Recreation | Yes | No | Engineering | Yes | No | Planning | Yes | No | Building | Yes | No | SHEET NO.<br>PP-3<br>Issue Date<br>SEPTEMBER 2015<br>Project No.<br>15-10.18 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|--|--|------------------|----------|-----------|-----------------------|-----|----|-----------------------|-----|----|-------|-----|----|-------------|-----|----|-----------------|-----|----|-------------------|-----|----|----------------------|-----|----|-------------|-----|----|----------|-----|----|----------|-----|----|------------------------------------------------------------------------------|
| City of Fernandina Beach Site Plan Review                                                                                                                   |          |                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| INV. E.L. = 7.91                                                                                                                                            | Approval | Signature                                                                 |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Facility Maint. (ADA)                                                                                                                                       | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Streets / Storm Water                                                                                                                                       | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Water                                                                                                                                                       | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Waste Water                                                                                                                                                 | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Fire Department                                                                                                                                             | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Police Department                                                                                                                                           | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Parks and Recreation                                                                                                                                        | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Engineering                                                                                                                                                 | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Planning                                                                                                                                                    | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |
| Building                                                                                                                                                    | Yes      | No                                                                        |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                           |  |  |                  |          |           |                       |     |    |                       |     |    |       |     |    |             |     |    |                 |     |    |                   |     |    |                      |     |    |             |     |    |          |     |    |          |     |    |                                                                              |

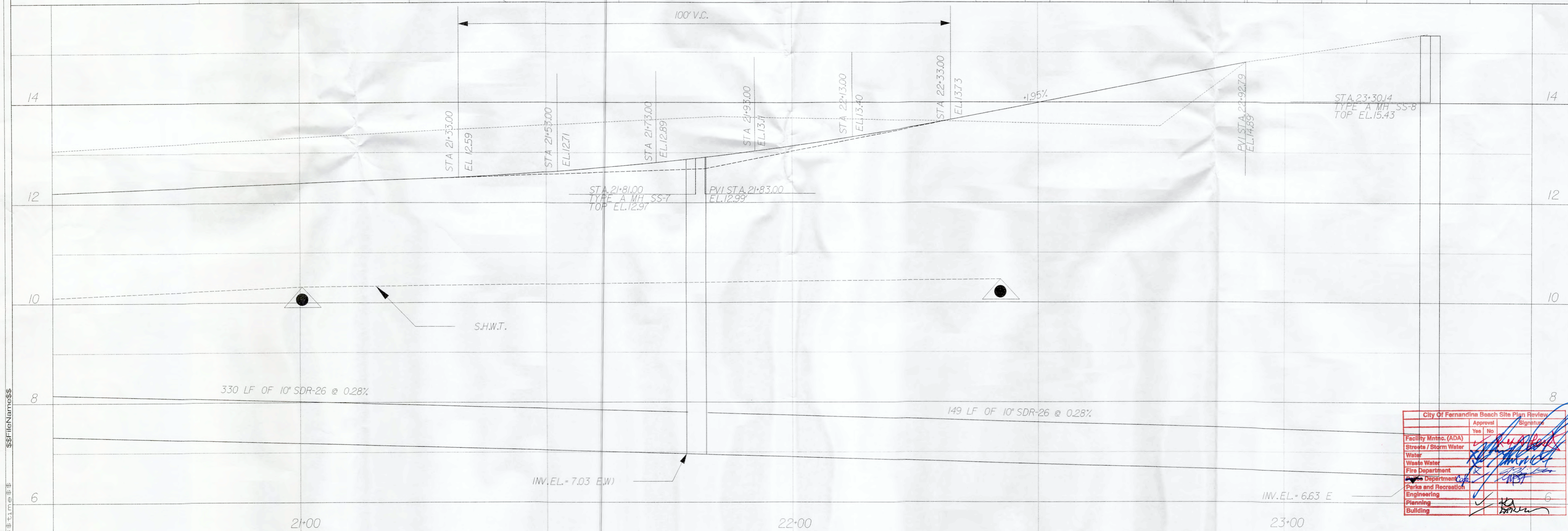
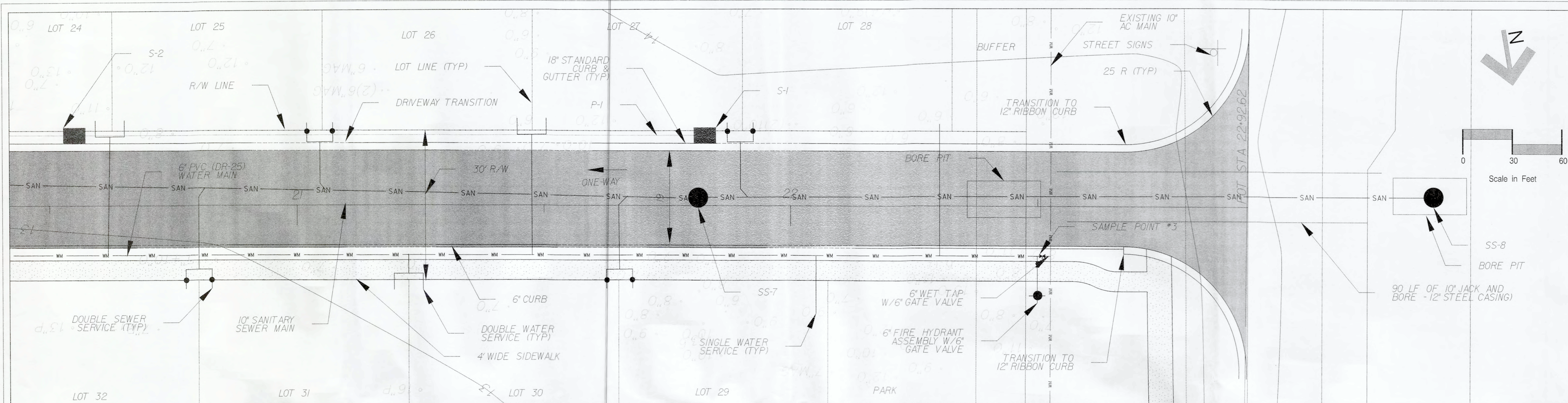




| City Of Fernandina Beach Site Plan Review |     |    |
|-------------------------------------------|-----|----|
| Approval                                  | Yes | No |
| Facility Mntn. (ADA)                      |     |    |
| Streets / Storm Water                     |     |    |
| Water                                     |     |    |
| Waste Water                               |     |    |
| Fire Department                           |     |    |
| Police Department                         |     |    |
| Parks and Recreation                      |     |    |
| Engineering                               |     |    |
| Planning                                  |     |    |
| Building                                  |     |    |

|                                                                                        |  |                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                           |                                                                             |                                                                                         |
|----------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| L<br>K<br>C<br>O<br>D<br>I<br>F<br>I<br>C<br>A<br>T<br>I<br>O<br>N<br>S<br>No. By Date |  | Scale:<br>Project Mgr: NG<br>Designed by: NG<br>Drawn by: AD<br>QA/QC: AG | Gillette & Associates, Inc.<br>20 South 4th Street<br>Fernandina Beach, FL 32034<br>Certificate of Authorization No. 9332<br>DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34" | <b>G &amp; A<sup>+</sup></b><br>GILLETTE & ASSOCIATES, INC.<br>20 SOUTH 4TH STREET<br>FERNANDINA BEACH, FL 32034<br>PHONE: (904) 261-8819 | SHELL COVE<br>ROBINSON CREEK 34<br>PLAN & PROFILE SHEET<br>SHELL COVE DRIVE | SHEET NO.<br>PP-4<br>9 of 15<br>Issue Date<br>SEPTEMBER 2015<br>Project No.<br>15-10.18 |
|----------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|



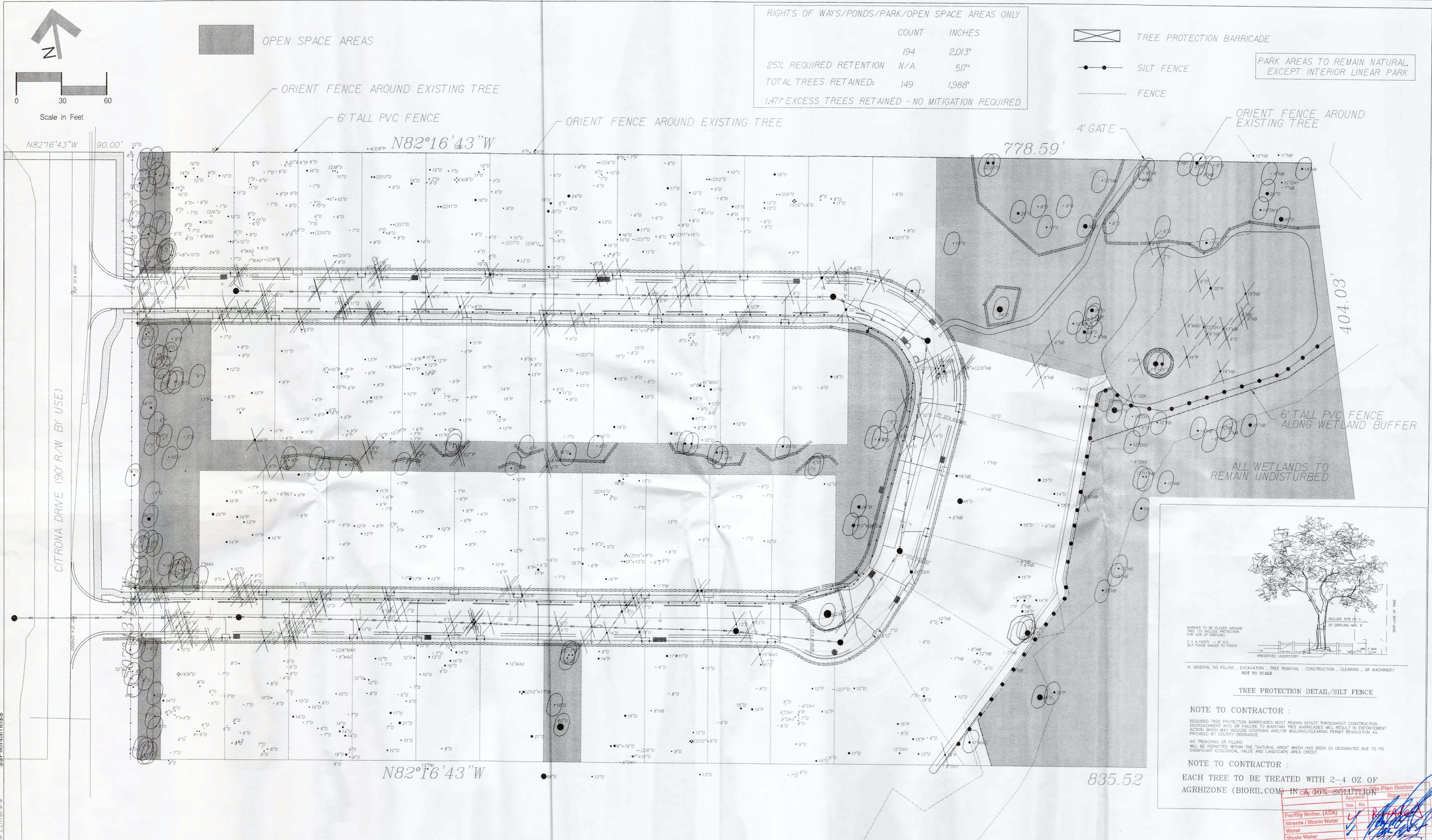


|                    |  |                             |  |                            |  |                            |  |                       |  |
|--------------------|--|-----------------------------|--|----------------------------|--|----------------------------|--|-----------------------|--|
| Scale:             |  | Project Mgr: NG             |  | Designed by: NG            |  | Drawn by: AD               |  | QA/QC: AG             |  |
| G & A <sup>+</sup> |  | GILLETTE & ASSOCIATES, INC. |  | 20 SOUTH 4TH STREET        |  | FERNANDINA BEACH, FL 32034 |  | PHONE: (904) 261-8819 |  |
| SHEET NO. PP-5     |  | 10 of 15                    |  | Issue Date: SEPTEMBER 2015 |  | Project No. 15-10.18       |  |                       |  |

City of Fernandina Beach Site Plan Review

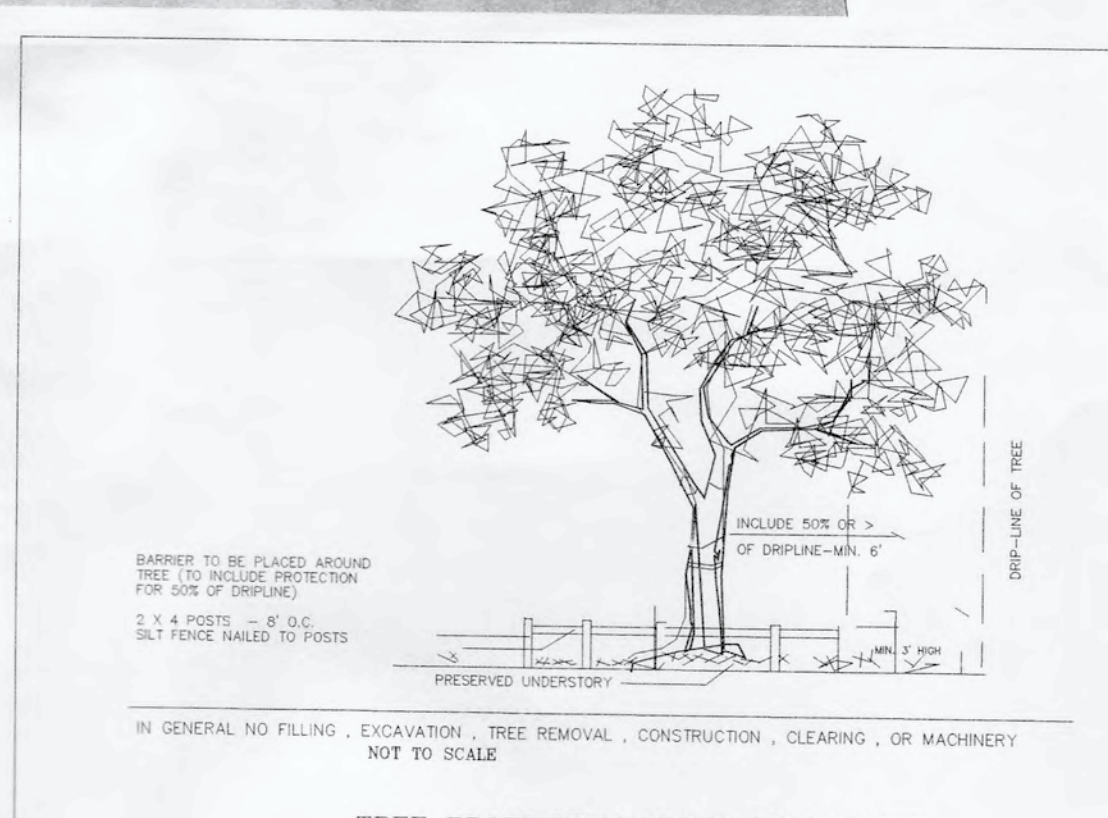
| Facility | Minstr. (ADA) | Streets / Storm Water | Water | Waste Water | Fire Department | Police and Recreation | Engineering | Planning | Building |
|----------|---------------|-----------------------|-------|-------------|-----------------|-----------------------|-------------|----------|----------|
| Yes      | No            | Yes                   | No    | Yes         | No              | Yes                   | No          | Yes      | No       |





| RIGHTS OF WAYS/PONDS/PARK/OPEN SPACE AREAS ONLY      |       |        |
|------------------------------------------------------|-------|--------|
|                                                      | COUNT | INCHES |
| 25% REQUIRED RETENTION                               | 194   | 2,013" |
| TOTAL TREES RETAINED:                                | N/A   | 517"   |
| 1.47% EXCESS TREES RETAINED - NO MITIGATION REQUIRED | 149   | 1,988" |

- TREE PROTECTION BARRICADE
- SILT FENCE
- FENCE
- PARK AREAS TO REMAIN NATURAL, EXCEPT INTERIOR LINEAR PARK



**NOTE TO CONTRACTOR :**  
REQUIRED TREE PROTECTION BARRICADES MUST REMAIN INTACT THROUGHOUT CONSTRUCTION. ENCROACHMENT INTO OR FAILURE TO MAINTAIN TREE BARRICADES WILL RESULT IN ENFORCEMENT PROVIDED BY COUNTY ORDINANCE.  
NO TREEMING OR FILLING WILL BE PERMITTED WITHIN THE "NATURAL AREA" WHICH HAS BEEN SO DESIGNATED DUE TO ITS SIGNIFICANT ECOLOGICAL VALUE AND LANDSCAPE AREA CREDIT.

**NOTE TO CONTRACTOR :**  
EACH TREE TO BE TREATED WITH 2-4 OZ OF AGRHIZONE (BIORIL.COM) IN CA 06% SOLUTION

Scale: NG

Project Mgr: NG

Designed by: NG

Drawn by: AD

QA/QC: AG

Gillette & Associates, Inc.  
20 South 4th Street  
Fernandina Beach, FL 32034

Certificate of Authorization No. 9332

DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34"

**G & A<sup>+</sup>**  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

SHELL COVE

ROBINSON CREEK 34

TREE RETENTION/  
PROTECTION PLAN

Facility Mntnc. (ADA)

Streets / Storm Water

Water

Waste Water

Fire Department

Police Department

Parks and Recreation

Other

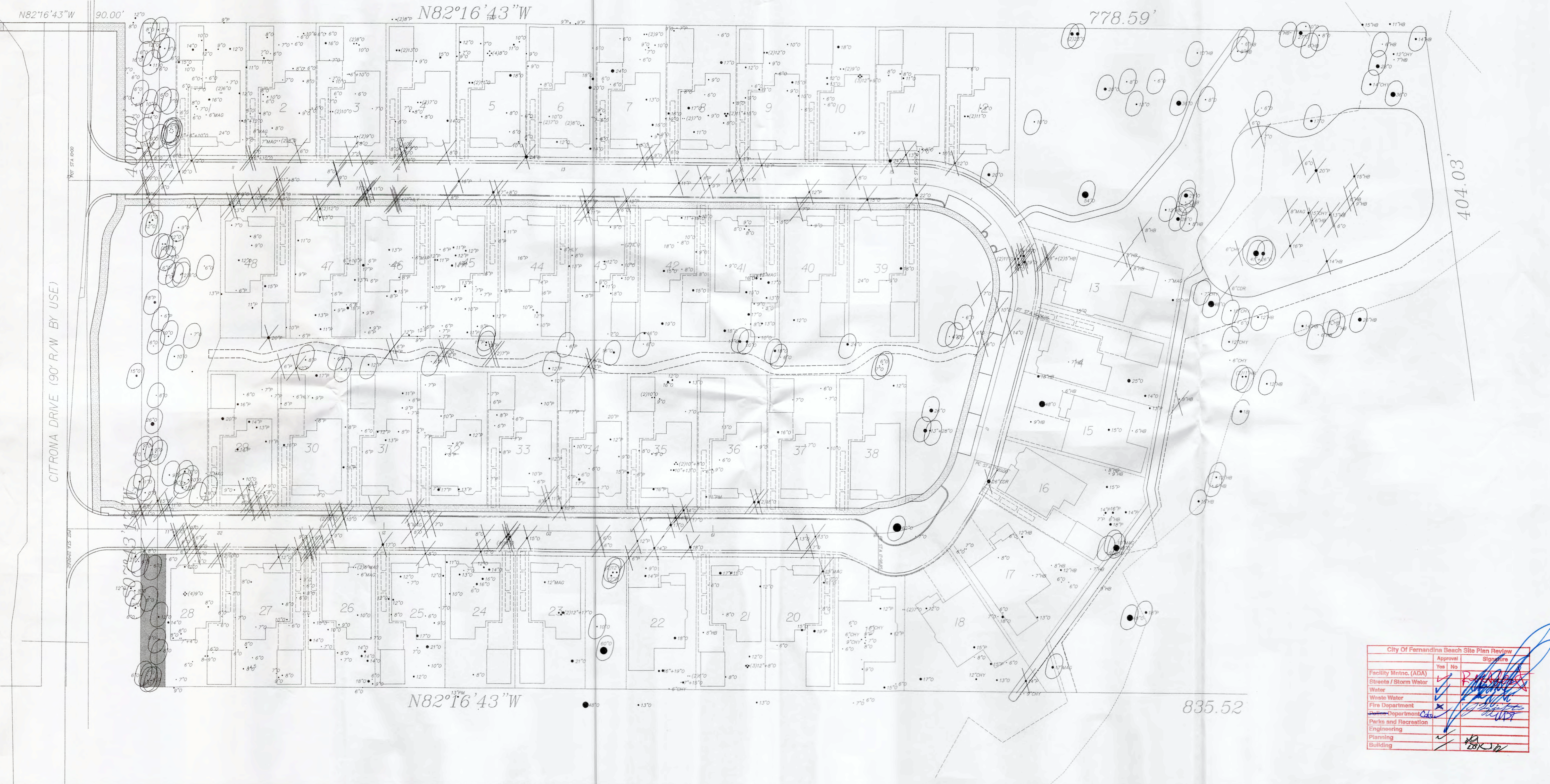
Signature

11 of 15

Issue Date  
SEPTEMBER 2015

Project No.  
15-1018





| City Of Fernandina Beach Site Plan Review |          |           |
|-------------------------------------------|----------|-----------|
|                                           | Approval | Signature |
|                                           | Yes      | No        |
| Facility Mntnc. (ADA)                     | ✓        |           |
| Streets / Storm Water                     | ✓        |           |
| Water                                     | ✓        |           |
| Waste Water                               | ✓        |           |
| Fire Department                           | ✗        |           |
| <u>City</u> Department                    | ✓        |           |
| Parks and Recreation                      | ✓        |           |
| Engineering                               | ✓        |           |
| Planning                                  | ✓        |           |
| Building                                  | ✓        |           |

|     |    |         |                                        |
|-----|----|---------|----------------------------------------|
| L   |    |         |                                        |
| K   |    |         |                                        |
| J   |    |         |                                        |
| I   |    |         |                                        |
| H   |    |         |                                        |
| G   |    |         |                                        |
| F   |    |         |                                        |
| E   |    |         |                                        |
| D   |    |         |                                        |
| C   |    |         |                                        |
| B   | NG | 9-25-15 | Revised to address COFBSJRWMD comments |
| A   | By | Date    | Revision                               |
| No. |    |         |                                        |

|              |    |                                                                                                             |
|--------------|----|-------------------------------------------------------------------------------------------------------------|
| Scale:       |    |                                                                                                             |
| Project Mgr: | NG | Gillette & Associates, Inc.<br>20 South 4th Street<br>Fernandina Beach, FL 32034                            |
| Designed by: | NG |                                                                                                             |
| Drawn by:    | AD | Certificate of Authorization No. 9332                                                                       |
| QA/QC:       | AG | DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34" |

SHELL COVE

ROBINSON CREEK 34

## GENERALIZED BUILDING FOOTPRINT LAYOUT

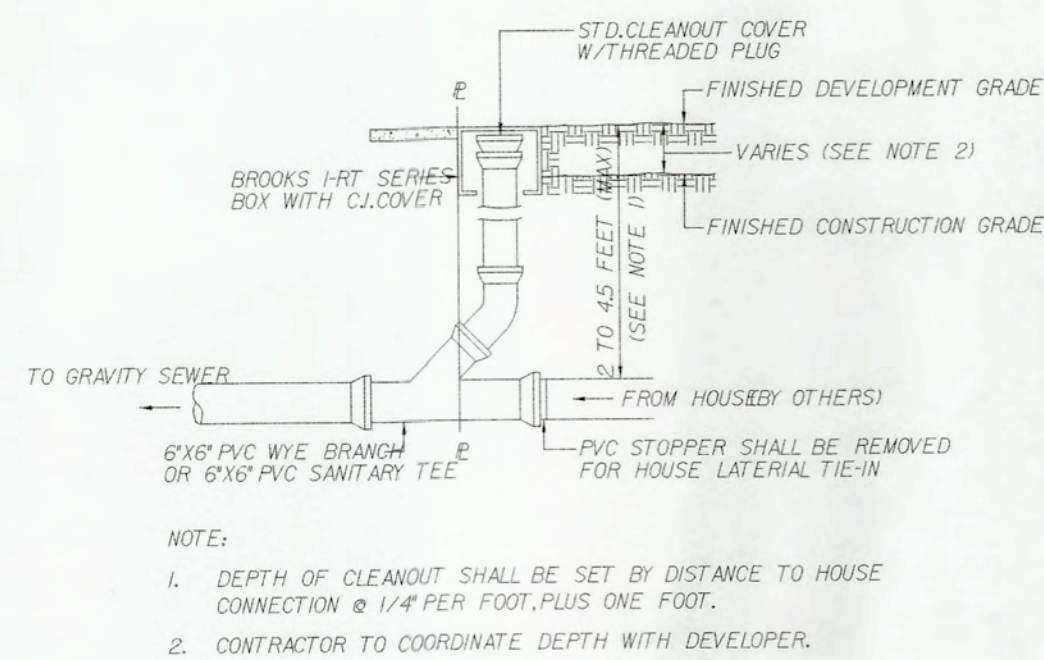


|             |                        |
|-------------|------------------------|
|             | SHEET NO.<br>FP-1      |
|             | <u>12</u> of <u>15</u> |
| Issue Date  | SEPTEMBER 2015         |
| Project No. | 15-10 18               |

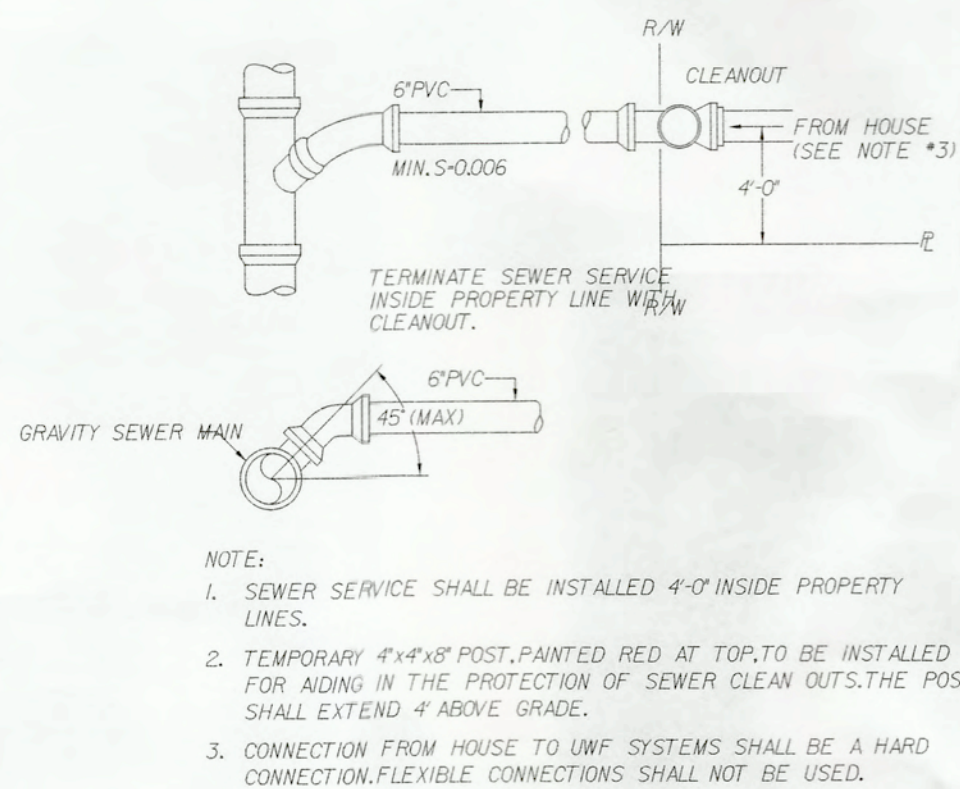




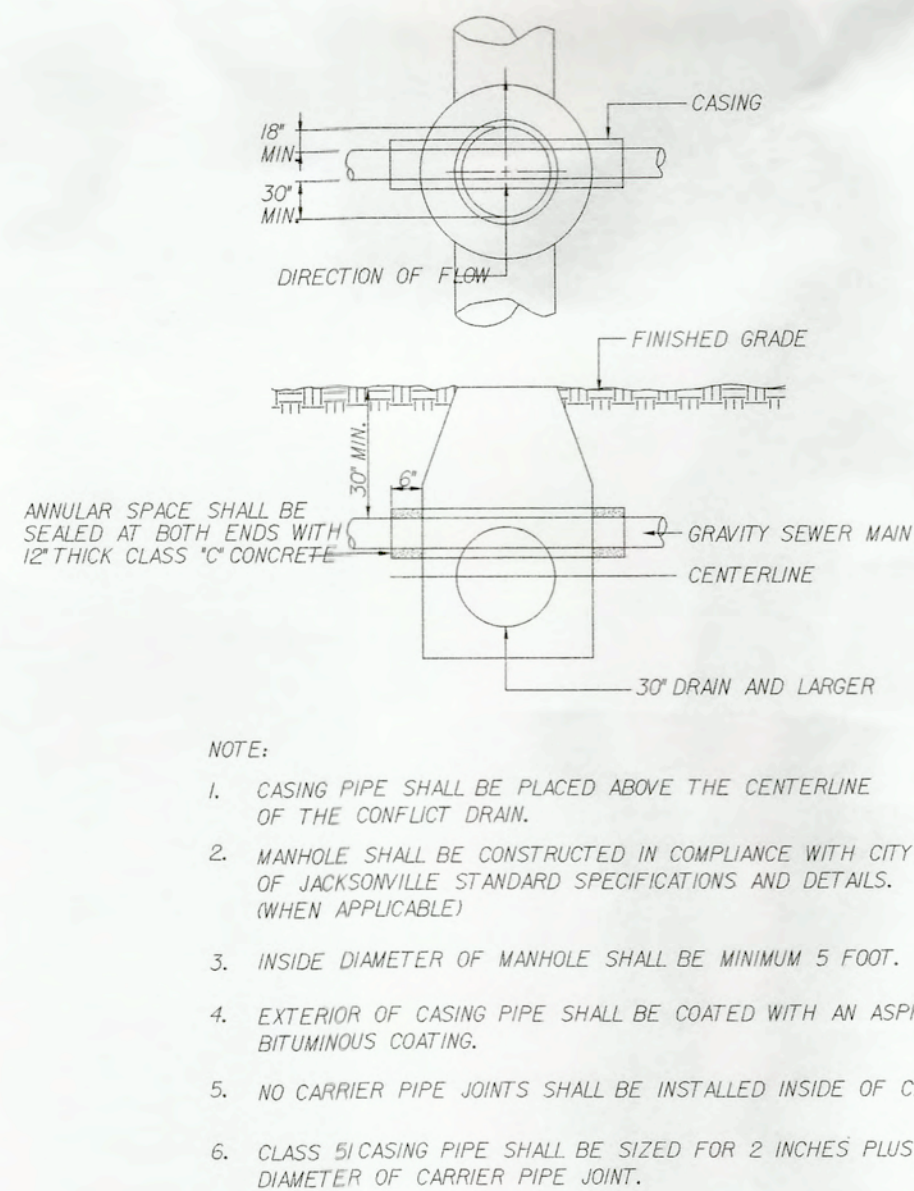




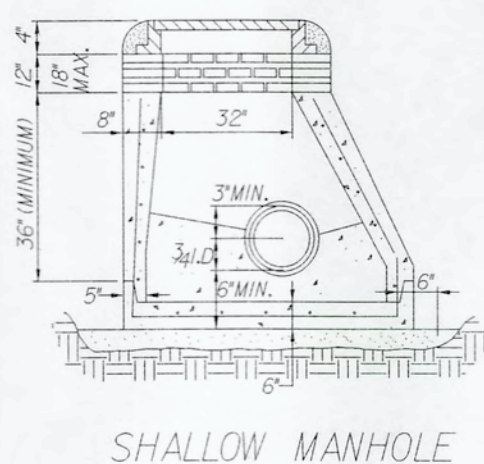
CLEANOUT



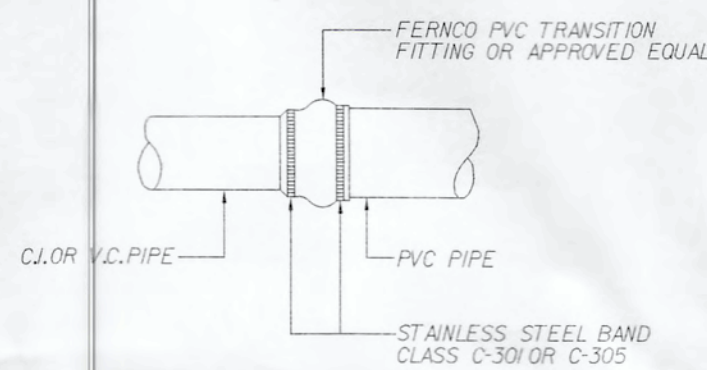
TYPICAL SEWER SERVICE



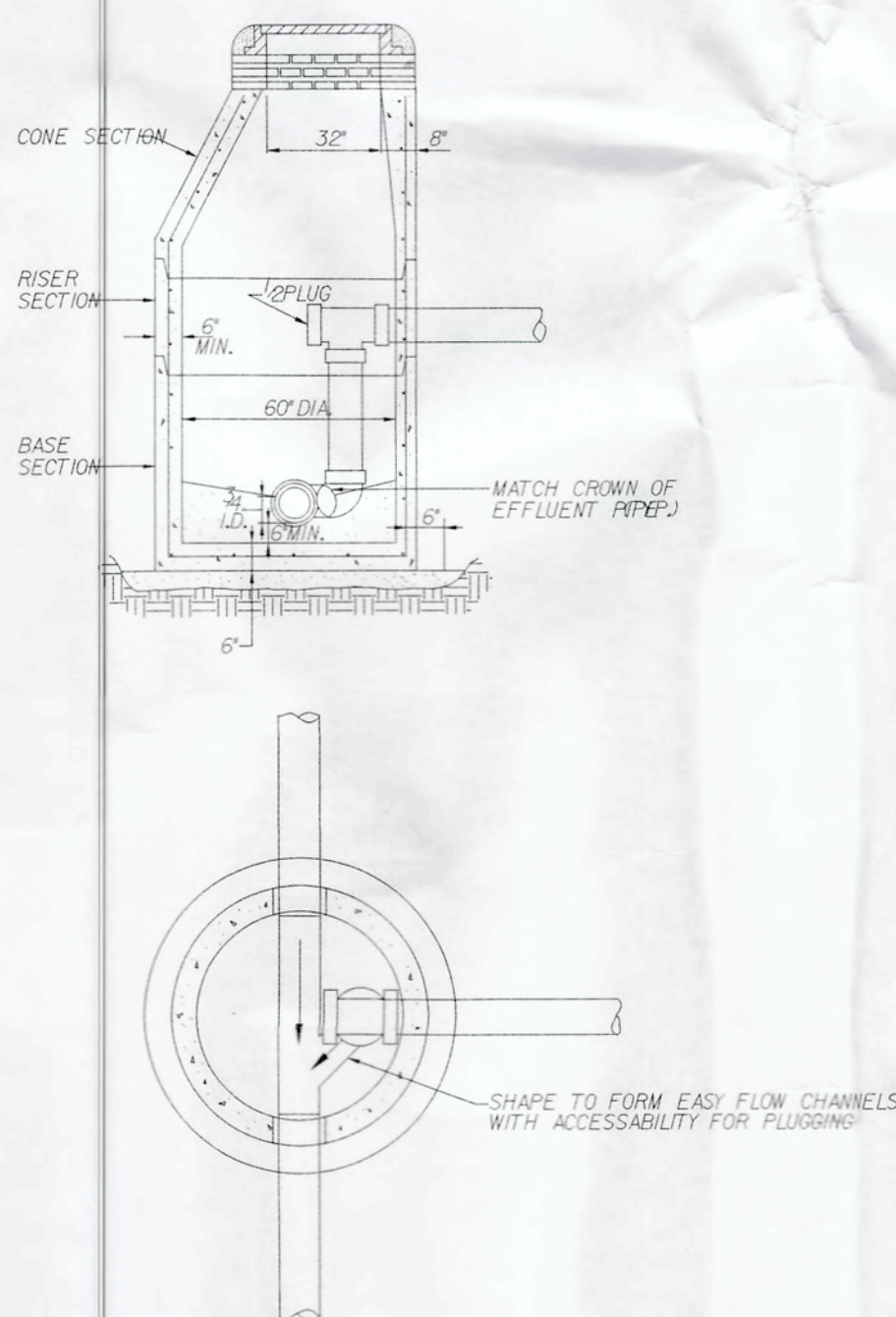
DRAIN CONFLICT



TYPE "C" MANHOLE

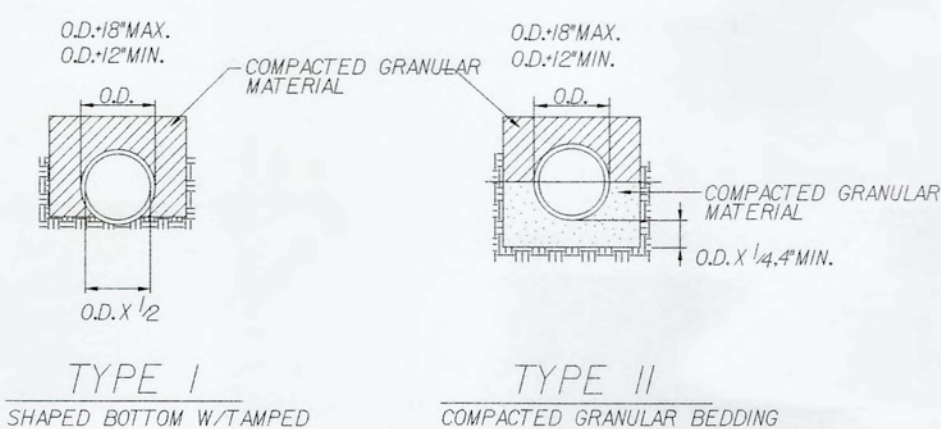


CJ TO PVC COUPLING ADAPTER

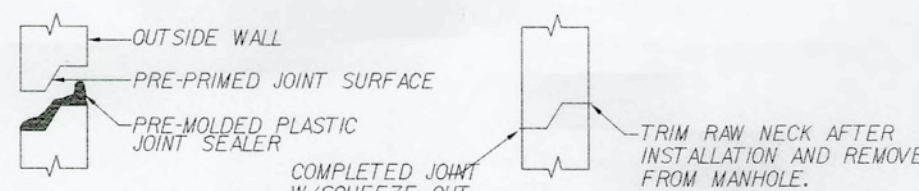


INSIDE PVC DROP CONNECTION TO MANHOLE

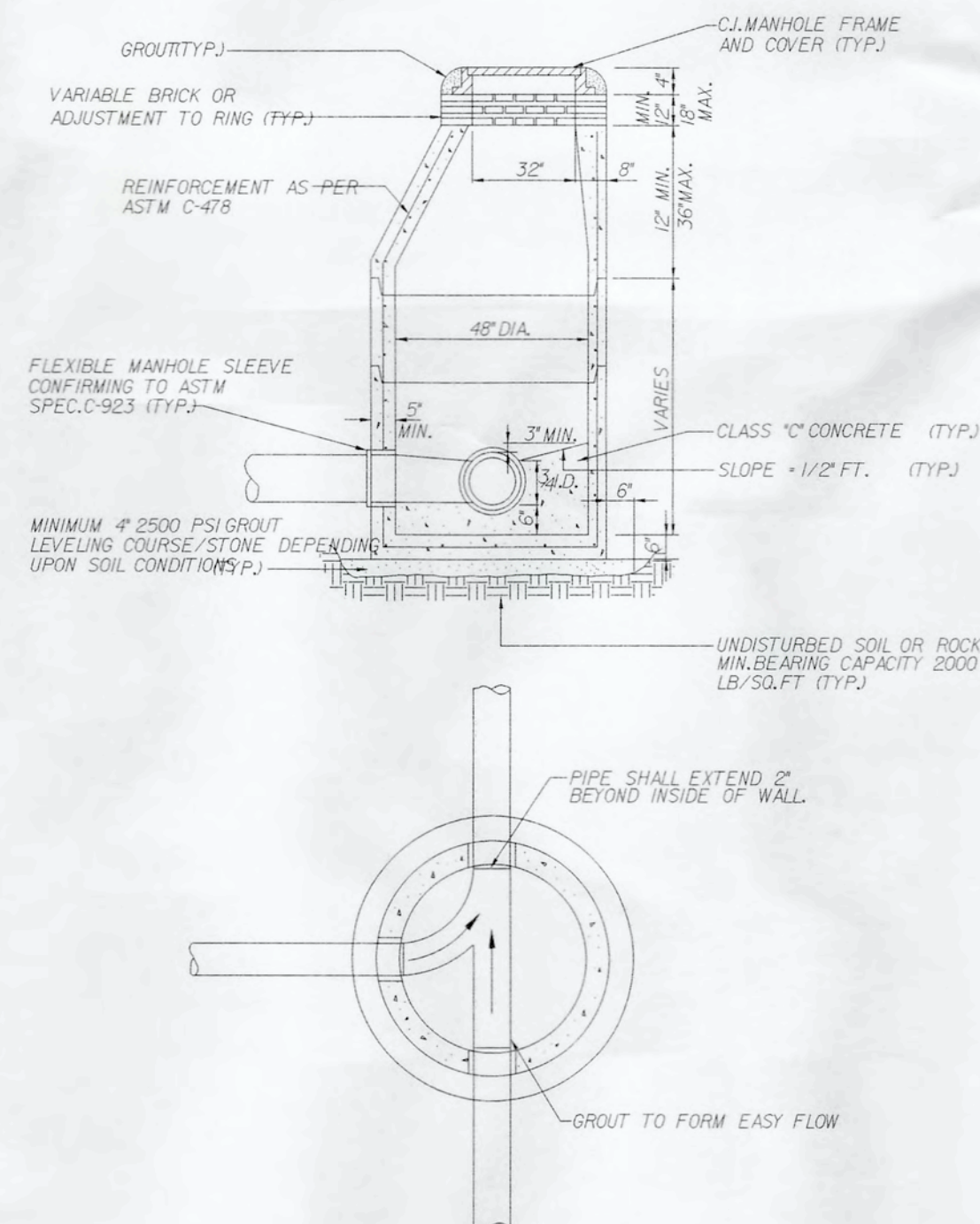
TYPE "B" MANHOLE



BEDDING DETAILS



MANHOLE JOINT

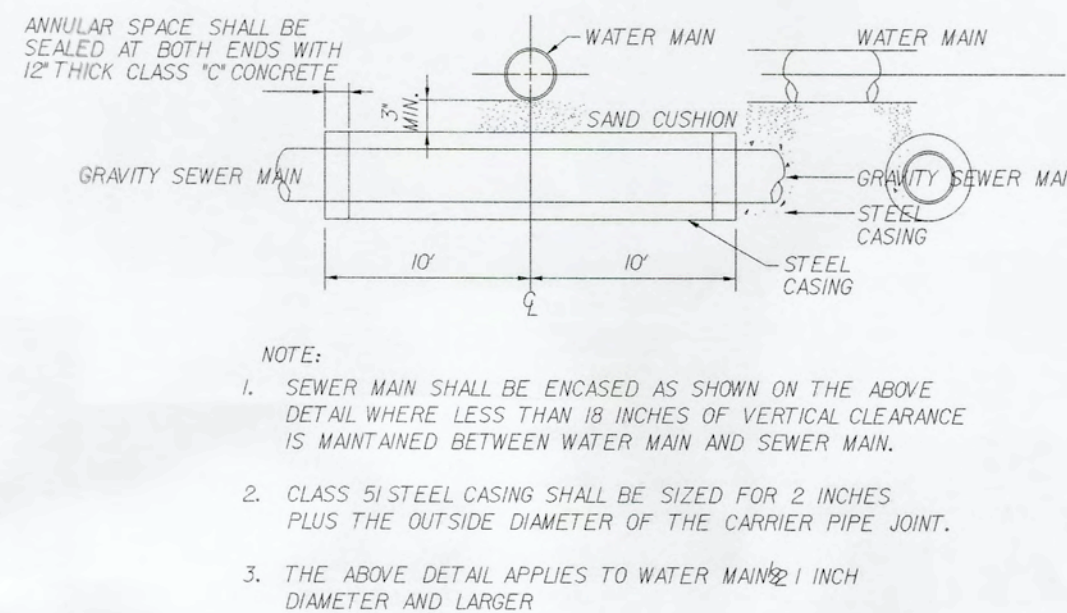


STANDARD PRECAST SANITARY MANHOLE

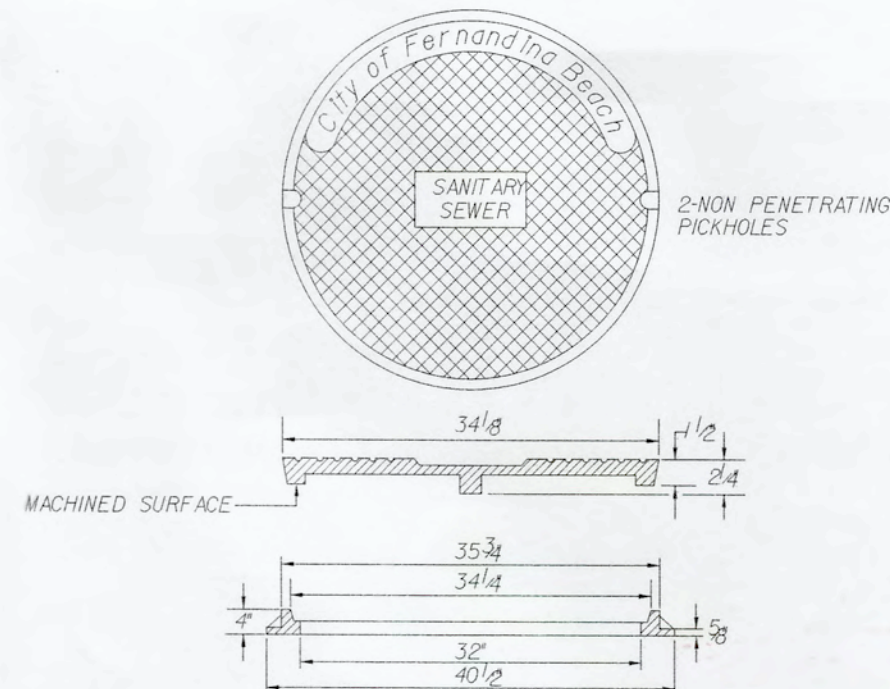
TYPE "A" MANHOLE

1. ALL MANHOLES SHALL BE PRECAST CONCRETE AND CONFORM TO ASTM C-478 STANDARDS. MANHOLE CONES AND RISERS SHALL BE CONSTRUCTED OF 400 PSI, TYPE II CEMENT WITH RIVER ROCK OR GRANITE AGGREGATE.
2. ALL PIPES SHALL BE CONNECTED TO THE MANHOLE USING A JOINT FLEXIBLE MANHOLE SLEEVE (ASTM C-923) OR APPROVED EQUAL.
3. THE EXTERIOR AND INTERIOR OF THE MANHOLE SHALL BE COATED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS WITH FABRITITE AS MANUFACTURED BY BRIGGS BITUMINOUS COMPOSITION COMPANY.
4. AN INSIDE PVC DROP MANHOLE (TYPE "B") SHALL BE REQUIRED FOR MANHOLES WHICH HAVE A DISTANCE OF 18 INCHES OR GREATER BETWEEN INFLUENT PIPE INVERT AND EFFLUENT PIPE INVERT. ALL OTHER DIPS SHALL HAVE A SLIDE CONSTRUCTED TO DIRECT THE FLOW INTO THE INVERT CHANNEL.
5. SEWER SERVICES SHALL BE CAST IRON IF 2 1/2 FEET OF GROUND COVER CAN NOT BE MAINTAINED OVER THE SERVICE LINE.
6. ALL DUCTILE IRON SEWER PIPE, WHERE SPECIFIED, SHALL BE CLASS 51 AND COMPLY WITH ANSI/AWWA C150/A220 AND ANSI/AWWA C151/A251. DUCTILE IRON PIPE SHALL BE PROVIDED WITH A FACTORY APPLIED INTERIOR POLYETHYLENE LINING IN ACCORDANCE WITH ANSI/ASTM D1248.
7. THE MAXIMUM NUMBER OF DIPS IS ONE, INCH DIP PER 135 LF OF PIPE. NO MORE THAN ONE DIP PER 135 LF OF PIPE. A DIP IS DEFINED AS A CHANGE IN ELEVATION OF 0.5" OR GREATER.

GRAVITY SEWER STANDARD SPECIFICATIONS

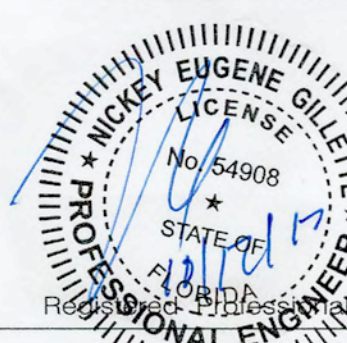


ENCASEMENT AT WATER LINE



MANHOLE COVER

|                                           |           |
|-------------------------------------------|-----------|
| City of Fernandina Beach Site Plan Review |           |
| Approval                                  | Signature |
| Yes                                       | No        |
| Facility Mntnc. (ADA)                     |           |
| Streets / Storm Water                     |           |
| Water                                     |           |
| Waste Water                               |           |
| Fire Department                           |           |
| Police Department                         |           |
| Public Works                              |           |
| Perks and Recreation                      |           |
| Engineering                               |           |
| Planning                                  |           |
| Building                                  |           |



SHEET NO.  
DT-2  
14 of 15  
Issue Date  
SEPTEMBER 2015  
Project No.  
15-10-18

Scale: NG  
Project Mgr: NG  
Designed by: NG  
Drawn by: AD  
QA/QC: AG

Gillette & Associates, Inc.  
20 South 4th Street  
Fernandina Beach, FL 32034  
Certificate of Authorization No. 9332  
DO NOT SCALE THIS DRAWING - DIMENSIONS AND NOTES TAKE PREFERENCE. DRAWING IS REDUCED IF LESS THAN 22" x 34"

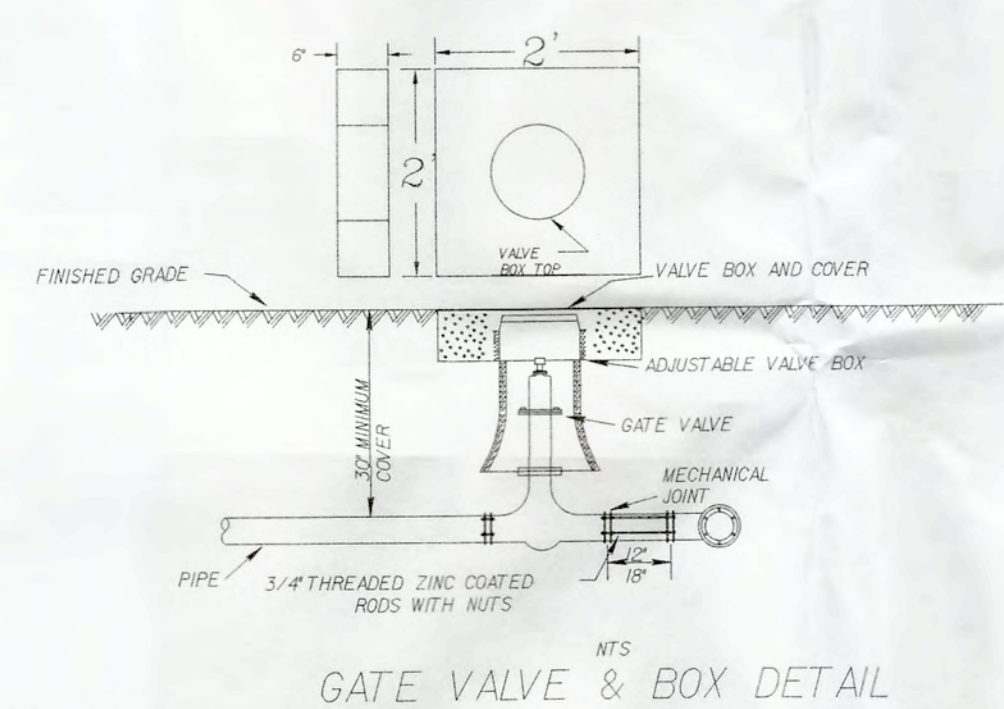
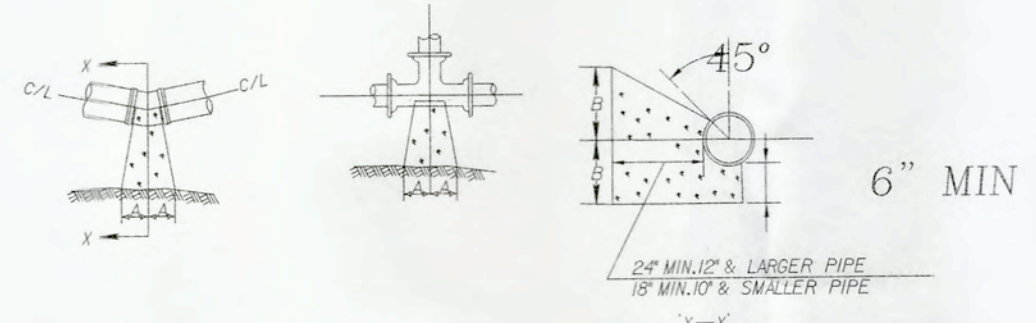
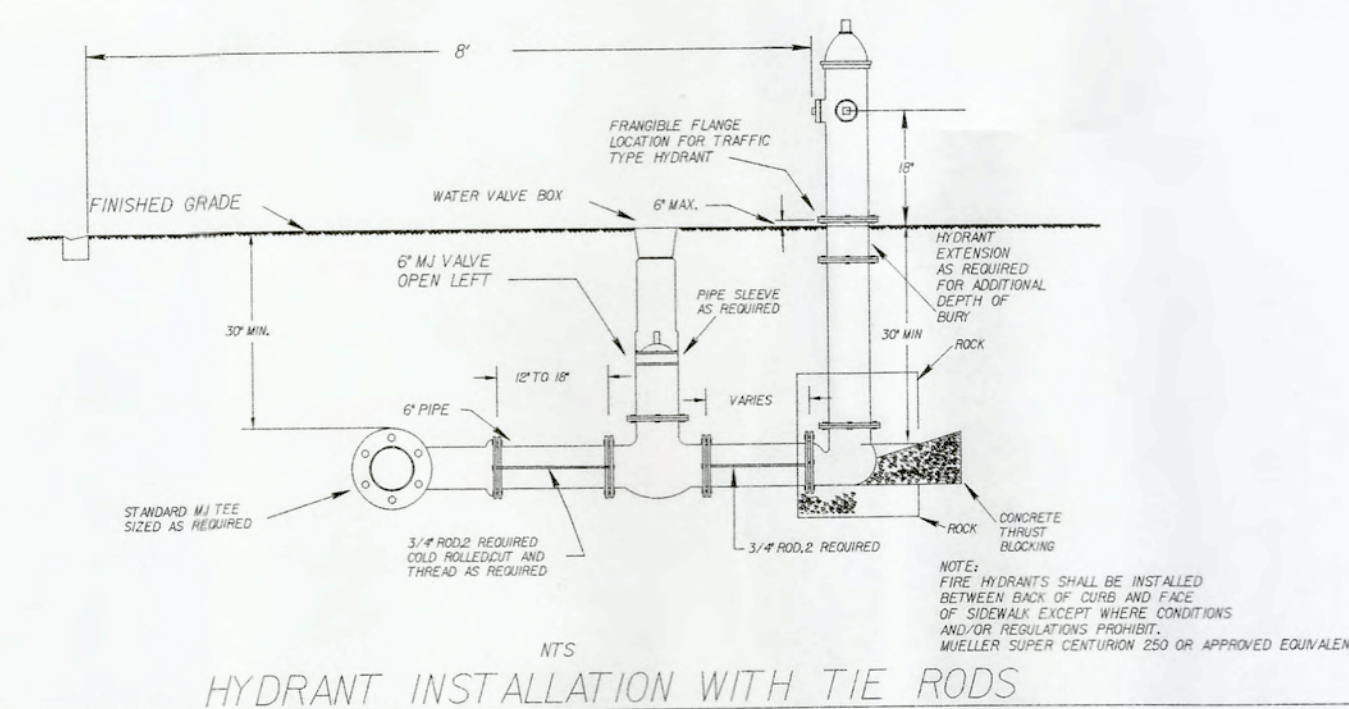
G & A  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

SHELL COVE

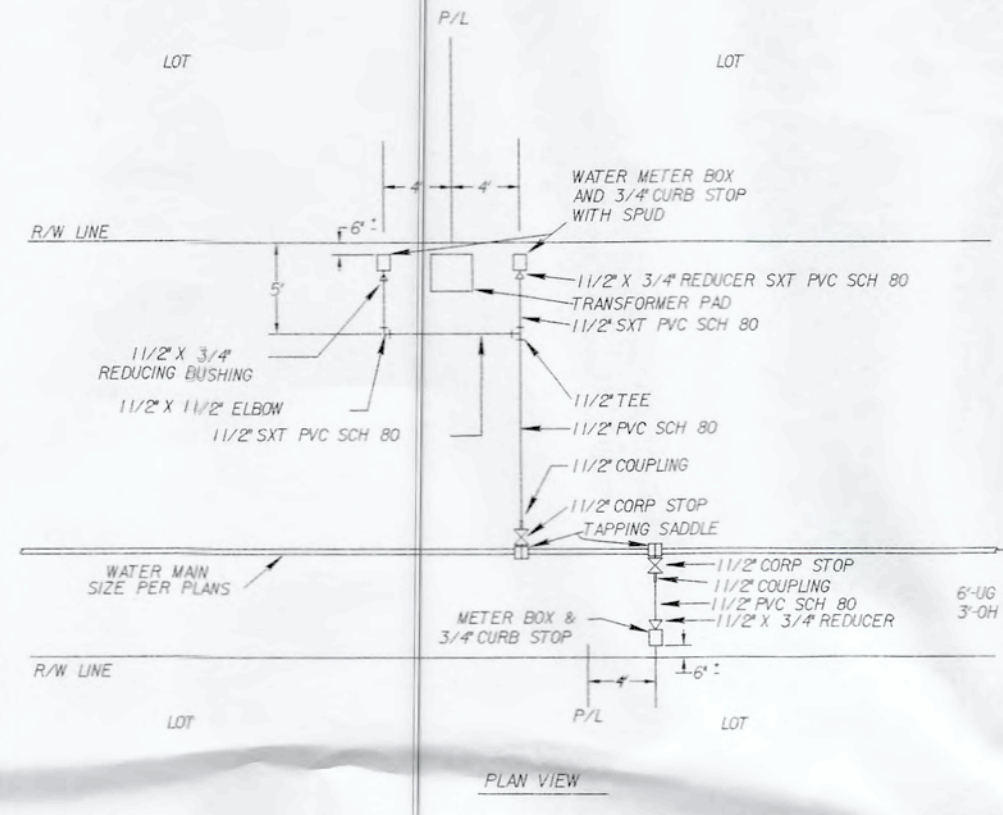
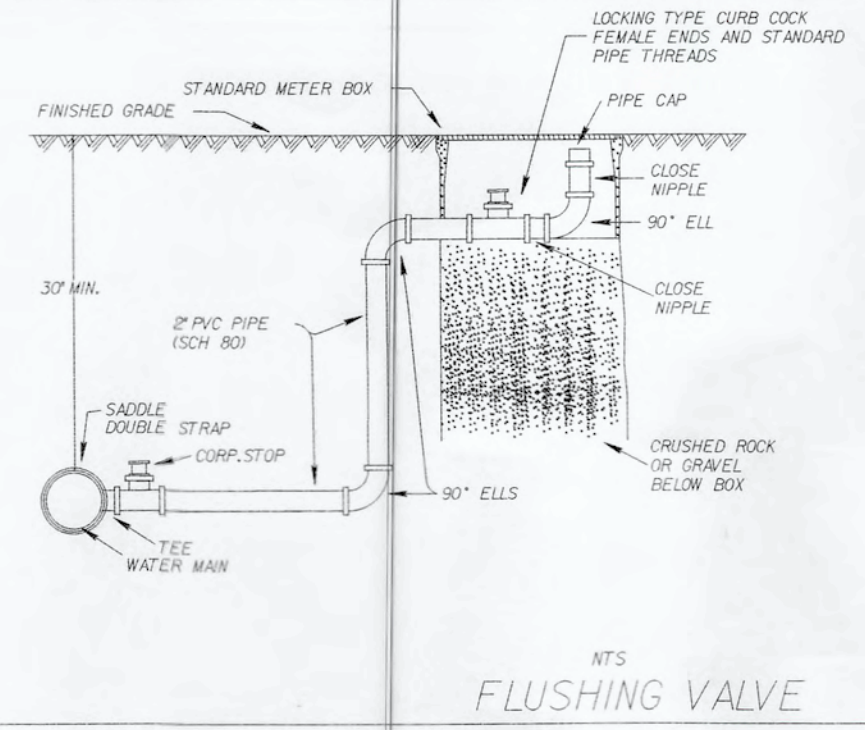
ROBINSON CREEK 34

SEWER DETAILS



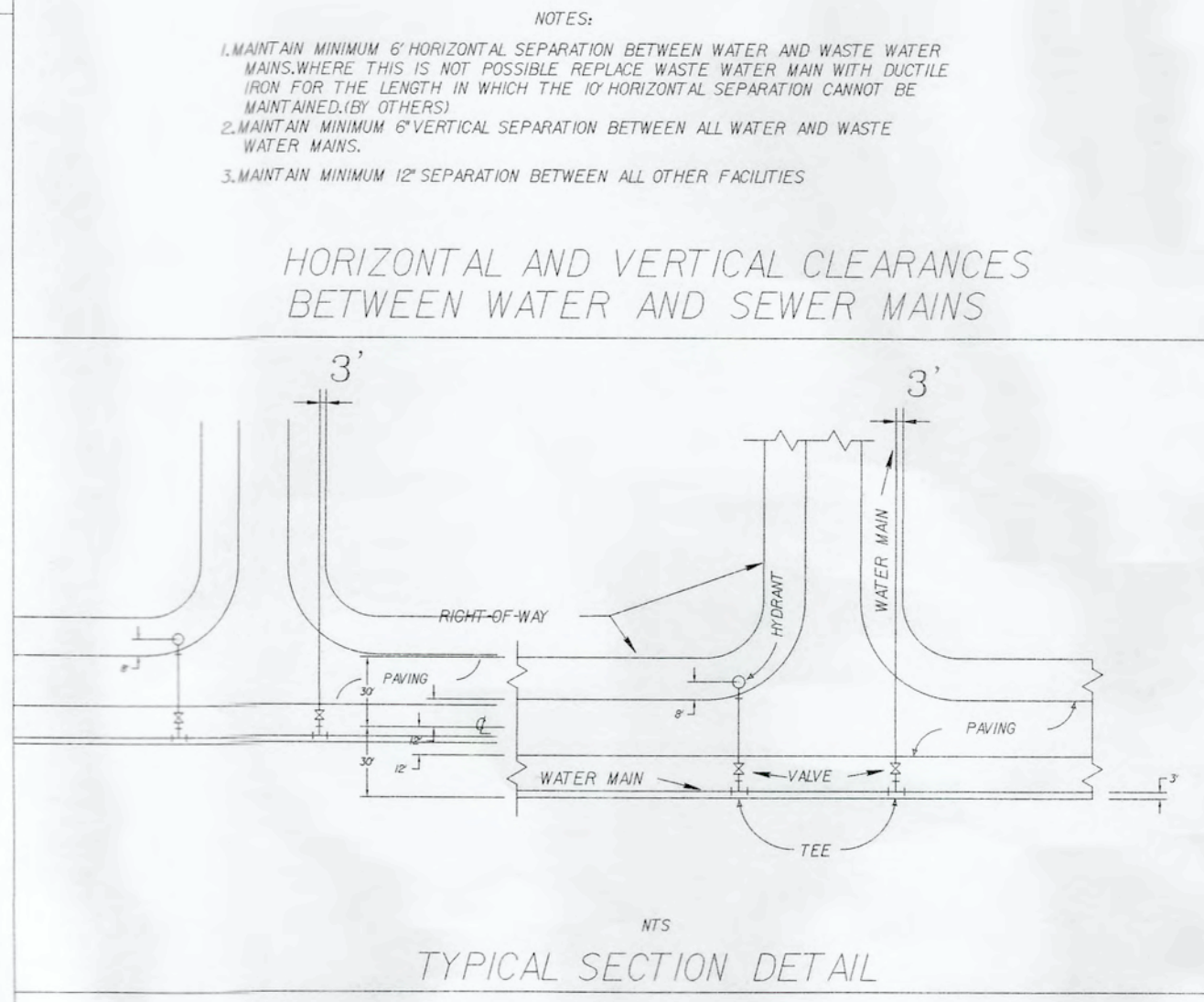
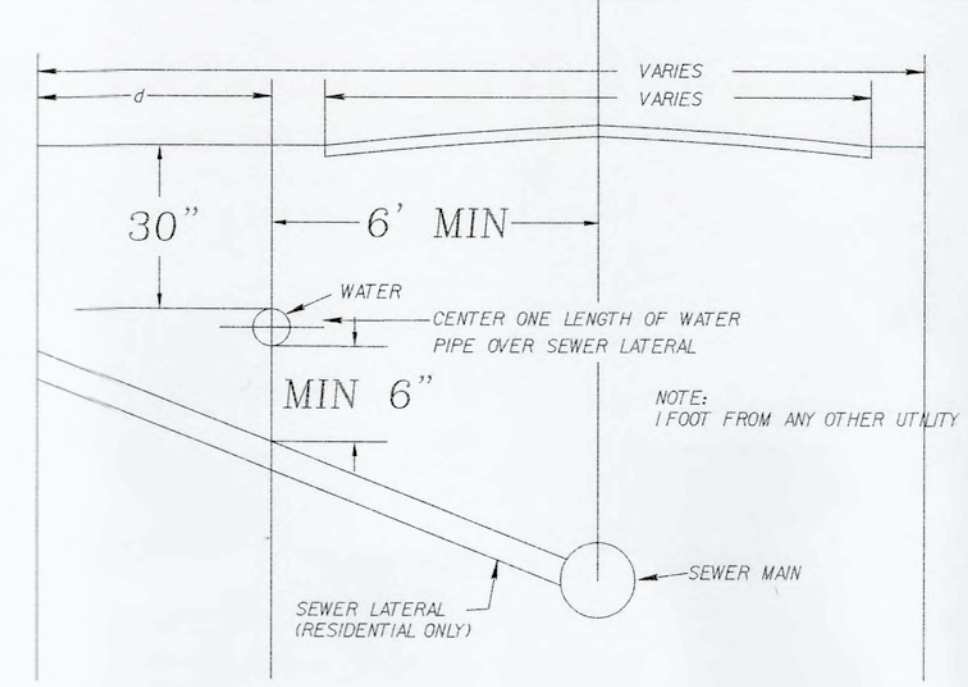


**TIE RODS**  
TWO RODS ON ALL SIX INCH (6") PIPE  
THREE RODS ON ALL EIGHT INCH (8") PIPE  
FOUR RODS ON ALL TEN AND TWELVE INCH (10" & 12") PIPE



STATE ROAD-11/2" CARRIER PIPE-4" BLACK IRON CASING FOR JACK AND BORE INSTALLATION.  
COUNTY AND CITY-11/2" CARRIER PIPE-3" PVC CASING FOR JACK AND BORE INSTALLATION.

TYPICAL WATER SERVICE LOCATIONS



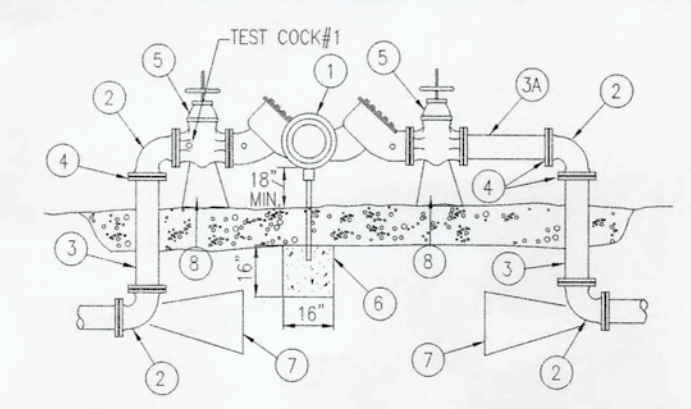
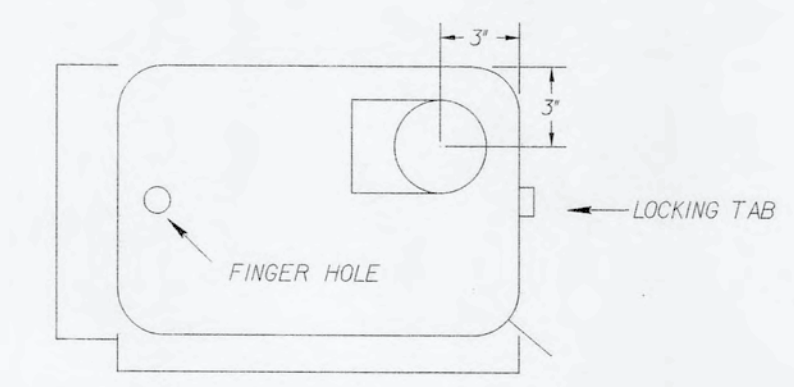
WHITE PVC DR 25 C900 PIPE FOR ALL 4", 6", 8", 10" AND 12" MAINS  
\*10' IF SOLID TRACING WIRE TO BE INSTALLED ON TOP OF MAIN TAPED EVERY TEN FEET  
PIPE LETTERING TO BE AT TOP OF PIPE WITH EDGE OF JOINT LINE VISIBLE AT BELL

TRENCH DETAILS

MINIMUM LENGTH TO BE RESTRAINED ON EACH SIDE OF FITTING (FEET)

| PIPE SIZE | 11 1/4" | 22 1/2" | 45" | 90" | TEE | VALVE | CAP | REDUCER |
|-----------|---------|---------|-----|-----|-----|-------|-----|---------|
| 4"        | 2       | 4       | 7   | 18  | 20  | 39    | 39  | N/A     |
| 6"        | 2       | 5       | 10  | 25  | 20  | 55    | 55  | 28      |
| 8"        | 3       | 6       | 13  | 32  | 20  | 72    | 72  | 30      |
| 10"       | 4       | 8       | 16  | 38  | 20  | 86    | 86  | 29      |
| 12"       | 4       | 9       | 19  | 45  | 20  | 102   | 102 | 50      |
| 16"       | 6       | 11      | 23  | 57  | 20  | 131   | 131 | 30      |

BELL RESTRAINT REQUIREMENTS



MATERIALS

| ITEM | QUANT. | DESCRIPTION                                            |
|------|--------|--------------------------------------------------------|
| 1    | 1      | 2.5"-10" VALVE, DOUBLE CHECK OR REDUCED PRESSURE       |
| 2    | 4      | 2.5"-10" BEND - 90° F-F                                |
| 3    | 2      | 2.5"-10" D.I.P. (48" LONG) F-PE                        |
| 3A   | 2      | 2.5"-10" D.I.P. (24" LONG) F-PE (OPT.)                 |
| 4    | 1      | 2.5"-10" FLANGE, D.I.P.                                |
| 5    | 2      | 2.5"-10" VALVE, GATE, D.I., F-F, OS+Y (RESILIENT SEAT) |
| 6    | 1      | 2" IRON PIPE/CONCRETE FOUNDATION                       |
| 7    | 2      | THRUST BLOCK                                           |
| 8    | 2      | SUPPORT BLOCKING UNDER VALVES (6" AND LARGER SIZES)    |

LARGE WATER SERVICE  
DOUBLE CHECK AND REDUCED PRESSURE  
BACKFLOW PREVENTION  
SINGLE SERVICE: 2 1/2" - 10"

BACKFLOW PREVENTER

CONTRACTORS ARE REQUIRED TO PAINT NEW HYDRANTS SAFETY YELLOW AND THE TOPS AND NOZZLE CAPS SHALL BE PAINTED WITH THE FOLLOWING CAP COLOR SCHEME:  
BLUE (SW4079) 1500GPM AND HIGHER  
GREEN (SW4085) 1000-1499 GPM  
ORANGE (SW4083) 500-999 GPM  
RED (SW4081) LESS THAN 500 GPM

IT IS REQUIRED THAT ALL NEW AND RELOCATED WATER MAINS BE PRESSURIZED AND LEAKAGE TESTED IN ACCORDANCE WITH AWWA STANDARD C600.

IT IS REQUIRED THAT ALL NEW AND RELOCATED WATER MAINS BE DISINFECTED IN ACCORDANCE WITH AWWA STANDARD C651 AND RULE 62-555.345, F.A.C.

ALL WATER MAINS WILL BE CONSTRUCTED WITH BLUE C900-DR25 PIPE. ALL WATER SERVICES WILL CONSTRUCTED WITH WHITE PVC SCHEDULE 80 PIPE. BLUE SPRAY PAINT WILL BE APPLIED TO THE TOP SURFACE. JOINT RESTRAINERS MAY BE USED IN PLACE OF THRUST BLOCKS ON C900, DR25 PIPE, WITH APPROVAL OF THE CITY UTILITIES DEPARTMENT.

City Of Fernandina Beach Site Plan Review

| Facility/Utilities (ADA) | Approval | Signature |
|--------------------------|----------|-----------|
| Water                    | Yes      | No        |
| Storm Water              | Yes      | No        |
| Waste Water              | Yes      | No        |
| Fire Department          | Yes      | No        |
| Police Department        | Yes      | No        |
| Parks and Recreation     | Yes      | No        |
| Engineering              | Yes      | No        |
| Planning                 | Yes      | No        |
| Building                 | Yes      | No        |

**WATER SPECIFICATIONS**

SCALE: 1" = 10'

CITY OF FERNANDINA BEACH  
FERNANDINA BEACH, FLORIDA 32034

SHEET NO. DT-3

15 of 15

DATE: 10/15/2015

PROJECT NO. 15-10.18

REGISTERED PROFESSIONAL ENGINEER  
No. 54908  
STATE OF FLORIDA

| Scale:       | Project Mgr: | Designed by: | Drawn by: | QA/QC: |
|--------------|--------------|--------------|-----------|--------|
| Scale:       | NG           | NG           | AD        | AG     |
| Project Mgr: | NG           | NG           | AD        | AG     |
| Designed by: | NG           | NG           | AD        | AG     |
| Drawn by:    | NG           | NG           | AD        | AG     |
| QA/QC:       | NG           | NG           | AD        | AG     |

Revised to address COFBS/JRWMD comments

**G & A+**  
GILLETTE & ASSOCIATES, INC.  
20 SOUTH 4TH STREET  
FERNANDINA BEACH, FL 32034  
PHONE: (904) 261-8819

SHELL COVE

ROBINSON CREEK 34

WATER DETAILS





**NASSAU COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
96135 Nassau Place, Suite 1  
Yulee, Florida 32097

Daniel B. Leeper  
Aaron C. Bell  
Pat Edwards  
Thomas R. Ford  
Justin M. Taylor

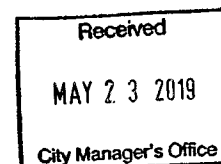
Dist. No. 1 Fernandina Beach  
Dist. No. 2 Amelia Island  
Dist. No. 3 Yulee  
Dist. No. 4 Bryceville/Hilliard  
Dist. No. 5 Callahan/West Yulee

JOHN A. CRAWFORD  
Ex-Officio Clerk

MICHAEL S. MULLIN  
County Attorney/County Manager

May 21, 2019

Dale Martin  
City Manager  
City of Fernandina Beach  
204 Ash Street  
Fernandina Beach, Florida 32034



RE: Shell Cove Right-of-Way

Dale:

This is to advise that we do not require a sidewalk in front of the Shell Cove development. I am advised that County staff, at the time, requested that the developer of Shell Cove address the sidewalk on the west side of Citrona.

The sidewalk on the west side was in need of repair and required extensive work. The sidewalk on the west side of Citrona was heavily used by students and neighborhood residents and again was in "bad" need of repair.

The County Engineer, Mr. Herring, made the determination to address the west side and the developer of Shell Cove complied.

If you need more information, do not hesitate to contact me.

Sincerely,

Michael S. Mullin  
County Attorney

MSM/sdg

cc: Board of County Commissioners  
Nick Gillette  
Laura Borgesi, County Engineer  
Robert Companion, Transportation Engineer

(904) 530-6010 or (866)-474-1446

*An Affirmative Action / Equal Opportunity Employer*



# CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-106  
Work Order 19-88 - Passero Associates, LLC

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-106

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SYNOPSIS: This Work Order provides design and bidding services related to above ground fuel farm improvements at the Fernandina Beach Municipal Airport.

The Airport currently has one 12,000 gallon JET A fuel tank and one 12,000 gallon AVGAS fuel tank. These tanks have reached the end of their useful life. This project will replace these two fuel tanks with two 12,000 gallon JET fuel tanks and one AVGAS fuel tank, size to be determined. The attached Work Order is budgeted within the current fiscal year and is supported under an executed grant from Florida Department of Transportation (FDOT) with a total grant amount of \$56,250 (20% match requirement). A subsequent grant offer is expected in the next fiscal year, in the maximum amount of \$343,750 (with a 20% match requirement), for the construction phase of this project.

Airport staff has reviewed this Work Order with FDOT and determined that the fees for service associated with this Work Order are appropriate. Additionally, during the June 13, 2019 Airport Advisory Commission Meeting AAC members unanimously recommended approval of this work order by the City Commission.

---

FISCAL IMPACT: The not-to-exceed fee amount of this Work Order is \$40,000. This fee is eligible for reimbursement under a grant from FDOT, and the Airport's 20% match for this Work Order is \$8,000 which will be funded by the Airport Improvements Account, 420 56300.

---

CITY ATTORNEY COMMENTS: No additional comments.

---

CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission adopt proposed Resolution 2019-106.

---

|                                                |           |
|------------------------------------------------|-----------|
| Nicole Bednar, Administrative Services Manager | 6/13/2019 |
| Dale Martin, City Manager                      | 6/19/2019 |
| Pauline Testagrose, Comptroller                | 6/20/2019 |
| Tammi E. Bach, City Attorney                   | 6/20/2019 |
| Katie Newton, Legal Assistant                  | 6/21/2019 |

---

Date: May 17, 2019

Submitted By: Nathan Coyle, Airport Director

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COMMISSION ACTION: Adopt

---



RESOLUTION 2019-106

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING WORK ORDER 19-88 WITH PASSERO ASSOCIATES, LLC TO PROVIDE DESIGN AND BID SERVICES AT THE FERNANDINA BEACH MUNICIPAL AIRPORT FOR IMPROVEMENTS OF THE AIRPORT'S FUEL FARM; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fernandina Beach has received a grant for design and bidding of improvements to the airport's fuel farm system in the maximum amount of \$56,250 (with a 20% match requirement) and anticipates a subsequent grant in the next fiscal year for the construction phase of a project to provide improvements to the Airport's fuel farm system; and

WHEREAS, the existing fuel tanks that store JET and AVGAS fuel have reached the end of their useful life and require replacement; and

WHEREAS, Passero Associates, LLC has proposed Work Order 19-88 (Exhibit "A") with a not-to-exceed amount of \$40,000 to provide design and bid services for improvements to the airport's fuel system.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves Work Order 19-88 with Passero Associates, LLC, attached hereto as Exhibit "A", in the not-to-exceed amount of \$40,000.

SECTION 2. The City Manager and City Clerk are hereby authorized to execute Work Order 19-88, upon review and approval of the City Attorney.

SECTION 3. This Resolution shall become effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
Tammi E. Bach  
City Attorney



# **City of Fernandina Beach**



## **Fernandina Beach Municipal Airport (FHB)**

### **Above Ground Aviation Fuel Farm Improvements Engineering Design & Bid Phase Services**

**By**  
**Passero Associates, LLC**  
(Passero Project No. 99000047.0088)

## **Work Order 19-88**



**Work Order 19-88**  
**Above Ground Aviation Fuel Farm Improvements**  
**Engineering Design & Bid Phase Services**  
**at Fernandina Beach Municipal Airport (FHB), Florida**

Passero Associates, LLC (PA or Consultant) agrees to perform the following services, in accordance with the terms and conditions of this Work Order and the Master Consulting Services Agreement with the City of Fernandina Beach (Client or City), dated February 19, 2019, of which all terms and conditions are incorporated herein by reference:

**Project Location:** Fernandina Beach Municipal Airport, Fernandina Beach, FL

**Project Description:** Removal of existing 12,000-gallon Jet A fuel tank and 12,000-gallon AVGAS (100LL) fuel tank including pumps and piping. Replace with (2) new 12,000-gallon Jet A fuel tanks and (1) new AVGAS (100LL) fuel tank, at a size to be determined, with new pumps and piping at existing fuel farm location. Existing QT POD credit reader to be reused for new AVGAS fuel tank at Fernandina Beach Municipal Airport (FHB).

**Scope of Basic Services:** Engineering Design & Bid Phase Services. (See Attachment A: Scope of Services)

**Scope of Special Services:** None.

**Client Manager / Project Coordinator:** Nathan Coyle, ACE, Airport Manager

**PA Program Manager:** Andrew Holesko, CM, Vice President.

**PA Project Manager:** Bradley Wentz, P.E.

**Basic Services Compensation and Method of Payment:** Design & Bid Not-to-Exceed: \$ 40,000.00

**Special Services Compensation and Method of Payment:** Not-to-Exceed: \$0.00

**Total Project Cost:** Not-to-Exceed: \$ 40,000.00

**Schedules and Meetings:** 1. See attachment for schedules.  
2. One design review meeting, mandatory pre-bid meeting and bid open.

**Deliverables:** 1. Contract Documents, Plans and Specifications.  
2. Bid Documents.  
3. Bid Tabulation and Recommendation of Award, if applicable.

**"Consultant"**  
**Passero Associates, LLC**

**"Client"**  
**City of Fernandina Beach**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Andrew Holesko, Vice President  
\_\_\_\_\_  
Typed Name and Title

Dale L. Martin, City Manager  
\_\_\_\_\_  
Typed Name and Title

ATTEST:

ATTEST:

BY: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**ATTACHMENT “A”  
SCOPE OF SERVICES**

**Project Title:** Above Ground Aviation Fuel Farm Improvements  
**Airport Name:** Fernandina Beach Municipal Airport  
**Services Provided:** Engineering Design & Bid Phase Services  
**PA Project No:** 99000047.0088

**PROJECT DESCRIPTION:**

Providing engineering design and bid-phase services to upgrade an existing Two-Tank Above Ground Aviation Fuel Farm System to accommodate a third tank at the Fernandina Beach Municipal Airport (FHB). Work associated with this improvement includes: Removal of existing 12,000-gallon Jet A fuel tank and 12,000-gallon AVGAS (100LL) fuel tank including pumps and piping. Both existing 12,000-gallon fuel tanks including pumps and piping to be salvaged. Replace with (2) new 12,000-gallon Jet A fuel tanks and (1) new AVGAS (100LL) fuel tank, at a size to be determined, with new pumps and piping. Upgrade existing electric system to meet current codes including reuse of existing QT POD credit reader to be for AVGAS (100LL). See attached existing Fuel Farm Google Earth Aerial.

Professional services to be provided by Passero Associates, LLC (Consultant) to the City of Fernandina Beach Municipal Airport, (Sponsor) shall include the following Basic Services.

**PROJECT MANAGEMENT PHASE:**

The CONSULTANT will keep the SPONSOR informed throughout the duration of this design contract related to budget, schedule and task completion. Additionally, maintain and update Funding Agency with specific details required to progress the project. The specific services to be provided or furnished for this Phase of the Project are the following:

1. The construction budget for the Project is approximately \$300,000.00. The CONSULTANT shall evaluate the feasibility of this budget, based upon the CONSULTANT's experience as a design professional, and keep the SPONSOR apprised during each phase of the Project of the results of such evaluation. The CONSULTANT shall advise the SPONSOR as to options available for reducing construction costs to stay within the budget, if it appears likely that contractor bid prices will exceed this budget.
2. Perform Project management duties such as Project planning, invoice preparation, schedule coordination, and coordination of design team.
3. Schedule coordination: CONSULTANT shall provide continued coordination so that Project schedules are met for each phase of work included in this contract. Particular phases of design may be delayed by other review agencies.



4. The design schedule is anticipated to be as follows:

|                    | Time from Contract Execution<br>Receipt of Notice to Proceed (NTP) |
|--------------------|--------------------------------------------------------------------|
| Preliminary Design | 45 days                                                            |
| Final Design       | 30 days                                                            |
| Bid Phase          | 30 days                                                            |

#### **PRELIMINARY DESIGN PHASE:**

The services to be performed during this Phase consist generally of services required to furnish the SPONSOR with a set of Preliminary Plans, and Specifications. The specific services to be provided or furnished for this Phase of the Project are the following:

1. Schedule and conduct a pre-design meeting with the SPONSOR and FDOT to review the scope of services and become familiar with the Project requirements and operational concerns during the Project's construction.
2. Conduct site inspections to Project-related existing physical features and facilities.
2. Establish geometrical layouts and place sufficient information on drawings to layout proposed project components.
4. Develop a draft construction phasing and operations plan that endeavors to limit interference by the Project's construction with airport and tenant operations.
5. Prepare preliminary Contract Drawings (approximately 50% complete) providing sufficient detail for review of design concepts by the SPONSOR and FDOT.
6. Develop general specifications.
7. Develop technical specifications expected to be required for the proposed work. Standard technical specifications shall be used whenever possible, with supplemental specifications developed by the CONSULTANT.
8. Update opinion of probable construction cost to reflect the outcomes of preliminary Project design.
9. Submit sufficient copies of preliminary design documents to the SPONSOR and FDOT for their review and comment.
10. Schedule and conduct a preliminary design review meeting to discuss and resolve any SPONSOR comments.

#### **FINAL DESIGN PHASE:**

The services included under this Phase shall generally consist of services required to furnish the SPONSOR with a complete set of Contract Documents for the Project, including Final Plans, Specifications, and opinion of probable construction costs. Services to be performed or furnished during this Phase may include revising the preliminary submittal information to comply with SPONSOR comments and then completion of the final design. Plans and Specifications will be completed; final design will be coordinated with the SPONSOR; and a complete set of bid documents will be furnished to the SPONSOR. A final opinion of probable construction cost will also be prepared and submitted. A final Construction Phasing and Operations Plan will be provided if necessary. The specific services to be provided or furnished for this Phase of the Project are the following:



1. Finalize design and details for the proposed work, as needed.
2. Prepare final Contract Drawings and submit to SPONSOR.
3. Finalize General Provisions and Technical Specifications for all construction materials and installations.
4. Finalize construction phasing and operations plan and include in Specifications and on the Contract Drawings.
5. Prepare final opinion of probable construction costs.
6. Perform final internal quality control review on all design documents.
7. Submit final documents to the SPONSOR and FDOT for final review and comment.
8. Schedule and conduct draft final review meeting with the SPONSOR to discuss and resolve final comments.

**BID PHASE:**

The Bid Phase is that timeframe between completion of the design process and beginning of actual construction when the SPONSOR publicly advertises and receives bids, awards contracts to the lowest responsible bidder, and executes a construction contract to perform the work with the successful contractor(s). The CONSULTANT shall assist the SPONSOR during this Phase as required. The specific services to be provided or furnished for this Phase of the Project are the following:

1. Assist the SPONSOR in the advertisement of the Project and issuance of bid documents.
2. Receive written questions from potential bidders regarding the Contract Documents and respond in addenda.
3. Schedule and conduct pre-bid conference and prepare meeting minutes of the pre-bid conference, if necessary.
4. Prepare addenda to the bid documents after advertisement and prior to bidding as required upon the SPONSOR's approval.
5. The Consultant will assist the City at the bid opening and review bids received for conformance with the Contract Documents. Consultant will review the Contractors personnel, equipment list, and the Contractor's qualifications. If the Contractor has no past working relationship with the Consultant, City, or FDOT, the Contractor's references will be checked.
6. Prepare final bid tabulation, recommendation/rejection of award letter to the SPONSOR, including a sample notice of award letter. Request concurrence of award from FDOT.

**OTHER CONSIDERATIONS:**

1. This Scope of Services does not include the following:
  - Topographic survey.
  - Geotechnical investigation.
  - Construction Administration / Resident Engineering / Construction-Observation Phases.
  - Permitting (All permitting shall be the responsibility of the Contractor).
  - Preparation of additional related Design, Construction Plans, and Specifications.



- Wetlands or endangered species impacts are not anticipated. As such, a survey of wetland and endangered species areas is not included.
- Other special services (such as environmental studies, permitting, traffic studies or other special studies, etc.) that may be desired or requested.
- Structural Design for Piles, concrete skids, retaining wall, and Grade Beam Foundation/Slab.
- Develop new or update Spill Prevention Control and Countermeasure Plan.
- Design of new containment area, concrete skids and oil/water separator.

If such services are later determined to be required before the project is complete, they shall be performed as additional services only under a separate written agreement and as approved by the City.

2. The City is responsible for providing complete and thorough data in a timely fashion as requested by Passero, including all necessary data from City archives. Passero is not responsible for data that is not provided for during the course of this Agreement.

#### **End of Attachment A: Scope of Services**



## Existing Fuel Farm

Fernandina Beach Municipal Airport

Legend

Remove (2EA) 12,000 Gallon Tanks

Replace Pump & Hose Reel

Reuse QT POD Credit Card Reader

### Design Bid Documents:

#### Provide and Install

- 2EA 12,000 Gallon Jet A Tanks
- 1EA (100LL) AVGAS Tank

Google Earth

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100 ft



# CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-107  
Change Order Approval - Brance Diversified, Inc.

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-107

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SYNOPSIS: The City issued Invitation to Bid #18-23 for projects associated with the Fernandina Beach Harbor Marina's southern basin and the City-owned structure at 101 N. Front Street. On November 7, 2018, the City Commission awarded the bid to Brance Diversified, Inc. in the amount of \$3,199,170.32. Part of this project is funded by a loan from Wastewater. The amount of the Loan was increased by an additional \$500,000.

Following commencement of this project, additional work was identified related to dredging; on February 19, 2019, Brance Diversified, Inc. submitted Change Order #1 in the amount of \$396,043.25 for this additional work.

Brance Diversified, Inc. has submitted Change Order #2 in the amount of \$168,388.80 to reinstall pilings, reconfigure a dock, and install a new dinghy dock. Credits were issued for item #'s 9, 18, 19, and 20 totaling \$168,388.80 – see attached Continuation Sheet. The net increase and decrease of change order # 2 is \$0.00.

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FISCAL IMPACT: Funding for this project has been budgeted in the Marina, Dredging-Marina account, 480 56328,

The net effect of this change order is \$0.00

Brance Diversified, Inc. has submitted Change Order #2 in the amount of \$168,388.80 to reinstall pilings, reconfigure a dock, and install a new dinghy dock. Credits were issued for item #'s 9, 18, 19, and 20 totaling \$168,388.80 – see attached Continuation Sheet.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission adopt proposed Resolution 2019-107.

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|                                 |           |
|---------------------------------|-----------|
| Dale Martin, City Manager       | 6/21/2019 |
| Pauline Testagrose, Comptroller | 6/25/2019 |
| Tammi E. Bach, City Attorney    | 6/25/2019 |
| Katie Newton, Legal Assistant   | 6/25/2019 |

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Date: June 19, 2019

Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-107

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING CHANGE ORDER # 2 WITH BRANCE DIVERSIFIED, INC. IN THE AMOUNT OF \$168,388.80 FOR THE RECONFIGURATION OF THE DINGHY DOCKS TO INCLUDE ONE NEW DOCK AT THE FERNANDINA BEACH HARBOR MARINA; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City issued Invitation to Bid #18-23 for projects associated with the Fernandina Beach Harbor Marina's southern basin and the City-owned structure at 101 N. Front Street; and

WHEREAS, on November 7, 2018, the City Commission awarded the bid to Brance Diversified, Inc. in the amount of \$3,199,170.32; and

WHEREAS, following commencement of this project, additional work was identified related to dredging. On February 19, 2019, the City Commission approved Change Order #1 in the amount of \$396,043.25 with Brance Diversified, Inc.; and

WHEREAS, Brance Diversified, Inc. has submitted Change Order #2 in the amount of \$168,388.80 to reinstall pilings, reconfigure a dock, and install a new dinghy dock; and

WHEREAS, credits were issued for item #'s 9, 18, 19, and 20 totaling \$168,388.80 – see attached Continuation Sheet; and

WHEREAS, funding for this project has been budgeted in the Marina, Dredging-Marina account, 480 56328, and the net increase and decrease for Change Order # 2 is \$0.00.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, AS FOLLOWS:

SECTION 1. The City Commission hereby approves Change Order #2 with Brance Diversified, Inc. with no increase to the total project cost.

SECTION 2. The City Manager and City Clerk are hereby authorized to execute the Change Order, upon review and approval of the City Attorney.

SECTION 3. This Resolution shall be effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.



CITY OF FERNANDINA BEACH

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John A. Miller  
Commissioner – Mayor

ATTEST:

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Caroline Best  
City Clerk

APPROVED AS TO FORM & LEGALITY:



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Tammi E. Bach  
City Attorney







1. **ENTIRE AGREEMENT** - The terms, specifications and drawings included in this order when duly executed constitute the entire agreement between the parties, unless otherwise stated on the face of the order. No modification or waiver of terms of the agreement shall be binding unless in writing, signed by the City Manager and confirmed by a representative of the Contractor/Vendor/Seller. This agreement shall be interpreted in accordance with the laws of the State of Florida.
2. **DELIVERIES** - In the event of failure to deliver material of the quality or within the time specified, City may cancel the order and buy elsewhere. Failure of City to exercise this option with respect to any installment shall not be deemed a waiver with respect to future installments, if any.
3. **INSPECTIONS** - Materials shall be received subject to City's right to inspect and test all materials at destination before acceptance. Contractor/Vendor/Seller shall pay transportation costs and the cost of inspecting and testing of materials which are rejected by City.
4. **ACCEPTANCE** - Payment for the goods or services covered by this order shall not constitute acceptance thereof. Shipment of any part of this order or start of work, if providing services, without written acceptance constitutes Contractor/Vendor/Seller's acceptance of this order and its condition.
5. **CONTINGENCIES** - Neither party shall be liable for delays or defaults due to acts of God, government authority or public enemy, war, fires, floods, epidemics, strikes, labor troubles, freight embargoes or contingencies reasonably beyond its control. The party so affected, upon prompt written notice to the other party, shall be excused from making or taking deliveries or goods and/or services hereunder to the extent of such prevention or restriction. At City's option, deliveries so omitted shall be made on notice thereof to the Contractor/Vendor/Seller, upon cessation of such contingency, even though such might have been operative at the date of this order.
6. **GOVERNMENT REGULATIONS** - Contractor/Vendor/Seller warrants that all applicable laws and regulations of government authority, covering the production, sale and delivery of the materials and performance of services specified herein, have been complied with and shall indemnify and save City harmless from and against any liability or loss resulting from Contractor/Vendor/Seller's failure to do so.
7. **TAXES** - The City is exempt from Federal Taxes on transportation charges and any Federal Excise Tax. If you prepay transportation charges, do not pay tax as the county or city will not reimburse you for the taxes paid. The City also is exempt from State Sales Tax.
8. **WARRANTIES** - In addition to all warranties, established by statute or common law, or set forth elsewhere in this order, Contractor/Vendor/Seller expressly warrants that all material or services covered herein shall conform to all specifications, drawings, samples, and descriptions furnished or adopted by City and shall be of best quality and fit and sufficient for the purpose for which purchased. If specified hereon, merchantable, of good material and workmanship and free from all patent and latent defects. City's failure to give notice to Contractor/Vendor/Seller of any breach of warranty shall not discharge Contractor/Vendor/Seller of any breach of warranty and shall not discharge Contractor/Vendor/Seller's liability therefor. Without limiting the generality of any of the foregoing, Contractor/Vendor/Seller agrees to be responsible for all defects in design, workmanship and materials which may become apparent within twelve months of receipt by City.
9. **PATENTS** - Contractor/Vendor/Seller shall protect and indemnify City against all claims, judgments and expenses arising from infringement or alleged infringement of any third party's patent, copyright or other intellectual property rights by any of the goods delivered hereunder. Contractor/Vendor/Seller shall defend or settle at its own expense any proceeding brought against City for such infringements provided Contractor/Vendor/Seller is notified promptly of the commencement of such proceedings and is given authority, information and assistance by the City for the defense or settlement thereof.
10. **INSTALLATION** - If this order required the services of experts or employees on City's premises, such experts or employees shall not thereby be deemed to be the agents or employees of City. Such parties shall be subject to City's safety rules and fire regulations. Contractor/Vendor/Seller assumes full responsibility for their acts and omissions and agrees to save Buyer harmless from any claims arising therefrom and to accept exclusive liability for payroll and other taxes imposed upon the employer by law. Contractor/Vendor/Seller will undertake to keep the materials and premises involved free from any lien whatsoever for materials and labor incident to the performance of personnel for a lump sum amount. Contractor/Vendor/Seller agrees to furnish an analysis thereof as Buyer may reasonably require for accounting purposes. Contractor/Vendor/Seller agrees to furnish an analysis thereof as City may reasonably require for accounting purposes. Contractor/Vendor/Seller shall be solely responsible for materials furnished by Buyer on other than a charge basis in connection with this order.
11. **NON-DISCLOSURE** - Without prior written consent of the City in each instance, Contractor/Vendor/Seller shall not reveal to a third party the details, characteristics or any information on materials made to the special order of City or use reproductions thereof in any promotional media or reveal that City is purchasing the materials ordered hereunder.
12. **ASSIGNMENT** - Contractor/Vendor/Seller shall not assign this order or any part thereof without written consent of the City. Such consent will not relieve Contractor/Vendor/Seller from its obligations and liabilities hereunder.
13. **CHANGES** - City reserves right to change specifications and delivery dates. Any resultant contract differences shall be equitably adjusted in writing.
14. **OCCUPATION SAFETY AND HEALTH ACT** - Contractor/Vendor/Seller certifies that all material, equipment, etc. supplied under terms of the Purchase Order meets all O.S.H.A. requirements. Contractor/Vendor/Seller further certifies that, if the material, equipment, etc. delivered is subsequently found to be deficient in accordance with any O.S.H.A. requirement in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the O.S.H.A. requirements shall be borne by the Contractor/Vendor/Seller.
15. **INDEMNIFICATION** - The parties recognize that Contractor/Vendor/Seller is an independent contractor. Contractor/Vendor/Seller agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of Contractor/Vendor/Seller, its officers, employees, subcontractors, agents, and representatives. Contractor/Vendor/Seller's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of Contractor/Vendor/Seller against the City and Contractor/Vendor/Seller hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall not be limited by the amount of any insurance required to be obtained or maintained by Contractor/Vendor/Seller. In addition, Contractor/Vendor/Seller agrees to assume liability for and indemnify, hold harmless and defend the City, its mayor, commissioners, officers, employees, attorneys, agents and representatives of, from, and against all liability and expense, including reasonable attorneys' fees, in connection with any and all claims, including claims for injunctive or equitable relief, and damages whatsoever for personal injuries or property damage, including loss of use, arising out of Contractor/Vendor/Seller's violation or alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, or patent rights in connection with Contractor/Vendor/Seller's licensing of any software, hardware, uploads or downloads delivered to the City pursuant to this Purchase Order and/or arising out of the negligent or deliberate act or omission of Contractor/Vendor/Seller, its officers, employees, volunteers, representatives or agents. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.
16. **INSURANCE** - If required by the City, Contractor/Vendor/Seller shall procure and maintain worker's compensation insurance and commercial general liability insurance satisfactory to the City, with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance to be furnished to the City naming the City as an additional insured and the supporting Endorsement page included. It is understood and agreed that the coverage afforded by Contractor/Vendor/Seller commercial general liability insurance also applies to City as an additional insured. Such policy shall provide that cancellation or changes to such insurance shall not occur without at least thirty (30) days prior written notice to the City. This requirement for proof of insurance may be modified only through approval of the applicable Department Director and the City Attorney.
17. **PURCHASE ORDER NUMBER** - Purchase Order Number must appear on all packages, packing slips, invoices and all correspondence relating to the Order. City will not be responsible for goods delivered without Purchase Order Number.
18. **INVOICING** - Invoice(s) must be submitted in duplicate to billing address indicated on face of Purchase Order. Invoice must state Purchase Order Number, unit price(s), extension(s), total, and SHIP TO ADDRESS.
19. **PRICES** - Prices are F.O.B. destination unless otherwise specified and agreed to by the City.
20. **PAYMENT** - Payment due hereunder shall be made by the City to Contractor/Vendor/Seller in accordance with the Florida Local Government Prompt Payment Act.
21. **DISCOUNTS** - Delay in receiving an invoice, invoicing for materials shipped ahead of specified schedule, or invoices rendered with errors or omissions will be considered just cause for City to withhold payment without losing discount privileges. Discount privilege will apply from date of scheduled delivery, the date of receipt of goods, or the date of approved invoice, whichever is later.
22. **ACCEPTANCE - ENTIRE AGREEMENT** - Acceptance of this Purchase Order will be unqualified, unconditional, and subject to and expressly limited by the Terms and Conditions hereon. City and the Contractor/Vendor/Seller shall not be bound by additional provisions or provisions at variance herewith that may appear in the Contractor/Vendor/Seller's quotation, acknowledgment in force, or any other communication from Contractor/Vendor/Seller to City unless such provision is expressly agreed to and confirmed in writing.
23. **VARIATION IN QUANTITY** - City assumes no liability for material produced, processed or shipped in excess of the amount specified herein.
24. **SEVERABILITY** - If any section, subsection, sentence, clause, phrase, or portion of this contract is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.
25. **CAPTIONS** - Captions have been provided for the benefit of the parties, and for reference only, and are not deemed to be a part of the agreement created.
26. **MATERIAL SAFETY DATA** - In accordance with Florida Statutes, Chapter 442, it is the Contractor/Vendor/Seller's duty to advise if a product is a toxic substance and to provide a Material Safety Data Sheet at time of delivery.
27. **PERMITS** - Contractor/Vendor/Seller is responsible for obtaining any permits necessary to complete the work covered by this order, at its own expense, prior to starting any work under this order.
28. **PUBLIC RECORDS LAW REQUIREMENTS** - Pursuant to Section 119.0701, Florida Statutes, Contractor/Vendor performing services for City shall: (a) keep and maintain all public records as that term is defined in Chapter 119, Florida Statutes ("Public Records"), that ordinarily and necessarily would be required by the City in order to perform the work contemplated by this Agreement; (b) provide the public with access to Public Records, on the same terms and conditions that the City would provide the records and at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that Public Records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) meet all requirements for retaining Public Records and transfer, at no cost to the City, all public records in possession of Contractor/Vendor within thirty (30) days after termination of this Agreement, however terminated, and destroy any duplicate Public Records that are exempt or confidential and exempt from public records disclosure requirements and provide the City with a letter confirming that this has been done within thirty (30) days of the termination of this Agreement. All Public Records stored electronically must be provided to the City in a format that is compatible with the information technology of the City. If Contractor/Vendor does not comply with a public records request, the City may pursue any and all remedies available in law or equity, including but not limited to specific performance.





June 1, 2019

Bronson Lamb  
Fernandina Harbor Marina  
3 S Front Street  
Jacksonville, FL 32034

Change Order Two

Dear Mr. Lamb,

Please accept this letter as our request for change order number two. BDI will provide all equipment, labor, supervision, etc. to complete all work as follows:

**Price: \$168,388.80**

Scope of work:

1. Disconnect existing dock 4, float it down and connect it to the northern end of existing dock 5. This will entail the installation of 5 new pile guides or if serviceable, used pile guides. This will require installation of 5 piles that were previously removed. Remove two of the dock 4 end sections prior to connecting the sections that were damaged and leave those sections as marina property. The existing ramp that presently is in place for this dock will be utilized for all utilities and all access to this dock.
2. Furnish and install new Crescent floating dock that matches the new dock 6 that is being provided by Crescent. This new dock will be 220 feet long and 8 feet wide. Install one missing pile and then attach the new Crescent dock to the 5 piles. The Crescent dock will come with 5 external pile guides. These guides will slide over the existing piles and then bolt to the dock.
3. Provide the same configuration and scope of utilities on the new dock 4 to match the new utilities on all of dock 5.





Other Conditions:

1. For accomplishing the above there will be no refurbishment of dock 4 and 5.
2. For accomplishing the above there will be no credit for the 50 foot of dock 6 that was reduced.
3. For accomplishing the above there will be no credit for the 2 pedestals removed from dock 6.
4. For accomplishing the above there will be no credit for refurbishing 2 gangways.
5. These changes do not constitute any additional charges.
6. It is understood that Robert McDonald with Marine Utilities has already provided utility submittals for all docks.

Looking forward to your response.

Sincerely,

Lance W. Young



# CONTINUATION SHEET

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing

Contractor's signed Certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column 1 on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 7  
APPLICATION DATE: 5/23/2019  
PERIOD TO: 5/23/2019

| A<br>Item No. | B<br>Description of Work                                                                          | B2<br>Estimated Quantities | B3<br>Unit | C<br>Scheduled Value            | D<br>Work Completed             |               | F<br>Materials | G             |         | H<br>Balance  | I<br>Retainage |
|---------------|---------------------------------------------------------------------------------------------------|----------------------------|------------|---------------------------------|---------------------------------|---------------|----------------|---------------|---------|---------------|----------------|
|               |                                                                                                   |                            |            |                                 | From Previous Application (D+E) | This Period   |                | Total         | % (G+C) |               |                |
| 1             | Demolition- South Basin Floating Docks                                                            | 15,940                     | SF         | \$ 46,226.00                    | \$ 46,226.00                    | \$ -          | -0-            | \$ 46,226.00  | 100%    | \$ -          | \$ 4,622.60    |
| 2             | Demolition- South Basin Anchor Piling                                                             | 57                         | EA         | \$ 59,999.91                    | \$ 55,789.39                    | \$ -          | -0-            | \$ 55,789.39  | 93%     | \$ 4,210.52   | \$ 5,578.94    |
| 3             | Demolition- South Basin Utilities                                                                 | 1                          | LS         | \$ 13,350.00                    | \$ 13,350.00                    | \$ -          | -0-            | \$ 13,350.00  | 100%    | \$ -          | \$ 1,335.00    |
| 4             | Demolition- Vuturo Building                                                                       | 1                          | LS         | \$ 66,000.00                    | \$ 66,000.00                    | \$ -          | -0-            | \$ 66,000.00  | 100%    | \$ -          | \$ 6,600.00    |
| 5             | Mobilization                                                                                      | 1                          | LS         | \$ 300,000.00                   | \$ 300,000.00                   | \$ -          | -0-            | \$ 300,000.00 | 100%    | \$ -          | \$ 30,000.00   |
| 6             | Demobilization                                                                                    | 1                          | LS         | \$ 150,000.00                   | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 150,000.00 | \$ -           |
| 7             | Dredging & Disposal<br>Change Order #1 Increases Quantity by 21,701 cy to a total of 51,701 cy    | 51,701                     | CY         | \$ 943,543.25                   | \$ 707,657.44                   | \$ -          | -0-            | \$ 707,657.44 | 75%     | \$ 235,885.81 | \$ 70,765.74   |
| 8             | New South Floating Dock (Dock 6) Install 4'x30' Aluminum Gangway                                  | 1                          | EA         | \$ 15,000.00                    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 15,000.00  | \$ -           |
| 9             | New South Floating Dock (Dock 6) Floating Docks                                                   | 6,425                      | SF         | \$ 603,950.00<br>\$ -33,250.00  | \$ 211,382.50                   | \$ 250,000.00 | -0-            | \$ 461,382.50 | 76%     | \$ 142,567.50 | \$ 46,138.25   |
| 10            | New South Floating Dock (Dock 6) Floating Dock Anchor Piles                                       | 15                         | EA         | \$ 22,500.00                    | \$ 7,875.00                     | \$ -          | -0-            | \$ 7,875.00   | 35%     | \$ 14,625.00  | \$ 787.50      |
| 11            | Utility Pedistals                                                                                 | 20                         | EA         | \$ 45,000.00                    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 45,000.00  | \$ -           |
| 12            | Power Distribution                                                                                | 1                          | LS         | \$ 175,000.00                   | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 175,000.00 | \$ -           |
| 13            | Water Distribution                                                                                | 1                          | LS         | \$ 58,000.00                    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 58,000.00  | \$ -           |
| 14            | Fire Station Safety Pedistals                                                                     | 6                          | EA         | \$ 9,996.00                     | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 9,996.00   | \$ -           |
| 15            | Safety Ladders                                                                                    | 5                          | EA         | \$ 8,000.00                     | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 8,000.00   | \$ -           |
| 16            | Fire Suppression Standpipe System                                                                 | 1                          | LS         | \$ 69,000.00                    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 69,000.00  | \$ -           |
| 17            | Dinghy Dock 4 & 5 Install New Boardwalk Lighting                                                  | 1                          | LS         | \$ 45,000.00                    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 45,000.00  | \$ -           |
| 18            | Dinghy Dock 4 & 5 Install Refurbished Aluminum Gangways                                           | 2                          | EA         | \$ 2,400.00<br>\$ -2,400.00     | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 2,400.00   | \$ -           |
| 19            | Clean, Inspect, and Install Refurbished Bellingham Main Piers ant New Central Dock Slip Utilities | 3,460                      | SF         | \$ 128,988.80<br>\$ -128,988.80 | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 128,988.80 | \$ -           |
| 20            | Utility Pedistals                                                                                 | 8                          | EA         | \$ 15,000.00<br>\$ -3,750.00    | \$ -                            | \$ -          | -0-            | \$ -          | 0%      | \$ 15,000.00  | \$ -           |



## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-108  
Proposal Approval - Asphalt Paving Systems, Inc.

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-108

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SYNOPSIS: The City has budgeted funding for street paving/resurfacing for asphalt rights-of-way within the current fiscal year. The proposal from Asphalt Paving Systems, Inc. includes Micro Surfacing and Cape Sealing of asphalt rights-of-way as recommended in the IMS Pavement Management Report.

Based on the streets chosen for paving/resurfacing this year by using these alternative paving methods, the City of Fernandina Beach will be able to cover nearly 4 miles of roadway this year compared to only roughly 1.5 to 2 miles utilizing a traditional mill and overlay. For instance, off of the same Contract (Lee County, FL) it would be over \$650,000 to mill and overlay the same streets on this year's list. A difference of over \$300,000. This procurement is requested as a piggyback to the Lee County Contract, which is allowed under page 11, Section 25 of their contract (Authority to utilize by other government entities).

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FISCAL IMPACT: Funds are budgeted within the current fiscal year in the Streets Capital Paving/Resurfacing account, 3004100 56320.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission adopt proposed Resolution 2019-108.

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|                                                |           |
|------------------------------------------------|-----------|
| Nicole Bednar, Administrative Services Manager | 6/18/2019 |
| Dale Martin, City Manager                      | 6/19/2019 |
| Pauline Testagrose, Comptroller                | 6/20/2019 |
| Tammi E. Bach, City Attorney                   | 6/20/2019 |
| Katie Newton, Legal Assistant                  | 6/21/2019 |

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Date: May 28, 2019

Submitted By: Cathy Sabattini, Administrative Coordinator

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-108

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING A PROPOSAL FROM ASPHALT PAVING SYSTEMS, INC. IN AN AMOUNT NOT TO EXCEED \$348,513.50 THE MICRO-SURFACING AND CAPE SEALING OF CITY ASPHALT RIGHTS-OF-WAY BY WAY OF A PIGGYBACK PURCHASE TO THE LEE COUNTY, FLORIDA, CONTRACT; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City had Infrastructure Management Service (IMS) conduct a survey of the rights-of-way throughout the City and provide recommendations to improve the conditions; and

WHEREAS, Asphalt Paving Systems, Inc. provided a proposal to micro-surface and cape seal asphalt rights-of-way in the current fiscal year (Exhibit "A"); and

WHEREAS, the Streets Department has budgeted funds to complete this work in the Capital Paving/Resurfacing Account, 3004100 56320 in FY 2019/2020; and

WHEREAS, this procurement is to be executed as a piggyback purchase to the Lee County, Florida, Contract (Exhibit "B") at the quantity pricing included within that agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves the proposal from Asphalt Paving Systems, Inc. to perform micro-surfacing and cape sealing on City asphalt rights-of-way in an amount not to exceed \$348,513.50 as a piggyback agreement to the Lee County, Florida, Contract.

SECTION 2. The City Manager and City Clerk are hereby authorized to execute said proposal, upon review and approval of the City Attorney.

SECTION 3. This Resolution shall become effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
Tammi E. Bach  
City Attorney



**Resolution 2019-108**  
**Exhibit "A"**



DATE: 5/31/2019

TO: Rex Lester  
Streets and Parks Director  
City of Fernandina Beach  
Fernandina Beach, FL 32034  
904-310-3311

FROM: Asphalt Paving Systems, Inc.  
Kris Shane - East Coast Florida Rep  
9021 Wire Road  
Zephyrhills, FL 33540  
Ph: 813-480-1865

RE: Project proposal  
Micro Surface and Cape Seal

| Product | Description                                                    | Units | Quantity  | Unit Price   | Total Price   |
|---------|----------------------------------------------------------------|-------|-----------|--------------|---------------|
|         | <b>Lee County Contract</b>                                     |       |           |              | \$ -          |
|         |                                                                |       |           |              |               |
|         | <b>PC 005 Micro-Surfacing</b>                                  |       |           |              |               |
| APM-002 | Double Micro Surface                                           | SY    | 50,771.00 | \$ 3.60      | \$ 182,775.60 |
| APM-003 | Single Chip Seal                                               | SY    | 46,323.00 | \$ 2.90      | \$ 134,336.70 |
| APM-002 | Double Micro Surface (Leveling)                                | SY    | 2,092.00  | \$ 3.60      | \$ 7,531.20   |
|         |                                                                |       |           |              |               |
| 711-10  | Remove Existing Pavement Markings                              | SF    | 600.00    | \$ 5.00      | \$ 3,000.00   |
| 710-4   | 24" Solid Traffic Paint                                        | LF    | 360.00    | \$ 4.50      | \$ 1,620.00   |
| 710-3   | 18" Solid Traffic Paint                                        | LF    | 500.00    | \$ 4.00      | \$ 2,000.00   |
| 710-1   | 6" Solid Traffic Paint                                         | LF    | 750.00    | \$ 0.50      | \$ 375.00     |
| 706-1   | RPM's                                                          | EA    | 50.00     | \$ 7.50      | \$ 375.00     |
|         |                                                                |       |           |              |               |
| 101-1   | Mobilization                                                   | %     | 1.00      | \$ 6,500.00  | \$ 6,500.00   |
| 102-1   | Maintenance Of Traffic                                         | %     | 1.00      | \$ 10,000.00 | \$ 10,000.00  |
|         |                                                                |       |           |              |               |
|         | **Paint Only- No thermo**                                      |       |           |              |               |
|         | **APS will mark out areas to be patched by City's Contractor** |       |           |              |               |
|         | **Chip Seal Cul-de-sacs**                                      |       |           |              |               |
|         |                                                                |       |           |              |               |
|         |                                                                |       |           | Total        | \$ 348,513.50 |

Respectfully Submitted,  
*Kristoffer D. Shane*  
Asphalt Paving Systems, Inc.  
Zephyrhills, Florida  
c: 813-480-1865  
e: k.shaneaps@gmail.com

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

Signature: \_\_\_\_\_

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

\* Proposal valid for 30 days.



|                     |
|---------------------|
| Project Street list |
|---------------------|

| ITEM  | STREET NAME                                                    | FROM                  | TO                     | LENGTH    | WIDTH | TOTAL UNITS | UNIT PRICE | Total  |
|-------|----------------------------------------------------------------|-----------------------|------------------------|-----------|-------|-------------|------------|--------|
| CAPE  | Crescent Rd                                                    | Will Hardee Rd        | Penbrook Dr            | 400       | 22.0  | 977.78      |            |        |
| CAPE  | Inverness Rd                                                   | Will Hardee Rd        | Sussex Dr              | 1,090     | 22.0  | 2,664.44    |            |        |
| CAPE  | Canterbury Ln                                                  | Sussex Dr             | Will Hardee Rd         | 440       | 20.0  | 977.78      |            |        |
|       |                                                                |                       |                        | 750       | 22.0  | 1,833.33    |            |        |
| CAPE  | Sussex Dr                                                      | Penbrook Dr           | Inverness Rd           | 740       | 22.0  | 1,808.89    |            |        |
| CAPE  | Coventry Dr                                                    | Penbrook Dr           | Sussex Dr              | 750       | 22.0  | 1,833.33    |            |        |
| CAPE  | Penbrook Dr                                                    | Crescent Rd           | Sussex Dr              | 1,650     | 22.0  | 4,033.33    |            |        |
| CAPE  | Robinhood Dr<br>(Weschester Ln)                                | Sussex Dr             | Susan Dr               | 140       | 22.0  | 342.22      |            |        |
| CAPE  | Inverness Rd                                                   | Whitfield Dr          | Will Hardee Rd         | 1,230     | 20.0  | 2,733.33    |            |        |
| CAPE  | Canterbury Ln                                                  | Will Hardee Rd        | Inverness Rd           | 550       | 20.0  | 1,222.22    |            |        |
| CAPE  | Purcell Dr                                                     | Will Hardee Rd        | Inverness Rd           | 500       | 20.0  | 1,111.11    |            |        |
| CAPE  | Whitfield Dr                                                   | Will Hardee Rd        | Inverness Rd           | 530       | 20.0  | 1,177.78    |            |        |
| CAPE  | Captian Kidd Dr                                                | Pirates Bay Dr        | Inverness Rd           | 1,400     | 20.0  | 3,111.11    |            |        |
| CAPE  | Priates Bay Dr                                                 | Captian Hook Dr       | DE to Cul              | 1,320     | 24.0  | 3,520.00    |            |        |
|       |                                                                |                       |                        | 860       | 20.0  | 1,911.11    |            |        |
|       |                                                                |                       |                        |           | CUL   | 1,260.00    |            |        |
|       |                                                                |                       |                        |           | CUL   | 1,260.00    |            |        |
| CAPE  | Captian Hook Dr                                                | Pirates Bay Dr        | Pirates Bay Dr         | 680       | 20.0  | 1,511.11    |            |        |
| CAPE  | Ryan Rd                                                        | Pirates Bay Dr        | Stop @ Curb and Gutter | 580       | 20.0  | 1,288.89    |            |        |
| MICRO | Safe Harbor Ln                                                 | Will Hardee Rd        | DE                     | 1,360     | 24.7  | 3,727.91    |            |        |
|       |                                                                |                       | Island Cul-de-sac      | 270       | 24.0  | 720.00      |            |        |
| CAPE  | Cleveland Ave                                                  | A1A                   | 1st Ave                | 240       | 20.0  | 533.33      |            |        |
| CAPE  | 1st Ave                                                        | Cleveland Ave         | DE                     | 1,335     | 20.0  | 2,966.67    |            |        |
|       | **City will need to establish EOP for contractor**             |                       |                        |           |       |             |            |        |
| CAPE  | Racheal Ave                                                    | A1A                   | DE                     | 1,000     | 20.0  | 2,222.22    |            |        |
|       |                                                                |                       |                        |           | CUL   | 560.00      |            |        |
|       |                                                                |                       | Side Street (1st Ave)  | 180       | 20.0  | 400.00      |            |        |
| CAPE  | Gregor- McGregor Blvd                                          | Ohio Ave              | Jean Lafitte Blvd      | 1,675     | 23.0  | 4,280.56    |            |        |
| CAPE  | Ohio Ave                                                       | Gregor- McGregor Blvd | A1A                    | 320       | 22.0  | 782.22      |            |        |
|       | **City needs to edge Ohio Ave- Homeowners flower bed in road** |                       |                        |           |       |             |            |        |
|       |                                                                |                       |                        | 19,990.00 |       | 50,771      | Total      | \$0.00 |



Asphalt Paving Systems, Inc.  
 Kris Shane - East Coast Florida Rep  
 Zephyrhills, FL 33540  
 Ph: 813-480-1865





DATE: 5/29/2019

TO: Rex Lester  
 Streets and Parks Director  
 City of Fernandina Beach  
 Fernandina Beach, FL 32034  
 904-310-3311

FROM: Asphalt Paving Systems, Inc.  
 Kris Shane -East Coast Florida Rep  
 9021 Wire Road  
 Zephyrhills, FL 33540  
 Ph: 813-480-1865

RE: Project proposal  
 Asphalt Patching- 23 patches

| Product  | Description                                                    | Units | Quantity | Unit Price | Total Price  |
|----------|----------------------------------------------------------------|-------|----------|------------|--------------|
|          |                                                                |       |          |            | \$ -         |
|          | <b>SAMPLE</b>                                                  |       |          |            |              |
|          |                                                                |       |          |            |              |
|          | Mobilization                                                   | LS    | 1.00     | \$ 850.00  | \$ 850.00    |
| 327-70-6 | Milling existing asphalt 1-1/2" Avg                            | SY    | 461.00   | \$ 31.07   | \$ 14,323.27 |
| 331-2-C1 | Asphalt surface, Type S-III                                    | TON   | 42.00    | \$ 110.25  | \$ 4,630.50  |
|          |                                                                |       |          |            |              |
|          |                                                                |       |          |            |              |
|          |                                                                |       |          |            |              |
|          | **APS will mark out areas to be patched by City's Contractor** |       |          |            |              |
|          |                                                                |       |          |            |              |
|          |                                                                |       |          |            |              |
|          |                                                                |       |          | Total      | \$ 19,803.77 |

Respectfully Submitted,  
*Kristoffer D. Shane*  
 Asphalt Paving Systems, Inc.  
 Zephyrhills, Florida  
 c: 813-480-1865  
 e: k.shaneaps@gmail.com

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

Signature: \_\_\_\_\_

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

\* Proposal valid for 30 days.



## Patching Project Street list

| ITEM | STREET NAME           | FROM            | TO                                             | LENGTH | WIDTH | TOTAL UNITS | UNIT PRICE | Total  |
|------|-----------------------|-----------------|------------------------------------------------|--------|-------|-------------|------------|--------|
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Inverness Rd          | Will Hardee Rd  | Sussex Dr                                      | 22     | 20.0  | 48.89       |            |        |
|      |                       |                 | ** At Will Hardee Rd- patch radius             |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Canterbury Ln         | Sussex Dr       | Will Hardee Rd                                 | 22     | 20.0  | 48.89       |            |        |
|      |                       |                 | ** At Will Hardee Rd- patch radius             |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Sussex Dr             | Penbrook Dr     | Inverness Rd                                   | 13     | 5.0   | 7.22        |            |        |
|      |                       |                 | **Address 2321- 1 patch                        |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Penbrook Dr           | Crescent Rd     | Sussex Dr                                      | 15     | 8.0   | 13.33       |            |        |
|      |                       |                 |                                                | 28     | 8.0   | 24.89       |            |        |
|      |                       |                 |                                                | 4      | 8.0   | 3.56        |            |        |
|      |                       |                 | ** Address 2404- 3 patches                     |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Inverness Rd          | Whitfield Dr    | Will Hardee Rd                                 | 30     | 4.0   | 13.33       |            |        |
|      |                       |                 |                                                | 30     | 5.0   | 16.67       |            |        |
|      |                       |                 |                                                | 22     | 20.0  | 48.89       |            |        |
|      |                       |                 |                                                | 22     | 20.0  | 48.89       |            |        |
|      |                       |                 |                                                | 22     | 20.0  | 48.89       |            |        |
|      |                       |                 | ** Address 2408- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** Address 2318- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** At Canterbury Ln in radius                  |        |       |             |            |        |
|      |                       |                 | ** At Will Hardee Rd in radius                 |        |       |             |            |        |
|      |                       |                 | ** At Purcell Dr in radius                     |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Purcell Dr            | Will Hardee Rd  | Inverness Rd                                   | 12     | 5.0   | 6.67        |            |        |
|      |                       |                 | ** Address 2125- 1 patch                       |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Whitfield Dr          | Will Hardee Rd  | Inverness Rd                                   | 30     | 20.0  | 66.67       |            |        |
|      |                       |                 | ** Address 2168 in curve- 1 patch              |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Captian Kidd Dr       | Pirates Bay Dr  | Inverness Rd                                   | 15     | 4.0   | 6.67        |            |        |
|      |                       |                 |                                                | 15     | 4.0   | 6.67        |            |        |
|      |                       |                 |                                                | 10     | 5.0   | 5.56        |            |        |
|      |                       |                 |                                                | 10     | 5.0   | 5.56        |            |        |
|      |                       |                 | ** Address 2111- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** Address 2129- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** Address 2219- 2 patches                     |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Pirates Bay Dr        | Captian Hook Dr | DE to Cul                                      | 2      | 2.0   | 0.44        |            |        |
|      |                       |                 | ** Address 2501- 1 spot patch-no milling       |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Captian Hook Dr       | Pirates Bay Dr  | Pirates Bay Dr                                 | 15     | 5.0   | 8.33        |            |        |
|      |                       |                 |                                                | 12     | 5.0   | 6.67        |            |        |
|      |                       |                 | ** Address 2496- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** Address 2494- 1 patch                       |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Racheal Ave           | A1A             | DE                                             | 20     | 10.0  | 22.22       |            |        |
|      |                       |                 |                                                | 4      | 4.0   | 1.78        |            |        |
|      |                       |                 | ** Address 2678- 1 patch                       |        |       |             |            |        |
|      |                       |                 | ** At 1st Ave spot patch in radius- no milling |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      | Gregor- McGregor Blvd | Ohio Ave        | Jean Lafitte Blvd                              | 5      | 5.0   | 2.78        |            |        |
|      |                       |                 | ** Address 2621- 1 patch                       |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                |        |       |             |            |        |
|      |                       |                 |                                                | 380.00 |       | 463         | Total      | \$0.00 |



Asphalt Paving Systems, Inc.  
 Kris Shane -East Coast Florida Rep  
 Zephyrhills, FL 33540  
 Ph: 813-480-1865



|                                    |
|------------------------------------|
| Micro Leveling Project Street list |
|------------------------------------|

| ITEM | STREET NAME   | FROM           | TO                                                    | LENGTH | WIDTH | TOTAL UNITS | UNIT PRICE | Total  |
|------|---------------|----------------|-------------------------------------------------------|--------|-------|-------------|------------|--------|
|      | Crescent Rd   | Will Hardee Rd | Penbrook Dr                                           | 10     | 8.0   | 8.89        |            |        |
|      |               |                | ** address 1810 level old patches with Micro          |        |       |             |            |        |
|      | Inverness Rd  | Will Hardee Rd | Sussex Dr                                             | 300    | 22.0  | 733.33      |            |        |
|      |               |                | *address 1542 level full lane width with Micro- 300FT |        |       |             |            |        |
|      |               |                |                                                       |        |       |             |            |        |
|      |               |                |                                                       |        |       |             |            |        |
|      | Canterbury Ln | Will Hardee Rd | Inverness Rd                                          | 100    | 11.0  | 122.22      |            |        |
|      |               |                | *address 2144 level half lane width with Micro 100ft  |        |       |             |            |        |
|      |               |                |                                                       |        |       |             |            |        |
|      | Cleveland Ave | A1A            | 1st Ave                                               | 50     | 20.0  | 111.11      |            |        |
|      |               |                | *level old OGM with Micro                             |        |       |             |            |        |
|      | 1st Ave       | Cleveland Ave  | DE                                                    | 500    | 20.0  | 1,111.11    |            |        |
|      |               |                | *level old OGM with Micro                             |        |       |             |            |        |
|      | Racheal Ave   | A1A            | DE                                                    | 10     | 5.0   | 5.56        |            |        |
|      |               |                | *Level two areas with Micro in Cul-de-sac             |        |       |             |            |        |
|      |               |                |                                                       |        |       |             |            |        |
|      |               |                |                                                       |        |       |             |            |        |
|      |               |                |                                                       | 970.00 |       | 2,092       | Total      | \$0.00 |



Asphalt Paving Systems, Inc.  
 Kris Shane - East Coast Florida Rep  
 Zephyrhills, FL 33540  
 Ph: 813-480-1865



**AGREEMENT FOR  
ALTERNATIVE PAVING METHODS**

EXECUTED  
✓ COPY

**THIS AGREEMENT FOR ONGOING ALTERNATIVE PAVING PROJECTS** ("Agreement") is made and entered into as of the date of execution by both parties, by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as the "County" and Asphalt Paving Systems, Inc., a New Jersey corporation authorized to do business in the State of Florida, whose address is 9021 Wire Road, Zephyrhills, FL 33540, and whose Federal tax identification number is 22-3787755, hereinafter referred to as "Contractor".

**WITNESSETH**

**WHEREAS**, the County intends to purchase construction services related to Alternative Paving Methods from the Contractor for specific projects as determined by the County (the "Purchase"); and,

**WHEREAS**, the County issued a solicitation, B170265/ANB on April 7, 2017; and,

**WHEREAS**, the County evaluated the responses received and found the Contractor qualified to provide the necessary products and services; and,

**WHEREAS**, the County posted a Notice of Intended Decision Bid Action on June 6, 2017; and,

**WHEREAS**, the Contractor is one of a pool of firms approved to provide products and services for the Purchase, the County shall award projects as needed, and the Contractor understands and agrees that no work is guaranteed under this Agreement; and,

**WHEREAS**, the Contractor has reviewed the products and services to be supplied pursuant to this Agreement and is qualified, willing and able to provide all such products and services in accordance with its terms.

**NOW, THEREFORE**, the County and the Contractor, in consideration of the mutual covenants contained herein, do agree as follows:

**I. PRODUCTS AND SERVICES**

- A. The Contractor agrees to diligently provide all products and services for the Purchase in accordance with the Scope of Services made part of this Agreement as Exhibit A, attached hereto and incorporated herein. Contractor shall comply strictly with all of the terms and conditions of B170265/ANB, a copy of which is on file with the County's Department of Procurement Management and is deemed incorporated into this Agreement.



## **II. TERM AND DELIVERY**

- A. This Agreement shall commence immediately upon execution by both the County and the Contractor, and shall continue for a period of one (1) year on an "as needed" basis. The Agreement may be renewed for up to three (3) additional one (1) year periods upon mutual written agreement of the County and the Contractor.
- B. A Purchase Order must be issued by the County before commencement of any work or purchase of any goods related to this Agreement.
- C. Products and services must be delivered in accordance with Supplemental Task Authorizations and Change Orders. The schedule must commence on the date of the purchase order.

## **III. COMPENSATION AND PAYMENT**

- A. The County must pay the Contractor in accordance with the terms and conditions of this Agreement for providing all products and services as set forth in Exhibit A, and further described in Exhibit B, Fee Schedule, attached hereto and incorporated herein. Said total amount to be all inclusive of costs necessary to provide all products and services as outlined in this Agreement, and as supported by the Contractor's submittal in response to B170265/ANB, a copy of which is on file with the County's Department of Procurement Management and is deemed incorporated into this Agreement.
- B. Notwithstanding the preceding, Contractor must not make any deliveries or perform any work under this Agreement until receipt of a purchase order from the County. Contractor acknowledges and agrees that no minimum order or amount of product or work is guaranteed under this Agreement and County may elect to issue no purchase orders. If a purchase order is issued, the County reserves the right to amend, reduce, or cancel the purchase order in its sole discretion.
- C. All funds for payment by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by the County. In the event of nonappropriation of funds by the County for the services provided under this Agreement, the County will terminate the contract, without termination charge or other liability, on the last day of the then current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Contractor on fifteen (15) days' prior written notice, but failure to give such notice will be of no effect and the County will not be obligated under this Agreement beyond the date of termination.



#### **IV. METHOD OF PAYMENT**

- A. The County must pay the Contractor in accordance with the Local Government Prompt Payment Act, §218.70, et seq. F.S., as amended from time to time, upon receipt of the Contractor's invoice and written approval of same by the County indicating that the products and services have been provided in conformity with this Agreement.
- B. The Contractor must submit an invoice for payment to the address indicated on the purchase order on a monthly basis for those specific products and services as described in Exhibit A (and the corresponding fees as described in Exhibit B) that were provided during that invoicing period.
- C. For partial shipments or deliveries, progress payments must be paid monthly in proportion to the percentage of products and services delivered on those specific line items as approved in writing by the County.

#### **V. ADDITIONAL PURCHASES**

- A. No changes to this Agreement or the performance contemplated hereunder will be made unless the same are in writing and signed by both the Contractor and the County.
- B. If the County requires the Contractor to perform additional services or provide additional product(s) related to this Agreement, then the Contractor shall be entitled to additional compensation based on the Fee Schedule as amended to the extent necessary to accommodate such additional work or product(s). The additional compensation must be agreed upon before commencement of any additional services or provision of additional product(s) and must be incorporated into this Agreement by written amendment. The County will not pay for any additional service, work performed or product provided before a written amendment to this Agreement.

Notwithstanding the preceding, in the event additional services are required as a result of error, omission or negligence of the Contractor, the Contractor will not be entitled to additional compensation.

#### **VI. LIABILITY OF CONTRACTOR**

- A. The Contractor will indemnify and hold harmless Lee County Government from liabilities, damages, losses, and costs, including but not limited to attorney's reasonable fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Agreement.



B. This section shall survive the termination or expiration of this Agreement.

**VII. CONTRACTOR'S INSURANCE**

- A. Contractor must procure and maintain insurance as specified in Exhibit C, Insurance Requirements, attached hereto and made a part of this Agreement.
- B. Contractor must, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverage (including endorsements) and limits as described in Exhibit C. These requirements, as well as the County's review or acceptance of insurance maintained by Contractor, are not intended to and must not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Agreement. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of B+ Class VII or better. No changes are to be made to these specifications without prior written specific approval by County Risk Management.

**VIII. PERFORMANCE AND PAYMENT BOND(S)**

The Contractor must procure performance and payment bond(s) in accordance with Exhibit D.

**IX. RESPONSIBILITIES OF THE CONTRACTOR**

- A. The Contractor must be responsible for the quality and functionality of all products supplied and services performed by or at the behest of the Contractor under this Agreement. The Contractor must, without additional compensation, correct any errors or deficiencies in its products, or if directed by County, supply a comparable replacement product or service.
- B. The Contractor warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Contractor), to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of this Agreement.
- C. The Contractor must comply with all federal, state, and local laws, regulations and ordinances applicable to the work or payment for work thereof, and must not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.



D. Contractor specifically acknowledges its obligations to comply with §119.0701, F.S., as amended from time to time, with regard to public records, and must:

- 1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Agreement;
- 2) upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
- 3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- 4) meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of Contractor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901; [publicrecords@leegov.com](mailto:publicrecords@leegov.com); <http://www.leegov.com/publicrecords>.**

E. The Contractor is, and will be, in the performance of all work, services and activities under this Agreement, an independent contractor. Contractor is not an employee, agent or servant of the County and shall not represent itself as such. All persons engaged in any work or services performed pursuant to this Agreement will be at all times, and in all places, subject to the Contractor's sole direction, supervision and control. The Contractor must exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County will be that of an independent contractor and not as employees of the County. The



Contractor will be solely responsible for providing benefits and insurance to its employees.

**X. OWNERSHIP OF PRODUCTS**

It is understood and agreed that all products provided under this Agreement will become the property of the County upon acceptance by the County.

**XI. TIMELY DELIVERY OF PRODUCTS AND PERFORMANCE OF SERVICES**

- A. The Contractor must ensure that all of its staff, contractors and suppliers involved in the production or delivery of the products are fully qualified and capable to perform their assigned tasks.
- B. The personnel assigned by the Contractor to perform the services pursuant to this Agreement must comply with the terms set forth in this Agreement.
- C. The Contractor specifically agrees that all products must be delivered within the time limits as set forth in this Agreement, subject only to delays caused by force majeure, or as otherwise defined herein. "Force majeure" is deemed to be any unforeseeable and unavoidable cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the control of the parties.

**XII. COMPLIANCE WITH APPLICABLE LAW**

This Agreement will be governed by the laws of the State of Florida. Contractor must promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the services to be performed hereunder and in effect at the time of performance. Contractor must conduct no activity or provide any service that is unlawful or offensive.

**XIII. TERMINATION**

- A. The County shall have the right at any time upon fifteen (15) days' written notice to the Contractor to terminate this Agreement in whole or in part for any reason whatsoever. In the event of such termination, the County will be responsible to Contractor only for fees and compensation earned by the Contractor, in accordance with Section III, prior to the effective date of said termination. In no event shall the County be responsible for lost profits of Contractor or any other elements of breach of contract.
- B. After receipt of a notice of termination, except as otherwise directed, the Contractor must stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or sub-contracts for materials, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all



Contractors and subcontracts; and settle all outstanding liabilities and claims.

- C. The County's rights under this Agreement shall survive the termination or expiration of this Agreement and are not waived by final payment or acceptance and are in addition to the Contractor's obligations under this Agreement.

#### **XIV. DISPUTE RESOLUTION**

- A. In the event of a dispute or claim arising out of this Agreement, the parties agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the parties may enter into mediation in Lee County, Florida, with the parties sharing equally in the cost of such mediation.
- B. In the event mediation, if attempted, is unsuccessful in resolving a dispute, the parties may proceed to litigation as set forth below.
- C. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens.
- D. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.
- E. Unless otherwise agreed in writing, the Contractor will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.

#### **XV. STOP WORK ORDER**

The County may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Agreement. Any order must be identified specifically as a stop work order issued pursuant to this clause. This order shall be effective as of the date the order is delivered to the Contractor. Upon receipt of such an order, the Contractor must immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. The Contractor must not resume work unless specifically so directed in writing by the County. The County may take one of the following actions:

1. Cancel the stop work order; or



2. Terminate the work covered by the order; or
3. Terminate the Agreement in accordance with provisions contained in Section XIII.

In the event the County does not direct the Contractor to resume work, the stop work order may be converted into a notice of termination for convenience pursuant to Section XIII. The notice period for such termination shall be deemed to commence on the date of issuance of the stop work order. In the event the County does not direct the Contractor to resume work within ninety (90) days, the Contractor may terminate this Agreement.

#### **XVI. CONTRACTOR WARRANTY**

- A. All products provided under this Agreement must be new (unless specifically identified otherwise in a Supplemental Task Authorization) and of the most suitable grade for the purpose intended.
- B. If any product delivered does not meet performance representations or other quality assurance representations as published by manufacturers, producers or distributors of the products or the specifications listed in this Agreement, the Contractor must pick up the product from the County at no expense to the County. The County reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship or manufacturing or shipping damage. In such case, the Contractor must refund to the County any money which has been paid for same.
- C. Contractor shall secure from the applicable third party manufacturers, and assign and pass through to the County, at no additional cost to the County, such warranties as may be available with respect to the equipment, parts and systems provided through the Purchase.

#### **XVII. MISCELLANEOUS**

- A. This Agreement constitutes the sole and complete understanding between the parties and supersedes all other contracts between them, whether oral or written, with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement.
- B. The Contractor must not assign any interest in this Agreement and must not transfer any interest in same (whether by assignment or novation) without the prior written consent of the County, except that claims for the money due or to become due to the Contractor from the County under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the County. Notice of any such



transfer or assignment due to bankruptcy must be promptly given to the County.

- C. The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.
- D. The failure of the County to enforce one or more of the provisions of the Agreement may not be construed to be and is not a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
- E. The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.
- F. Neither the County's review, approval or acceptance of, nor payment for, the products and services required under this Agreement must be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- G. If the Contractor is comprised of more than one legal entity, each entity must be jointly and severally liable hereunder.
- H. Any notices of default or termination shall be sufficient if sent by the parties via United States certified mail, postage paid, or via a nationally recognized delivery service, to the addresses listed below:

Vendor's Representative:

Name: Robert Capoferri

Title: President

Address: 9021 Wire Road  
Zephyrhills, FL  
33540

Telephone: 813-788-0010

Facsimile: 813-788-0020

E-mail: Ponderosamark@hotmail.com  
JackieAPS@outlook.com  
DGannon@gmail.com

County's Representatives:

|            |                               |                                           |
|------------|-------------------------------|-------------------------------------------|
| Names:     | <u>Roger Desjarlais</u>       | <u>Mary Tucker</u>                        |
| Titles:    | <u>County Manager</u>         | <u>Director of Procurement Management</u> |
| Address:   | <u>P.O. Box 398</u>           |                                           |
|            | <u>Fort Myers, FL 33902</u>   |                                           |
| Telephone: | <u>239-533-2221</u>           | <u>239-533-8881</u>                       |
| Facsimile: | <u>239-485-2262</u>           | <u>239-485-8383</u>                       |
| E-Mail:    | <u>rdesjarlais@leegov.com</u> | <u>mtucker@leegov.com</u>                 |



- I. Any change in the County's or the Contractor's Representative will be promptly communicated by the party making the change.
- J. Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.
- K. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:
  - 1. Supplemental Task Authorization(s)
  - 2. Agreement
  - 3. County's Purchase Order
  - 4. Solicitation # B170265/ANB
  - 5. Contractor's Submittal in Response to Solicitation # B170265/ANB

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**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date last below written.

WITNESS:

Signed By: Kenneth Messina

Print Name: Kenneth Messina  
Secretary

**Asphalt Paving Systems, Inc.**

Signed By: [Signature]

Print Name: Robert Capoferri

Title: President

Date: 7/12/2017

**LEE COUNTY**

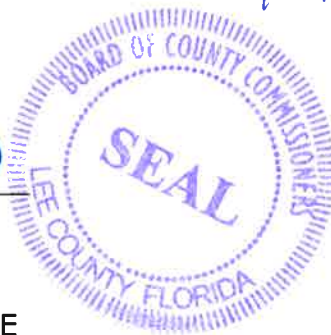
BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: [Signature]  
CHAIR

DATE: 9/5/17

ATTEST:  
CLERK OF THE CIRCUIT COURT  
Linda Doggett, Clerk

BY: [Signature]  
**DEPUTY CLERK**



APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

BY: [Signature]  
OFFICE OF THE COUNTY ATTORNEY



## EXHIBIT A SCOPE OF SERVICES

Contractor shall provide Alternative Paving services in accordance with Lee County Solicitation No. B170265/ANB and Supplemental Task Authorizations issued under this Agreement, if any.

A. Supplemental Task Authorizations

The term Supplemental Task Authorization refers to a written document executed by both parties under this Agreement setting forth and authorizing a limited number of services, tasks, or work for a specific project identified by the County. Such services, tasks, or work is consistent with and has previously been described by Solicitation No. B170265/ANB and this Agreement.

B. Award of Supplemental Task Authorizations

As provided by Solicitation No. B170265/ANB, individual projects may be awarded, and authorized via Supplemental Task Authorizations, to any of the firms approved by the Board of County Commissioners under that solicitation. Award shall be made as follows:

1. **Each project/task order will not exceed \$500,000.00.**

- 1.1. Any project/task order **\$50,000.00 or less** may be awarded to the vendor holding a valid contract under this bid, with the lowest unit prices, able to meet the required schedule.
- 1.2. Any project/task order **\$50,000.01, but less than \$500,000.00** must be quoted by a **minimum of 3 awarded vendors** holding a valid contract under this Bid.
- 1.3. Any project/task order **over \$100,000.00** must provide a payment and performance bond.
- 1.4. No vendor will be paid more than **\$4,000,000.00 per year.**
- 1.5. **Notice to Proceed (NTP)**
  - 1.5.1. All project/task order **\$50,000.00 or less** will **use the purchase order** as the notice to proceed. The start date and date or the number of day to complete the project must be included on the purchase order. If the start date is left off the purchase order then the date of the purchase order approval will default as the NTP start date.
  - 1.5.2. Projects **\$50,000.01 but less than \$500,000.00** will have a **formal NTP issued through the Procurement Management Division.**
- 1.6. The County retains the right to select any vendor to whom a multiple-vendor award has been made.
- 1.7. The County retains the right to separately and competitively bid any and all job estimates greater than \$500,000.00.

- Any project/task with a total cost of **\$50,000.00 or less** may be awarded to the firm holding a valid contract under this bid, with the lowest unit prices, able to meet the required project schedule.
- Any project/task with a total cost of **\$50,000.01, but less than \$500,000.00** must be quoted by a **minimum of three (3) of the**



## **EXHIBIT A**

### **SCOPE OF SERVICES**

**approved firms** holding a valid contract under Solicitation No. B170265/ANB. When quotes are requested, the Contractor's submittal must be based on the unit prices provided by Exhibit B, or lower prices. The quote must not list any prices that are higher. Award of the project shall be made to the firm holding a valid contract under this bid, with the lowest quoted price, able to meet the required project schedule.

C. Performance of Work under this Agreement

All work shall be provided and performed in accordance with the Technical Specifications of Solicitation No. B170265/ANB and as further described in any Supplemental Task Authorizations issued under this Agreement.

D. PRICING

Consumer Price Index (CPI): Contract prices for equipment and/or service will remain firm through the first contract year. Contractors must request price adjustments, in writing, 30 days prior to the renewal date. If a contractor fails to request a CPI price adjustment 30 days prior to the contract renewal date, no price increase will be accepted. Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Miami Area. No retroactive contract price adjustments will be allowed.



## EXHIBIT B FEE SCHEDULE

Payment for actual work completed shall be made in accordance with the terms of this Agreement and any Supplemental Task Authorizations issued hereunder. All project pricing shall be determined by the rates established by the Contractor's Response to Solicitation No. B170265/ANB, which appear below. All quotes received by the County from the Contractor must reflect pricing at or below the rates listed in this Exhibit B.

|                    |                                |                    | <b><i>Asphalt Paving<br/>Systems, Inc.</i></b> |                     |
|--------------------|--------------------------------|--------------------|------------------------------------------------|---------------------|
| <b><u>ITEM</u></b> | <b><u>DESCRIPTION</u></b>      | <b><u>UNIT</u></b> | <b><u>Quantity</u></b>                         | <b><u>Price</u></b> |
| 101-1              | Mobilization                   | %                  | 1                                              | 5.00%               |
| 102-1              | Maintenance of Traffic         | %                  | 1                                              | 5.00%               |
| 104-12             | Staked Silt Fence              | 50-500             | LF                                             | \$2.00              |
| 104-12             | Staked Silt Fence              | 501-1000+          | LF                                             | \$1.25              |
| 110-1-1            | <i>Clearing and Grubbing</i>   | 1                  | AC                                             | \$7,500.00          |
| 110-1              | Curb and Gutter Removal        | 25-250             | LF                                             | \$30.00             |
| 110-1              | Curb and Gutter Removal        | 251-500+           | LF                                             | \$15.00             |
| 110-2              | Miscellaneous Concrete Removal | 50-500             | SY                                             | \$8.00              |
| 110-2              | Miscellaneous Concrete Removal | 501-1000+          | SY                                             | \$5.00              |
| 110-3              | Existing Pipe Removal          | 10-200             | LF                                             | \$25.00             |
| 110-3              | Existing Pipe Removal          | 201-500+           | LF                                             | \$18.00             |
| 110-4              | Removal of Existing Pavement   | 20-500             | SY                                             | \$7.00              |
| 110-4              | Removal of Existing Pavement   | 501-1000+          | SY                                             | \$5.00              |
| 120-1              | Roadway Excavation             | 201-500            | CY                                             | \$25.00             |
| 120-1              | Roadway Excavation             | 501-1000+          | CY                                             | \$20.00             |



## EXHIBIT B FEE SCHEDULE

|       |                                           |                     |    |          |
|-------|-------------------------------------------|---------------------|----|----------|
| 120-4 | Swale Grading                             | 20-200              | LF | \$20.00  |
| 120-4 | Swale Grading                             | 201-500+            | LF | \$12.50  |
| 120-6 | Embankment (Truckload)                    | 1-200               | CY | \$40.00  |
| 120-6 | Embankment (Truckload)                    | 201-500+            | CY | \$30.00  |
| 280-2 | Asphaltic Base Course                     | 20-200              | TN | \$175.00 |
| 280-2 | Asphaltic Base Course                     | 201-500             | TN | \$120.00 |
| 280-2 | Asphaltic Base Course                     | 501-1000+           | TN | \$95.00  |
| 327-1 | Milling of Existing Asphalt (2" +/-)      | 50,000 +            | SY | \$3.50   |
| 327-2 | Milling of Existing Asphalt (2" +/-)      | 10,000 to<br>50,000 | SY | \$5.50   |
| 331-1 | Type III Asphaltic Concrete               | 20-200              | TN | \$180.00 |
| 331-1 | Type III Asphaltic Concrete               | 201-500             | TN | \$135.00 |
| 331-1 | Type III Asphaltic Concrete               | 501-1000+           | TN | \$105.00 |
| 333-1 | Asphaltic Concrete Type "S-1"             | 20-200              | TN | \$180.00 |
| 333-1 | Asphaltic Concrete Type "S-1"             | 201-500             | TN | \$135.00 |
| 333-1 | Asphaltic Concrete Type "S-1"             | 501-1000+           | TN | \$105.00 |
| 333-2 | Asphaltic Concrete Type "S-3"             | 20-200              | TN | \$180.00 |
| 333-2 | Asphaltic Concrete Type "S-3"             | 201-500             | TN | \$135.00 |
| 333-2 | Asphaltic Concrete Type "S-3"             | 501-1000+           | TN | \$105.00 |
| 425-1 | Adjusting Manholes (Metal Riser Rings)    | 1-5                 | EA | \$250.00 |
| 425-1 | Adjusting Manholes (Metal Riser Rings)    | 6-10                | EA | \$200.00 |
| 425-1 | Adjusting Manholes (Metal Riser Rings)    | 11-20+              | EA | \$125.00 |
| 425-2 | Adjusting Valve Boxes (Metal Riser Rings) | 1-5                 | EA | \$150.00 |
| 425-2 | Adjusting Valve Boxes (Metal Riser Rings) | 6-10                | EA | \$100.00 |



**EXHIBIT B  
FEE SCHEDULE**

|       |                                           |           |    |          |
|-------|-------------------------------------------|-----------|----|----------|
| 425-2 | Adjusting Valve Boxes (Metal Riser Rings) | 11-20+    | EA | \$85.00  |
| 430-2 | 18" RCP CD - CLASS III                    | 1-200     | LF | \$125.00 |
| 430-2 | 18" RCP CD - CLASS III                    | 201-500+  | LF | \$70.00  |
| 520-1 | Type "A" Curb                             | 10-25     | LF | \$60.00  |
| 520-1 | Type "A" Curb                             | 26-50+    | LF | \$45.00  |
| 520-2 | Type "B" Curb                             | 10-25     | LF | \$60.00  |
| 520-2 | Type "B" Curb                             | 26-50+    | LF | \$45.00  |
| 520-3 | Type "D" Curb                             | 10-25     | LF | \$60.00  |
| 520-3 | Type "D" Curb                             | 26-50+    | LF | \$45.00  |
| 520-4 | Type "E" Curb                             | 10-25     | LF | \$55.00  |
| 520-4 | Type "E" Curb                             | 26-50+    | LF | \$40.00  |
| 520-5 | Type "F" Curb                             | 10-25     | LF | \$55.00  |
| 520-5 | Type "F" Curb                             | 26-50+    | LF | \$40.00  |
| 522-2 | Concrete Sidewalk - (6" thickness)        | 20-100    | SY | \$100.00 |
| 522-2 | Concrete Sidewalk - (6" thickness)        | 101-250+  | SY | \$60.00  |
| 527-2 | Detectable Warning Surfaces (Inset) *     | 10-50     | SF | \$50.00  |
| 527-2 | Detectable Warning Surfaces (Inset) *     | 51-100+   | SF | \$35.00  |
| 527-3 | Det. Warning Surf. (Screwdown Retro-Fit)  | 10-50     | SF | \$50.00  |
| 527-3 | Det. Warning Surf. (Screwdown Retro-Fit)  | 51-100    | SF | \$35.00  |
| 575-1 | Sodding (Bahia)                           | 100-500   | SY | \$5.25   |
| 575-1 | Sodding (Bahia)                           | 501-1000+ | SY | \$2.75   |
| 575-2 | Sodding (Floritam)                        | 100-500   | SY | \$5.85   |
| 575-2 | Sodding (Floritam)                        | 501-1000+ | SY | \$2.75   |



## EXHIBIT B FEE SCHEDULE

|          |                                        |           |    |            |
|----------|----------------------------------------|-----------|----|------------|
| 660-2102 | <i>Loop Assembly, F&amp;I - Type B</i> | 1         | AS | \$2,750.00 |
| 706-1    | Reflective Pavement Markings (RPM's)   | 20-60     | EA | \$7.50     |
| 706-1    | Reflective Pavement Markers (RPM's)    | 61-100+   | EA | \$6.00     |
| 710-1    | 6" Solid Traffic Stripe (paint)        | 1-200     | LF | \$4.50     |
| 710-1    | 6" Solid Traffic Stripe (paint)        | 201-500   | LF | \$1.00     |
| 710-1    | 6" Solid Traffic Stripe (paint)        | 501-1000+ | LF | \$0.50     |
| 710-2    | 12" Solid Traffic Stripe (paint)       | 1-25      | LF | \$10.00    |
| 710-2    | 12" Solid Traffic Stripe (paint)       | 26-50     | LF | \$4.00     |
| 710-2    | 12" Solid Traffic Stripe (paint)       | 51-100+   | LF | \$2.75     |
| 710-3    | 18" Solid Traffic Stripe (paint)       | 1-25      | LF | \$12.00    |
| 710-3    | 18" Solid Traffic Stripe (paint)       | 26-50     | LF | \$6.00     |
| 710-3    | 18" Solid Traffic Stripe (paint)       | 51-100+   | LF | \$4.00     |
| 710-4    | 24" Solid Traffic Stripe (paint)       | 1-25      | LF | \$12.00    |
| 710-4    | 24" Solid Traffic Stripe (paint)       | 26-50     | LF | \$5.50     |
| 710-4    | 24" Solid Traffic Stripe (paint)       | 51-100+   | LF | \$4.50     |
| 710-5    | 6" Skip Traffic Stripe (paint)         | 1-200     | LF | \$2.50     |
| 710-5    | 6" Skip Traffic Stripe (paint)         | 201-500   | LF | \$0.95     |
| 710-5    | 6" Skip Traffic Stripe (paint)         | 501-1000+ | LF | \$0.55     |
| 710-6    | 6" Dotted Guide Lines (paint)          | 1-50      | LF | \$1.50     |
| 710-6    | 6" Dotted Guide Lines (paint)          | 51-100    | LF | \$1.25     |
| 710-6    | 6" Dotted Guide Lines (paint)          | 101-150+  | LF | \$0.95     |
| 710-7    | Directional Arrows (Paint)             | 1         | EA | \$75.00    |
| 710-8    | Pavement Messages (Paint)              | 1         | EA | \$90.00    |



## EXHIBIT B FEE SCHEDULE

|        |                                       |           |    |          |
|--------|---------------------------------------|-----------|----|----------|
| 710-9  | 8" Solid Traffic Stripe (Paint)       | 1-200     | LF | \$5.00   |
| 710-9  | 8" Solid Traffic Stripe (Paint)       | 201-500   | LF | \$1.25   |
| 710-9  | 8" Solid Traffic Stripe (Paint)       | 501-1000+ | LF | \$0.75   |
| 711-1  | 6" Solid Stripe/Extru. Thermo         | 1-200     | LF | \$10.00  |
| 711-1  | 6" Solid Stripe/Extru. Thermo.        | 201-500   | LF | \$4.25   |
| 711-1  | 6" Solid Stripe/Extru. Thermo.        | 501-1000+ | LF | \$1.25   |
| 711-2  | 12" Solid Stripe/Extru. Thermo        | 1-25      | LF | \$20.00  |
| 711-2  | 12" Solid Stripe/Extru. Thermo.       | 26-50     | LF | \$11.00  |
| 711-2  | 12" Solid Stripe/Extru. Thermo.       | 51-100+   | LF | \$4.50   |
| 711-3  | 18" Solid Stripe/Extru. Thermo        | 1-25      | LF | \$25.00  |
| 711-3  | 18" Solid Stripe/Extru. Thermo.       | 26-50     | LF | \$12.00  |
| 711-3  | 18" Solid Stripe/Extru. Thermo.       | 51-100+   | LF | \$5.50   |
| 711-4  | 24" Solid Stripe/Extru. Thermo        | 1-25      | LF | \$7.25   |
| 711-4  | 24" Solid Stripe/Extru. Thermo.       | 26-50     | LF | \$6.25   |
| 711-4  | 24" Solid Stripe/Extru. Thermo.       | 51-100+   | LF | \$5.25   |
| 711-5  | 6" Skip Traffic Stripe/Extru. Thermo  | 1-200     | LF | \$4.00   |
| 711-5  | 6" Skip Traffic Stripe/Extru. Thermo. | 201-500   | LF | \$2.25   |
| 711-5  | 6" Skip Traffic Stripe/Extru. Thermo. | 501+      | LF | \$2.00   |
| 711-6  | 6" Dotted Guide Lines/Extru. Thermo   | 20-50     | LF | \$3.00   |
| 711-6  | 6" Dotted Guide Lines/Extru. Thermo.  | 51-100    | LF | \$2.50   |
| 711-6  | 6" Dotted Guide Lines/Extru. Thermo.  | 101+      | LF | \$2.25   |
| 711-7  | Directional Arrows / Extru. Thermo.   | 1         | EA | \$110.00 |
| 711-7A | Preformed Arrow                       | 1         | EA | \$100.00 |



## EXHIBIT B FEE SCHEDULE

|          |                                        |                  |     |          |
|----------|----------------------------------------|------------------|-----|----------|
| 711-7B   | Preformed Symbol (Bike)                | 1                | EA  | \$200.00 |
| 711-8    | Pavement Messages / Extr. Thermo.      | 1                | EA  | \$225.00 |
| 711-9    | 8" Solid Traffic Stripe / Extr. Thermo | 20-200           | LF  | \$15.00  |
| 711-9    | 8" Solid Traffic Stripe / Extr. Thermo | 201-500          | LF  | \$10.00  |
| 711-9    | 8" Solid Traffic Stripe / Extr. Thermo | 501+             | LF  | \$5.00   |
| 711-10   | Remove Existing Pavement Markings      | 20-300           | SF  | \$5.00   |
| 711-10   | Remove Existing Pavement Markings      | 300+             | SF  | \$5.00   |
| APM-001  | Single Micro Surface 18-22 lbs         | 10,000 to 50,000 | SY  | \$2.65   |
| APM-001  | Single Micro Surface 18-22 lbs         | 50,001 +         | SY  | \$2.40   |
| APM-002  | Double Micro Surface 28-32 lbs         | 10,000 to 50,000 | SY  | \$3.80   |
| APM-002  | Double Micro Surface 28-32 lbs         | 50,001 +         | SY  | \$3.60   |
| APM-003  | Single Chip Seal - #89 Granite         | 10,000 to 50,000 | SY  | \$2.90   |
| APM-003  | Single Chip Seal - #89 Granite         | 50,001 +         | SY  | \$2.40   |
| APM-004  | Double Chip Seal - #57 w/#89 Granite   | 10,000 to 50,000 | SY  | \$4.20   |
| APM-004  | Double Chip Seal - #57 w/#89 Granite   | 50,001 +         | SY  | \$3.90   |
| APM-005  | Full Depth Reclamation / 6"-9"         | 10,000 to 50,000 | SY  | \$7.00   |
| APM-005  | Full Depth Reclamation / 6"-9"         | 50,001 +         | SY  | \$6.25   |
| APM-006  | Full Depth Reclamation / 9-12          | 10,000 to 50,000 | SY  | \$7.50   |
| APM-006  | Full Depth Reclamation / 9-12          | 50,001 +         | SY  | \$6.75   |
| APM-006a | Cement for Reclamation                 | 1                | TN  | \$155.00 |
| APM-006b | Emulsion for Reclamation               | 1                | Gal | \$2.55   |
| APM-007  | RAP PLACEMENT                          | 10,000 to 50,000 | SY  | \$8.00   |
| APM-007  | RAP PLACEMENT                          | 50,001 +         | SY  | \$7.25   |



## EXHIBIT B FEE SCHEDULE

|                                           |                                                         |                  |     |         |
|-------------------------------------------|---------------------------------------------------------|------------------|-----|---------|
| APT-001                                   | Crack Filling / Sealing                                 | 1-1000           | Gal | \$20.00 |
| APT-001                                   | Crack Filling / Sealing                                 | 1001-3000        | Gal | \$19.00 |
| APT-001                                   | Crack Filling / Sealing                                 | 3001+            | Gal | \$18.00 |
| SLUR-001                                  | Slurry Seal                                             | 10,000 to 50,000 | SY  | \$2.70  |
| SLUR-001                                  | Slurry Seal                                             | 50,001 +         | SY  | \$2.45  |
|                                           | HOT-IN-PLACE (With Virgin Top Course) Asphalt Recycling |                  |     |         |
| HIPR- Recy                                | Asphalt Recycling                                       | 10,000 to 50,000 | SY  | No Bid  |
| HIPR-AGENT                                | Recycling Agent                                         | 10,000 to 50,000 | Gal | No Bid  |
| HIPR- Recy                                | Asphalt Recycling                                       | 50,001 +         | SY  | No Bid  |
| HIPR-AGENT                                | Recycling Agent                                         | 50,001 +         | Gal | No Bid  |
| 324 HOT-IN-PLACE (100%) Asphalt Recycling |                                                         |                  |     |         |
| HIPR Base                                 | Base Course HIPR                                        | 10,000 to 50,000 | SY  | No Bid  |
| HIPR Base                                 | Base Course HIPR                                        | 50,001 +         | SY  | No Bid  |
| HIPR Complete                             | 2" Complete HIPR                                        | 10,000 to 50,000 | SY  | No Bid  |
| HIPR Complete                             | 2" Complete HIPR                                        | 50,001 +         | SY  | No Bid  |
| HIPR-AGENT-100%                           | Asphalt Recycling Agent                                 | 10,000 to 50,000 | Gal | No Bid  |
| HIPR-AGENT-100%                           | Asphalt Recycling Agent                                 | 50,001 +         | Gal | No Bid  |
|                                           | <b>MOT/MOB</b>                                          | %                | 1   | No Bid  |
|                                           | <b>Night Work MOT/MOB (additional %)</b>                | %                | 1   | No Bid  |



## **EXHIBIT C INSURANCE REQUIREMENTS**

**Minimum Insurance Requirements:** *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The County reserves the right to request additional documentation regarding insurance provided*

- a. Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

- \$1,000,000 per occurrence
- \$2,000,000 general aggregate
- \$1,000,000 products and completed operations
- \$1,000,000 personal and advertising injury

- b. Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

- \$1,000,000 combined single limit (CSL)
- \$500,000 bodily injury per person
- \$1,000,000 bodily injury per accident
- \$500,000 property damage per accident

- c. Workers' Compensation** - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

- \$500,000 per accident
- \$500,000 disease limit
- \$500,000 disease – policy limit

\*The required minimum limit of liability shown in a and b may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."



## **EXHIBIT C INSURANCE REQUIREMENTS**

### **Verification of Coverage:**

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

- a. The certificate holder shall read as follows:

Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, Florida 33902B

- b. *"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"* will be named as an "Additional Insured" on the General Liability policy, including Products and Completed Operations coverage.

### **Special Requirements:**

1. An appropriate "Indemnification" clause shall be made a provision of the contract.
2. It is the responsibility of the general contractor to insure that all subcontractors comply with all insurance requirements.



## **EXHIBIT D**

### **PERFORMANCE AND PAYMENT BONDS**

For each Supplemental Task Authorization authorizing work for a cost of \$100,000.00 or more, the Contractor must procure a performance and payment bond in accordance with this Agreement and B170265/ANB.

- A. In accordance with Chapter 255.05, Florida Statutes, as may be amended from time to time, and Lee County Ordinance 95-2-102, as may be amended from time to time, a public performance and payment bond is to be issued in a sum equal to one-hundred (100%) percent of the total awarded Supplemental Task Authorization amount by a surety company considered satisfactory by Lee County and otherwise authorized to transact business in the State of Florida.
- B. Any bonding company submitting a performance and payment bond to Lee County Government must be licensed to transact a fidelity and surety business in the State of Florida.
- C. A public performance and payment bond must be properly executed by the Surety Company and Contractor and recorded with the Lee County Clerk of Court within seven (7) calendar days after notification by Lee County of the approval to award the Supplemental Task Authorization. The Contractor is responsible for all fees and charges associated with the performance and payment bond, including the cost of recording.
- D. A clean irrevocable letter of credit or cash bond may be accepted by the County in lieu of the public performance and payment bond.





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## Zurich American Insurance Company (2)

A.M. Best #: 002563    NAIC #: 16535    FEIN #: 364233459

### Administrative Office

1299 Zurich Way  
Schaumburg, IL 60196-1056  
[United States](#)

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**Web:** [www.zurichna.com](http://www.zurichna.com)

**Phone:** 800-987-3373

**Fax:** 877-962-2567

Based on A.M. Best's analysis, [050457 - Zurich Insurance Group Ltd](#) is the **AMB Ultimate Parent** and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

## Best's Credit Ratings

### Financial Strength Rating [View Definition](#)

**Rating:** A+ (Superior)  
**Affiliation Code:** g (Group)  
**Financial Size Category:** XV (\$2 Billion or greater)  
**Outlook:** Negative  
**Action:** Affirmed  
**Effective Date:** December 01, 2016  
**Initial Rating Date:** June 30, 1922

### Long-Term Issuer Credit Rating [View Definition](#)

**Long-Term:** aa-  
**Outlook:** Negative  
**Action:** Affirmed  
**Effective Date:** December 01, 2016  
**Initial Rating Date:** September 14, 2004

u Denotes [Under Review Best's Rating](#)

### Best's Credit Rating Analyst

**Rating Issued by:** A.M. Best Rating Services, Inc.  
**Senior Financial Analyst:** Darian Ryan  
**Senior Director:** Michael J. Lagomarsino, CFA, FRM

### Disclosure Information



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A.M. Best Affirms Credit Ratings of Zurich Insurance Company Limited and Its Main Rated Affiliates  
December 01, 2016

## Rating History

A.M. Best has provided ratings & analysis on this company since 1922.



## Financial Strength Rating

| Effective Date | Rating |
|----------------|--------|
| 12/1/2016      | A+     |
| 10/2/2015      | A+     |
| 11/26/2014     | A+     |
| 11/21/2013     | A+     |
| 11/27/2012     | A+     |

## Long-Term Issuer Credit Rating

| Effective Date | Rating |
|----------------|--------|
| 12/1/2016      | aa-    |
| 10/2/2015      | aa-    |
| 11/26/2014     | aa-    |
| 11/21/2013     | aa-    |
| 11/27/2012     | aa-    |

## Related Financial and Analytical Data

The following links provide access to related data records that A.M. Best utilizes to provide financial and analytical data on a consolidated or branch basis.

| AMB #                         | Company Name          | Company Description                                                                                        |
|-------------------------------|-----------------------|------------------------------------------------------------------------------------------------------------|
| <u><a href="#">019793</a></u> | Zurich U.S. Pool (CS) | Represents Property/ Casualty business of this legal entity.                                               |
| <u><a href="#">004430</a></u> | Zurich U.S. Pool (SG) | Represents the A.M. Best Consolidated financials for the Property/ Casualty business of this legal entity. |

## AMB Credit Reports



**AMB Credit Report** - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.  
Report Revision Date: 2/22/2017 (represents the latest significant change).



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## Press Releases

| Date ▾       | Title                                                                                                                                            |
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| Dec 01, 2016 | <a href="#">A.M. Best Affirms Credit Ratings of Zurich Insurance Company Limited and Its Main Rated Affiliates</a>                               |
| Apr 05, 2016 | <a href="#">A.M. Best Removes from Under Review and Upgrades Ratings of Rural Community Insurance Company</a>                                    |
| Dec 21, 2015 | <a href="#">A.M. Best Comments on Zurich Insurance Group's Ratings Following Announcement to Acquire Wells Fargo Crop-Insurance Subsidiaries</a> |
| Dec 21, 2015 | <a href="#">A.M. Best Places Ratings of Rural Community Insurance Company Under Review With Developing Implications</a>                          |
| Oct 02, 2015 | <a href="#">A.M. Best Affirms Ratings and Revises Outlook to Negative for Zurich Insurance Company Limited and Some of Its Rated Affiliates</a>  |
| Nov 26, 2014 | <a href="#">A.M. Best Affirms Ratings of Zurich American Insurance Company and Its Affiliates</a>                                                |
| Nov 21, 2013 | <a href="#">A.M. Best Affirms Ratings of Zurich American Insurance Company and Its Affiliates</a>                                                |
| Nov 27, 2012 | <a href="#">A.M. Best Affirms Ratings of Zurich American Insurance Company and Its Affiliates</a>                                                |
| Nov 18, 2011 | <a href="#">A.M. Best Affirms Ratings of Zurich American Insurance Company and Its Affiliates</a>                                                |
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## American Guarantee and Liability Insurance Company (?)

A.M. Best #: 002562 NAIC #: 26247 FEIN #: 366071400

### Administrative Office

1299 Zurich Way  
Schaumburg, IL 60196-1056  
[United States](#)

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**Outlook:** Negative  
**Action:** Affirmed  
**Effective Date:** December 01, 2016  
**Initial Rating Date:** June 30, 1944

### Long-Term Issuer Credit Rating [View Definition](#)

**Long-Term:** aa-  
**Outlook:** Negative  
**Action:** Affirmed  
**Effective Date:** December 01, 2016  
**Initial Rating Date:** September 14, 2004

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### Best's Credit Rating Analyst

**Rating Issued by:** A.M. Best Rating Services, Inc.  
**Senior Financial Analyst:** Darian Ryan  
**Senior Director:** Michael J. Lagomarsino, CFA, FRM

### Disclosure Information



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[A.M. Best Affirms Credit Ratings of Zurich Insurance Company Limited and Its Main Rated Affiliates](#)  
December 01, 2016

## Rating History

A.M. Best has provided ratings & analysis on this company since 1944.



## Financial Strength Rating

| Effective Date | Rating |
|----------------|--------|
| 12/1/2016      | A+     |
| 10/2/2015      | A+     |
| 11/26/2014     | A+     |
| 11/21/2013     | A+     |
| 11/27/2012     | A+     |

## Long-Term Issuer Credit Rating

| Effective Date | Rating |
|----------------|--------|
| 12/1/2016      | aa-    |
| 10/2/2015      | aa-    |
| 11/26/2014     | aa-    |
| 11/21/2013     | aa-    |
| 11/27/2012     | aa-    |

## AMB Credit Reports



**AMB Credit Report** - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.  
Report Revision Date: 3/27/2017 (represents the latest significant change).



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| Dec 17, 2009 | <a href="#">A.M. Best Affirms Ratings of Zurich Financial Services Ltd. and Its Subsidiaries</a>                                                |
| Dec 11, 2008 | <a href="#">A.M. Best Affirms Ratings of Zurich Financial Services; Revises Outlook on Ratings of Zurich Insurance Company to Stable</a>        |
| Dec 11, 2007 | <a href="#">A.M. Best Revises Outlook on Ratings of Zurich Insurance Company to Positive; Affirms Ratings of Zurich Financial Services</a>      |



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**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

7/14/2017

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**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| <b>PRODUCER</b><br><b>J. Byrne Agency, Inc.</b><br><b>5200 New Jersey Avenue</b><br><b>PO Box 1409</b><br><b>Wildwood, NJ 08260</b>        | <b>CONTACT NAME:</b> <b>Joseph J. Meola, CIC, CRM</b><br><b>PHONE (A/C, No, Ext):</b> <b>609 522-3406</b> <b>FAX (A/C, No):</b> <b>609 522-2844</b><br><b>E-MAIL ADDRESS:</b> <b>jmeola@jbyrneagency.com</b>                                                                                                                                                                                                                                                                                                       |                               |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--|--------|-------------|--------------------------------------|--------------|-------------|-------------------------------------------|--------------|-------------|--|--|-------------|--|--|-------------|--|--|-------------|--|--|
| <b>INSURED</b><br><b>Asphalt Paving Systems Inc.</b><br><b>500 N. Egg Harbor Road</b><br><b>P.O. Box 530</b><br><b>Hammonton, NJ 08037</b> | <table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr> <tr> <td>INSURER A :</td><td><b>Zurich American Insurance Co.</b></td><td><b>16535</b></td></tr> <tr> <td>INSURER B :</td><td><b>American Guarantee &amp; Liability</b></td><td><b>26247</b></td></tr> <tr> <td>INSURER C :</td><td></td><td></td></tr> <tr> <td>INSURER D :</td><td></td><td></td></tr> <tr> <td>INSURER E :</td><td></td><td></td></tr> <tr> <td>INSURER F :</td><td></td><td></td></tr> </table> | INSURER(S) AFFORDING COVERAGE |  | NAIC # | INSURER A : | <b>Zurich American Insurance Co.</b> | <b>16535</b> | INSURER B : | <b>American Guarantee &amp; Liability</b> | <b>26247</b> | INSURER C : |  |  | INSURER D : |  |  | INSURER E : |  |  | INSURER F : |  |  |
| INSURER(S) AFFORDING COVERAGE                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | NAIC #                        |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER A :                                                                                                                                | <b>Zurich American Insurance Co.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>16535</b>                  |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER B :                                                                                                                                | <b>American Guarantee &amp; Liability</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>26247</b>                  |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER C :                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                               |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER D :                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                               |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER E :                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                               |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |
| INSURER F :                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                               |  |        |             |                                      |              |             |                                           |              |             |  |  |             |  |  |             |  |  |             |  |  |

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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                     | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                   |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|---------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br>OTHER: | X         |          | GLO0191406-01 | 04/01/2017              | 04/01/2018              | EACH OCCURRENCE \$1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000<br>MED EXP (Any one person) \$5,000<br>PERSONAL & ADV INJURY \$1,000,000<br>GENERAL AGGREGATE \$2,000,000<br>PRODUCTS - COMP/OP AGG \$2,000,000<br>\$ |
| A        | <b>AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS                                               |           |          | BAP0191409-01 | 04/01/2017              | 04/01/2018              | COMBINED SINGLE LIMIT (Ea accident) \$1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                           |
| B        | <input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR<br><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE<br>DED RETENTION \$                                                                                                                   |           |          | AUC0191416-01 | 04/01/2017              | 04/01/2018              | EACH OCCURRENCE \$10,000,000<br>AGGREGATE \$10,000,000<br>\$                                                                                                                                                                             |
| A        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N <input type="checkbox"/> Y<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                     |           | N/A      | WC0191407-01  | 04/01/2017              | 04/01/2018              | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$500,000<br>E.L. DISEASE - EA EMPLOYEE \$500,000<br>E.L. DISEASE - POLICY LIMIT \$500,000                                         |

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

**RE: Alternative Paving Projects; It is agreed that Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees and public officials, are included as additional insureds with respect to the operations performed by the named insured per Form U-GL-1175-F CW(04/13).**

**CERTIFICATE HOLDER****CANCELLATION**

**Lee County Board of  
County Commissioners**  
**P.O. Box 398**  
**Fort Myers, FL 33902**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE







## Additional Insured – Automatic – Owners, Lessees Or Contractors

| Policy No.   | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer No. | Add'l. Prem | Return Prem. |
|--------------|-------------------|-------------------|-------------------|--------------|-------------|--------------|
| GLO019140601 | 04/01/2017        | 04/01/2018        | 04/01/2017        |              | N/A         | N/A          |

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Named Insured:** ASPHALT PAVING SYSTEMS, INC.

**Address (including ZIP Code):** 500 N. Egg Harbor Road, P.O. Box 530, Hammonton, NJ 08037

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

**A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations or "your work" as included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

- a. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.



- C. The following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – **Commercial General Liability Conditions**:

The additional insured must see to it that:

1. We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
2. We receive written notice of a claim or "suit" as soon as practicable; and
3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

- D. For the purposes of the coverage provided by this endorsement:

1. The following is added to the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

**Primary and Noncontributory insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
  - b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – **Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Paragraph A. of this endorsement; or
2. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions of this policy remain unchanged.





[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

## Detail by Entity Name

Foreign Profit Corporation  
ASPHALT PAVING SYSTEMS, INC.

### Filing Information

|                        |              |
|------------------------|--------------|
| <b>Document Number</b> | F09000004816 |
| <b>FEI/EIN Number</b>  | 22-3787755   |
| <b>Date Filed</b>      | 12/04/2009   |
| <b>State</b>           | NJ           |
| <b>Status</b>          | ACTIVE       |

### Principal Address

500 N. EGG HARBOR RD.  
HAMMONTON, NJ 08037

### Mailing Address

P.O. BOX 530  
HAMMONTON, NJ 08037

### Registered Agent Name & Address

Capoferri, Robert, President  
9021 Wire Road  
Zephyrhills, FL 33540

Name Changed: 03/28/2016

Address Changed: 03/28/2016

### Officer/Director Detail

#### **Name & Address**

Title PVPT

CAPOFERRI, ROBERT  
2561 AQUA VISTA BOULEVARD  
FT LAUDERDALE, FL 33301

Title S

MESSINA, KENNETH G  
2555 WEYMOUTH ROAD  
HAMMONTON, NJ 08037

Title Assistant Corporate Secretary



Cresswell, Noelle  
8241 Shenandoah Run  
Wesley Chapel, FL 33544

Title Asst. Treasurer

Plummer, Steven G  
P.O. BOX 530  
HAMMONTON, NJ 08037

#### **Annual Reports**

| <b>Report Year</b> | <b>Filed Date</b> |
|--------------------|-------------------|
| 2016               | 01/30/2016        |
| 2016               | 03/28/2016        |
| 2017               | 01/19/2017        |

#### **Document Images**

|                                                     |                                          |
|-----------------------------------------------------|------------------------------------------|
| <a href="#">01/19/2017 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">03/28/2016 -- AMENDED ANNUAL REPORT</a> | <a href="#">View image in PDF format</a> |
| <a href="#">01/30/2016 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">05/11/2015 -- AMENDED ANNUAL REPORT</a> | <a href="#">View image in PDF format</a> |
| <a href="#">01/21/2015 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">03/24/2014 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">02/12/2013 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">02/13/2012 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">02/25/2011 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">01/04/2011 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">02/08/2010 -- ANNUAL REPORT</a>         | <a href="#">View image in PDF format</a> |
| <a href="#">12/04/2009 -- Foreign Profit</a>        | <a href="#">View image in PDF format</a> |



**Lee County Board of County Commissioners  
DIVISION OF PROCUREMENT MANAGEMENT**

**Invitation to Bid (B)  
Construction**

Solicitation No.: **B170265/ANB**

Solicitation

Name:

**Alternative Paving Methods**

Open

Date/Time:

**5/10/2017**

Time: **2:30 PM**

Location:

Lee County Procurement Management  
1500 Monroe Street 4th Floor  
Fort Myers, FL 33901

Procurement

Contact:

Adam Brooke

Title Procurement Analyst

Phone:

(239) 533-8881

Email:

[Abrooke@leegov.com](mailto:Abrooke@leegov.com)

Requesting

Dept.

Transportation

**Pre-Bid Conference:**

Type:

NON-Mandatory

Date/Time:

**4/26/2017 10:00 AM**

Location:

Procurement: Public Works Building, 1500 Monroe St 4th Floor, Fort Myers, FL 33901

All solicitation documents are available for  
download at [www.leegov.com/procurement](http://www.leegov.com/procurement)



**Notice to Bidder**

**Invitation to Bid #B170265/ANB Alternative Paving Methods**

**Invitation to Bid (B) Construction**

Lee County, Fort Myers, Florida, is requesting bids from qualified individuals/firms for  
Alternative Paving Methods

Then and there to be publicly opened and read aloud for the purpose of selecting a vendor to furnish all necessary labor, services, materials, equipment, tools, consumables, transportation, skills and incidentals required for Lee County, Fort Myers, Florida, in conformance with solicitation documents, which include technical specifications and/or a scope of work.

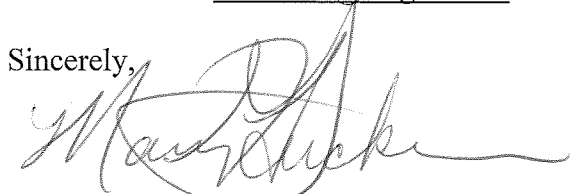
Those individuals/firms interested in being considered for this solicitation are instructed to submit, in accordance with specifications, their Bids, pertinent to this project prior to

**2:30 PM Wednesday, May 10, 2017**

to the office of the **Procurement Management Director, 1500 Monroe Street, 4<sup>th</sup> Floor, Fort Myers, Florida 33901**. The Invitation to Bid shall be received in a sealed envelope, prior to the time scheduled to receive Bid(s), and shall be clearly marked with the solicitation name, solicitation number, bidder name, and contact information as identified in these solicitation documents. The Scope of Work/Specifications for this solicitation is available from [www.leegov.com/procurement](http://www.leegov.com/procurement) Bidders who obtain Scope of Work/Specifications from sources other than [www.leegov.com/procurement](http://www.leegov.com/procurement) are cautioned that the solicitation package may be incomplete. The County's official bidders list, addendum(s) and information must be obtained from [www.leegov.com/procurement](http://www.leegov.com/procurement). It is the bidder's responsibility to check for posted information. The County may not accept incomplete Bids. **A Non-Mandatory Pre-Bid Conference has been scheduled for the following time and location:** 10:00 AM April 26, 2017 at 1500 Monroe Street, 4<sup>th</sup> Floor, Fort Myers FL 33901 for the purpose of discussing the proposed project. Prospective bidders are encouraged to attend. All prospective bidders are encouraged to obtain and review plans, specifications, and scope of work for this bid before the pre-bid conference so that they may be prepared to discuss any question or concerns they have regarding this project. A site visit may follow the pre-bid conference. Questions regarding this solicitation are to be directed, in writing, to the individual listed below using the email address listed below or faxed to (239) 485 8383 during normal working hours.

**Adam Brooke** [Abrooke@leegov.com](mailto:Abrooke@leegov.com)

Sincerely,



Mary G. Tucker, CPPO, FCCM, FCCN  
Procurement Management Director

\*[WWW.leegov.Com/Procurement](http://WWW.leegov.Com/Procurement) is the County's official posting site



**Terms and Conditions**  
**INVITATION TO BID (B)**  
**CONSTRUCTION**

**1. DEFINITIONS**

- 1.1. **Addendum/Addenda:** A written change, addition, alteration, correction or revision to a bid, proposal or contract Agreement/Contract. Addendum/Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the solicitation.
- 1.2. **Approved Alternate:** Solicitation documents may make reference of specific manufacturer(s) or product(s). These references serve only as a recommendation and a guide to minimum quality and performance. The references are not intended to exclude approved alternatives of other manufacturer(s) or product(s).
- 1.3. **Bid/Proposal Package:** A bid/proposal is a document submitted by a vendor in response to some type of solicitation to be used as a basis for negotiations or for entering into a contract.
- 1.4. **Bidder/Responder/Proposer:** One who submits a response to a solicitation.
- 1.5. **County:** Refers to Lee County Board of County Commissioners.
- 1.6. **Due Date and Time/Opening:** Is defined as the date and time upon which a bid or proposal shall be submitted to the Lee County Procurement Management Division. Only bids or proposals received prior to the established date and time will be considered.
- 1.7. **Liquidated Damages:** Damages paid usually in the form of monetary payment, agreed by the parties to a contract which are due and payable as damages by the party who breaches all or part of the contract. May be applied on a daily basis for as long as the breach is in effect.
- 1.8. **Procurement Management:** shall mean the Director of Lee County's Procurement Management Department or designee.
- 1.9. **Responsible:** A vendor, business entity or individual who is fully capable to meet all of the requirements of the bid/proposal solicitation documents and subsequent contract. Must possess the full capability including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance.
- 1.10. **Responsive:** A vendor, business entity or individual who has submitted a bid or request for proposal that fully conforms in all material respects to the bid/proposal solicitation documents and all of its requirements, including all form and substance.
- 1.11. **Solicitation:** An invitation to bid, a request for proposal, invitation to negotiate or any document used to obtain bids or proposals for the purpose of entering into a contract.

**2. ORDER OF PRECEDENCE**

- 2.1. In resolving conflicts, errors, and discrepancies, the order of precedence of the bid document is as follows
  - 2.1.1. Florida State Law as applied to Municipal Purchasing in accordance with Title XIX, "Public Business", Chapter 287 "Procurement of Personal Property and Services."
  - 2.1.2. Lee County Procurement Management Manual and Ordinances
  - 2.1.3. Change Order
  - 2.1.4. Agreement
  - 2.1.5. Addenda
  - 2.1.6. Special Conditions
  - 2.1.7. General Conditions, if any
  - 2.1.8. Specifications
  - 2.1.9. Supplemental Information
  - 2.1.10. Drawings/Plans, if any
  - 2.1.11. Figure Dimensions, if any
  - 2.1.12. Scale Dimensions (Large Scale Drawings supersede Small Scale Drawings)
  - 2.1.13. Terms and Conditions



### 3. RULES, REGULATIONS, LAWS, ORDINANCES AND LICENSES

- 3.1. It shall be the responsibility of the bidder to assure compliance with all other federal, state, or county codes, rules, regulations or other requirements, as each may apply. Any involvement with the Lee County shall be in accordance with but not limited to:
  - 3.1.1. Lee County Procurement Management Manual
  - 3.1.2. Pursuant to FL § Section 119.071, Public Records, General exemptions from inspection or copying of public records. Sealed bids, proposals or replies received by the agency pursuant to a solicitation are exempt from public records request (s. 119.07(1) and s. 24(a), Art. I, of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals or final replies, whichever is earlier.
  - 3.1.3. FL § 215 regarding scrutinized companies and business operations.
  - 3.1.4. FL § 218 Public Bid Disclosure Act.
  - 3.1.5. Florida State Law as applied to Municipal Purchasing in accordance with Title XIX, “Public Business”, Chapter 287 “Procurement of Personal Property and Services.”
  - 3.1.6. FL § 337.168 Confidentiality of official estimates, identities of potential bidders, and bid analysis and monitoring system.
  - 3.1.7. FL § Section 607.1501(1) states: A foreign corporation may not transact business in the State of Florida until it obtains a certificate of authority from the Department of State.
- 3.2. **Local Business Tax Account:** As applicable, anyone providing merchandise or services to the public within the jurisdiction of Lee County must obtain a Lee County business tax account to operate unless specifically exempted.
- 3.3. **License(s):** Bidder should provide, at the time of the opening of the bid, licenses required for this product and/or service.

### 4. BID – PREPARATION OF SUBMITTAL

- 4.1. **Sealed Bid:** Submission must be in a sealed envelope/box, and the outside of the submission must be marked with the following information (Sealed Bid Label Form is attached for your use):
  - 4.1.1. Marked with the words “Sealed Bid”
  - 4.1.2. Bid Number
  - 4.1.3. Bid Title
  - 4.1.4. Bid Due Date
  - 4.1.5. Name of the firm submitting the bid
  - 4.1.6. Contact e-mail and telephone number
- 4.2. **Bid submission shall include:**
  - 4.2.1. Provide two (2) hard copies. Mark each: one “Original”, one “Copy”
  - 4.2.2. Provide one (1) electronic CD ROM or flash drive set of the entire submission documents.
  - 4.2.3. Electronic submission document is to be one single Adobe PDF file in the same order as the original hard copy.
  - 4.2.4. Limit the color and number of images to avoid unmanageable file sizes.
  - 4.2.5. Use rewritable CD ROM and do not lock files.
- 4.3. **Submission Format:**
  - 4.3.1. Required Forms: complete and return **all** required forms. If the form is not applicable please return with “Not Applicable” or “N/A” in large letters across the form.
  - 4.3.2. Failure to submit required or requested information may result in the bidder being found non-responsive.
  - 4.3.3. Execution of Bid: All documents must be properly signed by corporate authorized representative, witnessed, and where applicable corporate and/or notary seals affixed.



All Bids shall be typed or printed in ink. The bidder may not use erasable ink. All corrections made to the bids shall be initialed.

- 4.3.4. If a cost/bid schedule was provided in Microsoft Excel format, the returned completed schedule should be included as a Microsoft Excel File on the CD ROM or Flash drive.
- 4.3.5. The submission should not contain links to other web pages.
- 4.3.6. Include any information requested by the County necessary to analyze your bid, i.e., required submittals, literature, technical data, financial statements.
- 4.3.7. Bid Security/Bond(s), as applicable (Construction projects)
- 4.4. **Preparation Cost:** The Bidder is solely responsible for any and all costs associated with responding to this solicitation. No reimbursement will be made for any costs associated with the preparation and submittal of any bid, or for any travel and per diem costs that are incurred by any Bidder.

## 5. RESPONSES RECEIVED LATE

- 5.1. It shall be the Bidder's sole responsibility to deliver the bid submission to the Lee County Procurement Management Division prior to or on the time and date stated. All references to date and time herein reference Lee County, FL local time.
- 5.2. Any bids received after the stated time and date will not be considered. The bid shall not be opened at the public opening. Arrangements may be made for the unopened bid to be returned at the bidder's request and expense.
- 5.3. The Lee County Procurement Management Division shall not be responsible for delays caused by the method of delivery such as, but not limited to; internet, United States Postal Service, overnight express mail service(s), or delays caused by any other occurrence.

## 6. BIDDER REQUIREMENTS (unless otherwise noted)

- 6.1. **Responsive and Responsible:** Only bids received from responsive and responsible bidders will be considered. The County reserves the right before recommending any award to inspect the facilities and organization; or to take any other necessary action, such as background checks, to determine ability to perform is satisfactory, and reserves the right to reject submission packages where evidence submitted or investigation and evaluation indicates an inability for the bidder to perform.
  - 6.1.1. Bids may be declared "non-responsive" due to omissions of "Negligence or Breach of Contract" on the disclosure form. Additionally, bidders may be declared "not responsible" due to past or pending lawsuits that are relevant to the subject procurement such that they call into question the ability of the bidder to assure good faith performance. This determination may be made by the Procurement Management Director, after consulting with the County Attorney.
  - 6.1.2. Additional sources may be utilized to determine credit worthiness and ability to perform.
  - 6.1.3. Any bidder or sub-contractor that will have access to County facilities or property may be required to be screened to a level that may include, but is not limited to fingerprints, statewide criminal. There may be fees associated with these procedures. These costs are the responsibility of the bidder or sub-contractor.
- 6.2. **BID--Past Performance:** Bidders past performance and prior dealings with Lee County (i.e., failure to meet specifications, poor workmanship, late delivery, etc.) may be reviewed. Poor or unacceptable past performance may result in bidder disqualification.
- 6.3. Submission packages, unless otherwise noted, will be considered only from bidders normally engaged in the provision of the services specified here in. The bidder shall have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to Lee County. The County reserves the right before recommending any award to inspect the facilities and organization; or to take any other action necessary to determine ability to



perform satisfactory, and reserves the right to reject submission packages where evidence submitted or investigation and evaluation indicated an inability of the bidder to perform.

## 7. PRE-BID CONFERENCE

- 7.1. A pre-bid conference will be held in the location, date, and time specified on the cover of this solicitation. The cover will also note if the pre-bid conference is Non-Mandatory or Mandatory. All questions and answers are considered informal. All prospective bidders are encouraged to obtain and review the solicitation documents prior to the pre-bid conference so they may be prepared to discuss any questions or concerns they have concerning this project. All questions must be submitted formally in writing to the procurement staff noted on the first page of the bid document. A formal response will be provided in the form of an addendum (see "County Interpretation/Addendums" for additional information.) A site visit may follow the pre-bid conference, as applicable.
- 7.2. **Non-Mandatory:** Pre-bid conferences are generally non-mandatory, but it is highly recommended that prospective bidders participate.
- 7.3. **Mandatory:** Failure to attend a mandatory pre-bid conference will result in the bid being considered **non-responsive**.

## 8. COUNTY INTERPRETATION/ADDENDUMS

- 8.1. Each bidder shall examine the solicitation documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the bid shall be made **in writing, submitted at least eight (8) calendar days prior to the date when the bid is due**.
- 8.2. Response(s) will be in the form of an Addendum posted on [www.leegov.com/procurement](http://www.leegov.com/procurement). It is solely the bidder's responsibility to check the website for information. No notifications will be sent by Lee County Procurement Management Division.
- 8.3. All Addenda shall become part of the Contract Documents.
- 8.4. The County shall not be responsible for oral interpretations given by any County employee, representative, or others. Interpretation of the meaning of the plans, specifications or any other contract document, or for correction of any apparent ambiguity, inconsistency or error there in, shall be in writing. Issuance of a written addendum by the County's Procurement Management Division is the only official method whereby interpretation, clarification or additional information can be given.

## 9. QUALITY GUARANTEE/WARRANTY (as applicable)

- 9.1. Bidder will guarantee their work without disclaimers, unless otherwise specifically approved by the County, for a minimum of twelve (12) months from the date of final completion.
- 9.2. Unless otherwise specifically provided in the specifications, all equipment and materials and articles incorporated in the work covered by this contract shall be new, unused and of the most suitable grade for the purpose intended. Refurbished parts or equipment are not acceptable unless otherwise specified in the specifications. All warranties will begin from the date of final completion.
- 9.3. Unless otherwise specifically provided in the specifications, the equipment must be warranted for twelve (12) months, shipping, parts and labor. Should the equipment be taken out of service for more than forty-eight (48) hours to have warranty work performed, a loaner machine of equal capability or better shall be provided for use until the repaired equipment is returned to service at no additional charge to the County.
- 9.4. If any product does not meet performance representation or other quality assurance representations as published by manufacturers, producers or distributors of such products or the specifications listed, the vendor shall pick up the product from the County at no expense to the County. The County reserves the right to reject any or all materials, if in its judgment



the item reflects unsatisfactory workmanship or manufacturing or shipping damage. The vendor shall refund, to the County, any money which has been paid for same.

10. SUBSTITUTION(S)/APPROVED ALTERNATE(S)

- 10.1. Unless otherwise specifically provided in the specifications, reference to any equipment, material, article or patented process, by trade name, brand name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. If a bidder wishes to make a substitution in the specifications, the bidder shall furnish to the County, **no later than ten (10) business days prior to the bid opening date**, the name of the manufacturer, the model number, and other identifying data and information necessary to aid the County in evaluating the substitution. Such information is submitted through the Procurement Management Division. Any such substitution shall be subject to County approval through the issuance of a written addendum by the County's Procurement Management Division. Substitutions shall be approved only if determined by the County to be an **Approved Alternate** to the prescribed specifications.
- 10.2. A bid containing a substitution is subject to disqualification if the substitution is not approved by the County. Items bid must be identified by brand name, number, manufacturer and model, and shall include full descriptive information, brochures, and appropriate attachments. Brand names are used for descriptive purposes only. An **Approved Alternate** product or service may be used.

11. NEGOTIATED ITEMS

- 11.1. Any item not outlined in the Scope of Work/Specifications may be subject to negotiations between the County and the successful bidder.
- 11.2. After award of this bid the County reserves the right to add or delete items/services at prices to be negotiated at the time of addition or deletion.
- 11.3. At contract renewal time(s) or in the event of significant industry wide market changes, the County may negotiate justified adjustments such as price, terms, etc., if in its sole judgment, the County considers such adjustments to be in their best interest.

12. ERRORS, OMISSIONS, CALCULATION ERRORS (as applicable)

- 12.1. **Calculation Errors:** In the event of multiplication/addition error(s), the unit price shall prevail. Written prices shall prevail over figures where applicable. All bids will be reviewed mathematically and corrected, if necessary, using these standards, prior to further evaluation.

13. CONFIDENTIALITY

- 13.1. Bidders should be aware that all submissions provided are subject to public disclosure and will **not** be afforded confidentiality, unless provided by Chapter 119 FL §.
- 13.2. If information is submitted with a bid that is deemed "Confidential" the bidder must stamp those pages of the submission that are considered confidential. The bidder must provide documentation as to validate why these documents should be declared confidential in accordance with Chapter 119, "Public Records," exemptions.
- 13.3. Lee County **will not reveal engineering estimates or budget amounts for a project** unless required by grant funding or unless it is in the best interest of the County. According to FL § 337.168: A document or electronic file revealing the official cost estimate of the department of a project is confidential and exempt from the provisions of s. 119.07(1) until the contract for the project has been executed or until the project is no longer under active consideration.

14. BID -- CONFLICT OF INTEREST

- 14.1. **Business Relationship Disclosure Requirement:** The award hereunder is subject to the provisions of Chapter 112, Public Officers and Employees: General Provisions, Florida Statutes. All bidders must disclose with their submission the name of any officer, director or



agent who is also an employee of the Lee County or any of its agencies. Further, all bidders must disclose the name of any County employee who owns directly or indirectly, an interest of five percent (5%) or more in the bidder's firm or any of its branches.

15. ANTI-LOBBYING CLAUSE (Cone of Silence)

- 15.1. Following FL § Section 287.057(23), Upon the issuance of the solicitation, prospective proposers/bidders or any agent, representative or person acting at the request of such proposer/bidder shall not have any contact, communicate with or discuss any matter relating in any way to the solicitation with any Commissioner, Evaluation Review Committee, agent or employee of the County other than the Procurement Management Director or their designee. This prohibition begins with the issuance of any solicitation, and ends upon execution of the final contract or when the solicitation has been cancelled. **If it is determined that improper communications were conducted, the Bidder/Proposer maybe declared non-responsible.**

16. DRUG FREE WORKPLACE

- 16.1. Lee County Board of County Commissioners encourages Drug Free Workplace programs as defined in accordance with Section 287.087, FL §.

17. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- 17.1. The County encourages the use of Disadvantaged Business Enterprise Bidder(s) as defined and certified by the State of Florida Department of Transportation (DBE).
- 17.2. As requested in the required forms the Bidder is required to indicate whether they and/or any proposed sub-contractor(s) are Disadvantaged Business Enterprises (DBE). Lee County encourages the utilization and participation of DBEs in procurements, and evaluation proceedings will be conducted within the established guidelines regarding equal employment opportunity and nondiscriminatory action based upon the grounds of race, color, sex or national origin. Interested certified Disadvantaged Business Enterprise (DBE) firms as well as other minority-owned and women-owned firms, as defined and certified by the State of Florida Office of Supplier Diversity (Minority), are encouraged to respond.

18. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

- 18.1. The bidder agrees to comply, in accordance with FL § 287.134, 504 of the Rehabilitation Act of 1973 as amended, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA) that furnishing goods or services to the County hereunder, no person on the grounds of race, religion, color, age, sex, national origin, disability or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- 18.2. The bidder will not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, national origin, disability or marital status. The bidder will make affirmative efforts to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, age, sex, national origin, disability or marital status.
- 18.3. The bidder will include the provisions of this section in every sub-contract under this contract to ensure its provisions will be binding upon each sub-contractor. The bidder will take such actions in respect to any sub-contractor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.
- 18.4. An entity or affiliate who has been placed on the State of Florida's Discriminatory Vendor List (This list may be viewed by going to the Department of Management Services website at <http://www.dms.myflorida.com>) 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 award or perform work as a vendor, supplier, sub-contractor, or consultant under contract with any public entity, and may not transact business with any public entity.

19. LOCAL BIDDER'S PREFERENCE

19.1. The Lee County Local Bidder's Preference Ordinance No. 08-26 is being included as part of the award process for this project. As such, Lee County at its sole discretion may choose to award a preference to any qualified "Local Contractor/Vendor" in an amount not to exceed 3% of the total amount quoted by that firm.

19.2. "Local Contractor/Vendor" as noted in Ordinance No. 08-26, or revision thereof, shall be defined as:

19.2.1. Any person, firm, partnership, company or corporation whose principal place of business in the sole opinion of the County, is located within the boundaries of Lee/Collier County, Florida

OR

19.2.2. Any person, firm, partnership, company or corporation that has provided goods or services to Lee County on a regular basis for the preceding consecutive three (3) years, and that has the personnel, equipment and materials located within the boundaries of Lee/Collier County sufficient to constitute a present ability to perform the service or provide the goods.

20. SUB-CONTRACTOR

20.1. The use of sub-contractors under this solicitation requires prior written authorization from the County representative.

21. BID - PROJECT GUIDELINES (as applicable)

21.1. The County has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and or Requirements which shall serve as a guide to the bidder(s) in conforming to the provision of goods and/or services to be provided pursuant to this Agreement/Contract:

21.1.1. No amount of work is guaranteed upon the execution of an Agreement/Contract.

21.1.2. Rates and all other negotiated expenses will remain in effect throughout the duration of the Agreement/Contract period.

21.1.3. This contract does not entitle any bidder to exclusive rights to County Agreement/Contracts/contracts. The County reserves the right to perform any and all available required work in-house or by any other means it so desires.

21.1.4. In reference to vehicle travel, mileage and man-hours spent in travel time, is considered incidental to the work and not an extra compensable expense.

21.1.5. Lee County reserves the right to add or delete, at any time, and or all material, tasks or services associated with this Agreement/Contract.

21.1.6. Any Single Large Project: The County, in its sole discretion, reserves the right to separately solicit any project that is outside the scope of this solicitation, whether through size, complexity or the dollar value.

22. BID – TIEBREAKER

22.1. Whenever two or more bids, which are equal with respect to price, quality and service, are received for procurement of commodities or contractual services, from responsive and responsible bidders the following steps will be taken to establish the award to the lowest bidder. This method shall be used for all ties.

22.1.1. Step 1 Local Bidder: Between a local business, and a non-local business, a contract award, or the first opportunity to negotiate, as applicable, shall be made to the local business. Local shall be defined by Lee County Ordinance 08-26 or current revision thereof.



- 22.1.2. Step 2 Drug Free Workplace: At the conclusion of step 1 if all is equal, the vendor with a Drug Free Workplace program shall be given preference, over a vendor with no Drug Free Workplace program. The contract award, or the first opportunity to negotiate, as applicable, shall be made to the bidder with the Drug Free Workplace program. In order to have a drug free workplace program, a business shall comply with the requirements of FL § 287.087.
- 22.1.3. Step 3 Coin Flip: At the conclusion of Step 1, and Step 2 if all is equal, the contract award, or the first opportunity to negotiate, as applicable, shall be determined by the flip of a coin to determine final outcome.
- 22.2. When the tie has been determined the contract award, or the first opportunity to negotiate, as applicable, shall be made.
- 22.3. If an award or negotiation is unsuccessful with the initial bidder, award or negotiations may commence with the next highest bidder, utilizing the tiebreaker steps above to make the determination of next lowest bidder.

## 23. WITHDRAWAL OF BID

- 23.1. No bid may be withdrawn for a period of **180 calendar days** after the scheduled time for receiving submissions. A bid may be withdrawn prior to the solicitation opening date and time. Withdrawal requests must be made in writing to the Procurement Management Director, who will approve or disapprove the request.
- 23.2. A bidder may withdraw a submission any time prior to the opening of the solicitation.
- 23.3. After submissions are opened, but prior to award of the contract by the County Commission, the Procurement Management Director may allow the withdrawal of a bid because of the mistake of the bidder in the preparation of the submission document. In such circumstance, the decision of the Procurement Management Director to allow the submission withdrawal, although discretionary, shall be based upon a finding that the bidder, by clear and convincing evidence, has met each of the following four tests:
  - 23.3.1. The bidder acted in good faith in submitting the bid,
  - 23.3.2. The mistake in bid preparation that was of such magnitude that to enforce compliance by the bidder would cause a severe hardship on the bidder,
  - 23.3.3. The mistake was not the result of gross negligence or willful inattention by the bidder; and
  - 23.3.4. The mistake was discovered and was communicated to the County prior to the County Commission having formally awarded the Agreement/Contract.

## 24. PROTEST RIGHTS

- 24.1. Any bidder that has submitted a formal response to Lee County, and who is adversely affected by an intended decision with respect to the award, has the right to protest an intended decision posted by the County as part of the solicitation process.
- 24.2. “Decisions” are posted on the Lee County Procurement Management Division website. Bidders are solely responsible to check for information regarding the solicitation. ([www.leegov.com/procurement](http://www.leegov.com/procurement))
- 24.3. Refer to the “Bid/Proposal Protest Procedure” section of the Lee County “Contracts Manual” for the complete protest process and requirements. The Manual is posted on the Lee County website or may be obtained by contacting the Procurement Management Director.
- 24.4. In order to preserve the right to protest, a written **“Notice Of Intent To File A Protest” must be filed with the Lee County Procurement Management Director by 4:00 PM on the 3<sup>rd</sup> working day after the decision** affecting your rights is posted on the Lee County website.
  - 24.4.1. The notice must clearly state the basis and reasons for the protest.
  - 24.4.2. The notice must be physically received by the Procurement Management Director with in the required time frame. No additional time will be granted for mailing.



- 24.5. To secure the right to protest a “**Protest Bond**” and written “**Formal Protest**” document must be filed **within 10 calendar days** after the date of “*Notice of Intent to File a Protest*” is received by the Procurement Management Director.
- 24.6. **Failure to follow the protest procedures requirement within the time frames as prescribed herein and established by the Lee County Board of County Commissioners, Florida, shall constitute a waiver of the right to protest and bar any resulting claims.**
25. AUTHORITY TO UTILIZE BY OTHER GOVERNMENT ENTITIES
- 25.1. This opportunity is also made available to any government entity. Pursuant to their own governing laws, and subject to the Agreement/Contract of the vendor, other entities may be permitted to make purchases at the terms and conditions contained herein. Lee County Board of County Commissioners will not be financially responsible for the purchases of other entities from this solicitation.
26. CONTRACT ADMINISTRATION
- 26.1. **Designated Contact:**
- 26.1.1. The awarded bidder shall appoint a person(s) to act as a primary contact for all County departments. This person or back-up shall be readily available during normal working hours by phone or in person, and shall be knowledgeable of the terms and procedures involved.
- 26.1.2. Lee County requires that the awarded bidder to provide the name of a contact person(s) and phone number(s) which will afford Lee County access 24 hours per day, 365 days per year, of this service in the event of major breakdowns or natural disasters.
- 26.2. **BID – Term:** (unless otherwise stated in the Scope of Work or Detailed Specifications)
- 26.2.1. Unless otherwise stated in the scope of work, specifications, or special conditions the default **contract term shall be one (1) year..**
- 26.2.2. The County reserves the right to renew this Agreement/Contract (or any portion thereof) and to negotiate pricing as a condition for each.
- 26.2.3. The County’s performance and obligation to pay under this contract, and any applicable renewal options, is contingent upon annual appropriation of funds.
- 26.3. **BID – Basis of Award:**
- 26.3.1. The bid is awarded under a system of sealed, competitive bidding to the lowest responsive and responsible bidder.
- 26.3.2. In the event the lowest responsible and responsive bid for a project exceeds the available funds the County may negotiate an adjustment of the bid price with the lowest responsible and responsive bidder, in order to bring the total cost of the project within the amount of available funds.
- 26.3.3. The County reserves the right to make award(s) by individual item, group of items, all or none, or a combination thereof. The County reserves the right to reject any and all bids or to waive any minor irregularity or technicality in the bids received. Award will be made to the lowest responsible and responsive bidder(s) within the category chosen for basis of award.
- 26.3.4. The County reserves the right to award to one or multiple bidders at the discretion of the requesting authority and approval of the Procurement Management Director.
- 26.4. **Agreement/Contracts/Contracts:**
- 26.4.1. The awarded bidder will be required to execute an Agreement/Contract as a condition of award. A sample of this document may be viewed on-line at <http://www.leegov.com/procurement/forms>.
- 26.5. **Records:**
- 26.5.1. Retention: The bidder shall maintain such financial records and other records as may be prescribed by Lee County or by applicable federal and state laws, rules and



regulations. Unless otherwise stated in the specifications, the bidder shall retain these records for a period of five years after final payment, or until they are audited by Lee County, whichever event occurs first.

- 26.5.2. Right to Audit/Disclosure: These records shall be made available during the term of the contract as well as the retention period. These records shall be made readily available to County personnel with reasonable notice and other persons in accordance with the Florida General Records Schedule. Awarded Bidder/Proposer(s) are hereby informed of their requirement to comply with FL §119 specifically to:
- 26.5.2.1. Keep and maintain public records required by the County to perform the service.
  - 26.5.2.2. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided or as otherwise provided by law.
  - 26.5.2.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
  - 26.5.2.4. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor or keep and maintain public records required by the County to perform the service. If the contractor transfers all public records to the County upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.
- 26.5.3. Public Record: **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.**
- 26.5.4. Ownership: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications and all data prepared or obtained by the successful bidder in connection with its services hereunder, include any documents bearing the professional seal of the successful bidder, and shall be delivered to and become the property of Lee County, prior to final payment to the successful bidder or the termination of the Agreement/Contract. This includes any electronic versions, such as CAD or other computer aided drafting programs.
- 26.6. **Termination:**
- 26.6.1. Any Agreement/Contract as a result of this solicitation may be terminated by either party giving **thirty (30) calendar days advance written notice**. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no



such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.

- 26.6.2. The Procurement Management Director may immediately terminate any Agreement/Contract as a result of this solicitation for emergency purposes, as defined by the Lee County Purchasing and Payment Procedures Manual (Purchasing Manual), (also known as Appendix “D” ”AC-4-1.pdf”).
- 26.6.3. Any bidder who has voluntarily withdrawn from a solicitation without the County’s mutual consent during the contract period shall be barred from further County procurement for a **period of 180 days**. The vendor may apply to the Board for a waiver of this debarment. Such application for waiver of debarment must be coordinated with and processed by the Procurement Management Department.
- 26.6.4. The County reserves the right to terminate award or contract following any of the below for goods or services over \$1,000,000:
  - 26.6.4.1. Contractor is found to have submitted a false certification as provided under FL § 287.135 (5);
  - 26.6.4.2. Contractor has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (FL §215.473);
  - 26.6.4.3. Contractor has engaged in business operations in Cuba or Syria (FL § 215.471);
  - 26.6.4.4. Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel. (FL § 215.4725)
  - 26.6.4.5. The County reserves the right to review, on a case-by-case basis, and waive this stipulation if it is deemed to advantageous to the County.

## 27. WAIVER OF CLAIMS

- 27.1. Once this contract expires, or final payment has been requested and made, the awarded bidder shall have waived any claims against the County concerning this contract. After that period, the County will consider the bidder to have waived any right to claims against the County concerning this Agreement/Contract.

## 28. LEE COUNTY PAYMENT PROCEDURES

- 28.1. Unless otherwise noted, all vendors are requested to mail an original invoice to:  
**Lee County Finance Department**  
**Post Office Box 2238**  
**Fort Myers, FL 33902-2238**
- 28.2. All invoices will be paid as directed by the Lee County payment procedure unless otherwise stated in the detailed specifications for this project.
- 28.3. Lee County will not be liable for requests for payment deriving from aid, assistance, or help by any individual, vendor, proposer, or bidder for the preparation of these specifications.
- 28.4. Lee County is generally a tax exempt entity subject to the provisions of the 1987 legislation regarding sales tax on services. Lee County will pay those taxes for which it is obligated, or it will provide a Certificate of Exemption furnished by the Department of Revenue. All bidders should include in their bids, all sales or use taxes, which they will pay when making purchases of material or sub-contractor’s services.

## 29. MATERIAL SAFETY DATA SHEETS (MSDS) (as applicable)

- 29.1. In accordance with Chapter 443 of the FL §, it is the vendor’s responsibility to provide Lee County with Material Safety Data Sheets on bid materials, as may apply to this procurement.

## 30. DEBRIS DISPOSAL (as applicable)



- 30.1. Unless otherwise stated, the bidder shall be fully responsible for the lawful removal and disposal of any materials, debris, garbage, vehicles or other such items which would interfere with the undertaking and completion of the project. There shall not be an increase in time or price associated with such removal.
31. SHIPPING (as applicable)
- 31.1. Cost of all shipping to the site, including any inside delivery charges and all unusual storage requirements shall be borne by the bidder unless otherwise agreed upon in writing prior to service. It shall be the bidders responsibility to make appropriate arrangements, and to coordinate with authorized personnel at the site, for proper acceptance, handling, protection and storage (if available) of equipment and material delivered. All pricing to be F.O. B. destination.
- 31.2. The materials and/or services delivered under the bid shall remain the property of the seller until a physical inspection and actual usage of these materials and/or services is accepted by the County and is deemed to be in compliance with the terms herein, fully in accord with the specifications and of the highest quality.
32. BOND/SURETY (CONSTRUCTION)
- 32.1. Bonding/Surety is required for construction projects over \$100,000.00 unless otherwise noted.
- 32.2. **Bid Bond/Security:** The bidder/vendor shall submit **not less than 5% of proposed dollar amount** (including applicable alternates) as bid security. One **ORIGINAL** Bid Bond/Security is to be submitted to the County with Bid Submission. The Bid Security of the bidder/vendor will be retained until the bidder/vendor has executed the contract, whereupon the Bid security may be returned. The bid Security of the bidder/vendor whom the County believes to have a reasonable chance of receiving the award may be retained by the County until the effective date of the Agreement/Contract, whereupon Bid Securities furnished by the bidder/vendor may be returned. The following types of Bid Security are acceptable:
- 32.2.1. **A Certified Check or a Cashier's Check** in the stated dollar amount of not less than 5% of proposed dollar amount. Any Certified Check or Cashier Check submitted in lieu of a Bid Bond Shall be drawn on a solvent bank or trust company, made payable to Lee County Board of County Commissioners and shall have all necessary documentary revenue stamps attached (if required by law); or
- 32.2.2. **A Bid Bond** may be submitted on a Lee County paper Bid Bond Form. Must be signed by all required parties, of not less than 5% of proposed dollar amount (including Alternate(s) as applicable) shall accompany each submission. The Bid Bond shall be issued by a duly authorized surety authorized to do business and in good standing with the Florida Department of state
- 32.3. **Payment and Performance Bond:** In accordance with F.S. 255.05 and Lee County Ordinance 95-2-102, a Public Payment and Performance Bond is to be issued in a sum equal to one-hundred (100%) percent of the total awarded contract amount by a surety company considered satisfactory by Lee County and otherwise authorized to transact business in the State of Florida shall be required from the successful bidder/vendor. This shall insure the faithful performance of the obligations imposed by the resulting contract and protect the County from lawsuits for non-payment of debts incurred during the successful bidder/vendor performance under such Contract.
- 32.3.1. A public Payment and Performance bond must be properly executed, by the Surety Company and successful bidder/vendor, and recorded with the Lee County Clerk of Court, within **seven calendar days** after notification by Lee County of the approval to award the Contract.
- 32.3.2. **A Clean Irrevocable Letter of Credit or Cash Bond** may be accepted by the County in lieu of the Public Payment and Performance Bond.



- 32.4. Only Lee County form(s) may be accepted. Forms are available at <https://www.leegov.com/procurement/forms>.
- 32.5. **Personal Checks are not acceptable to Lee County as a Bid Security.**
- 32.6. **Surety:** In order to be acceptable to the County, a Surety Company issuing Evidence of Bondability, Bid Guaranty Bonds or 100% Public Payment and Performance Bonds or Letters of Credit called for herein shall meet and comply with the minimum standards set forth in as part of the Contract Documents.  
The surety company shall be authorized to do business and in good standing with the Florida Department of State. All such bonds shall be issued or countersigned by a local producing agent who is a Florida resident with satisfactory evidence of its authority to execute the bond being submitted.

33. INSURANCE (AS APPLICABLE)

- 33.1. Insurance shall be provided by the awarded bidder/vendor. Prior to execution of the Agreement/Contract a certificate of insurance (COI) complying with the bid documents shall be provided by the bidder/vendor.



## Major Insurance Requirements

**Minimum Insurance Requirements:** *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The County reserves the right to request additional documentation regarding insurance provided*

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$1,000,000 per occurrence  
\$2,000,000 general aggregate  
\$1,000,000 products and completed operations  
\$1,000,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$1,000,000 combined single limit (CSL)  
\$500,000 bodily injury per person  
\$1,000,000 bodily injury per accident  
\$500,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$500,000 per accident  
\$500,000 disease limit  
\$500,000 disease – policy limit

\*The required minimum limit of liability shown in a and b may be provided in the form of “Excess Insurance” or “Commercial Umbrella Policies.” In which case, a “Following Form Endorsement” will be required on the “Excess Insurance Policy” or “Commercial Umbrella Policy.”







**Verification of Coverage:**

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

- a. The certificate holder shall read as follows:

Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, Florida 33902

- b. *“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials”* will be named as an "Additional Insured" on the General Liability policy, including Products and Completed Operations coverage.

**Special Requirements:**

1. An appropriate "Indemnification" clause shall be made a provision of the contract.
2. It is the responsibility of the general contractor to insure that all subcontractors comply with all insurance requirements.



### SPECIAL CONDITIONS

These are conditions that are in relation to this solicitation only and have not been included in the County's standard Terms and Conditions or the Scope of Work.

1. TERM

Multi-year Renewals: The successful bidder shall be responsible for furnishing and delivering to the Lee County requesting Department(s) the commodity or services on an "as needed basis" for a one-year (1) period with three additional one year renewals periods.

2. PRICING

Consumer Price Index (CPI): Contract prices for equipment and/or service will remain firm through the first contract year. Contractors must request price adjustments, in writing, 30 days prior to the renewal date. If a contractor fails to request a CPI price adjustment 30 days prior to the contract renewal date, no price increase will be accepted. Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Miami Area. No retroactive contract price adjustments will be allowed.

3. LIQUIDATED DAMAGES

These are conditions that are in relation to this bid only and have not been included in the COUNTY's standard Terms and Conditions or the Scope of Work.

Liquidated damages to apply to each project. Liquidated damages will be based on the entire project amount per calendar day using the table below:

| <b>Estimated Project Cost Over</b> | <b>Estimated Project Cost But Less than</b> | <b>Daily Charge Per Calendar Day</b> |
|------------------------------------|---------------------------------------------|--------------------------------------|
| \$0.00                             | \$50,000.00                                 | \$645.00                             |
| \$50,000.00                        | \$250,000.00                                | \$760.00                             |
| \$250,000.00                       | \$500,000.00                                | \$970.00                             |
| \$500,000.00                       | \$2,500,000.00                              | \$1,500.00                           |
| \$2,500,000.00                     | \$5,000,000.00                              | \$2,400.00                           |
| \$5,000,000.00                     | \$10,000,000.00                             | \$3,300.00                           |
| \$10,000,000.00                    | \$15,000,000.00                             | \$4,600.00                           |
| \$15,000,000.00                    | \$20,000,000.00                             | \$4,300.00                           |
| \$20,000,000.00 over               |                                             | \$5,700.00 plus .00005               |

End of Special Conditions Section



## GENERAL CONDITIONS

### 1. Administration

The Consultant is the initial interpreter of the Contract Documents but is not the Judge between the COUNTY and the CONTRACTOR. The COUNTY reserves the right to make final decisions considering the Consultant's recommendations or interpretations of the Contract Documents. The Consultant does not have authority to obligate or commit the COUNTY to fund additional expenditures or approve extensions of time over the approved Contract time or price. However, the CONSULTANT'S interpretation as to the intent of his design shall be final and not subject to interpretation by the COUNTY'S staff.

#### 1.1. Copies of Documents

The COUNTY shall furnish to the CONTRACTOR the number of copies specified in the Supplemental Information of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction which shall be paid by the CONTRACTOR.

#### 1.2. Before Starting Construction

Before undertaking each phase of the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The CONTRACTOR shall promptly report in writing to the OWNER'S REPRESENTATIVE any conflict, error or discrepancy which the CONTRACTOR may discover or other information known to the CONTRACTOR and shall obtain a written interpretation or clarification from the OWNER'S REPRESENTATIVE before proceeding with any Work affected thereby. If the CONTRACTOR performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the OWNER'S REPRESENTATIVE, the CONTRACTOR shall assume responsibility for such performance and shall share in costs associated with correction; however, the CONTRACTOR shall not be liable to the COUNTY for failure to report any conflict, error or discrepancy in the Contract Documents, unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

1.2.1. Within ten calendar days after the Effective Date of the Agreement (unless otherwise specified in the Contract Documents), the CONTRACTOR shall submit to the OWNER'S REPRESENTATIVE for review:

- 1.2.1.1. An estimated progress schedule indicating the starting and completion dates of the various stages of the Work;
- 1.2.1.2. Long lead item shall be identified and scheduled accordingly.
- 1.2.1.3. A preliminary schedule of Shop Drawing submission; and
- 1.2.1.4. A preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction on form No. CMO:013. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by the



- CONTRACTOR at the time of submission; and specify times for Application for Payment.
- 1.2.1.5. A plan of work for maintenance of traffic, when the Contract Documents require maintenance of traffic.
- 1.2.1.6. For informational purposes, a proposed listing of sub-contractors to be used for the project.
- 1.2.2. **Pre-Construction Conference**  
Within fifteen calendar days after the Effective Date of the Agreement, but before the CONTRACTOR starts the Work at the site, a conference attended by the CONTRACTOR, the OWNER'S REPRESENTATIVE, the COUNTY, and Others as appropriate, will be held to discuss the items, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish an understanding among the parties as to the Work.
- 1.2.3 **Finalizing Schedules**  
At least ten calendar days before submission of the first Application for payment, a conference attended by the CONTRACTOR, the OWNER'S REPRESENTATIVE, the COUNTY, and Others as appropriate, will be held to finalize the schedules submitted. The finalized progress schedule will be acceptable to the OWNER'S REPRESENTATIVE and the COUNTY as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on the OWNER'S REPRESENTATIVE or the COUNTY responsibility for the progress or scheduling of the Work nor relieve the CONTRACTOR from full responsibility therefor. The finalized schedule of Shop Drawing submissions will be acceptable to the OWNER'S REPRESENTATIVE as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to the OWNER'S REPRESENTATIVE and the COUNTY as to form and substance.

### **Definitions**

The following definition of terms associated with this Contract is provided to establish a common understanding between both parties to this Contract as to the intended usage, application and interpretation of such terms pertaining to this Contract.

*ADDENDUM* means any additional Contract provisions in writing signed and sealed by the CONSULTANT, if applicable, issued by the COUNTY prior to the receipt of Bid which clarify, correct, change or interpret the Bidding Documents or the Contract Documents.

*AGREEMENT* means the written agreement between the COUNTY and the CONTRACTOR covering the Work to be performed; the Agreement is a part of the Contract Documents.

*BIDDER* is any individual, firm, partnership, joint venture, or corporation submitting a bid for this project, acting directly or through an authorized representative.



*BID* is a complete and properly signed proposal to do the Work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.

*BID BOND* is a security in the form and amount required by the COUNTY pledging that the BIDDER will enter into a Contract with the COUNTY on the terms stated in his Bid.

*BID DOCUMENTS* are the Invitation to Bid, the Notice to Bidders, the Invitation to Bid Terms and Conditions, sample forms, the Bid Proposal Form and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

*CHANGE ORDERS* are written order to the CONTRACTOR signed by the COUNTY, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract price or the Contract Time. The Contract Price and the Contract Time may be changed only by a Change Order. A Change Order signed by the CONTRACTOR indicates his agreement therewith, including the adjustment in the Contract Price or the Contract Time.

*COMPLETION (FINAL)* means acceptance of the Project by the COUNTY as evidenced by its signature upon a final payment Certification and approval thereof by the Board of County Commissioners or their designee. The final payment Certification shall be signed only after the COUNTY has assured itself by tests, inspections, or otherwise that all of the provisions of the Contract have been carried out as required.

*COMPLETION (SUBSTANTIAL)* shall mean an acceptance of the Work by the COUNTY when construction is sufficiently complete in accordance with the Contract Documents so the COUNTY can occupy or utilize the Work or designated portion thereof for the use for which it is intended. A certificate of occupancy or compliance, when applicable, issued by the Building Official is required concurrent with or prior to issuance of the Certificate of Substantial Completion.

*CONSTRUCTION* is the erection, fabrication, assembly, remodeling, renovation, addition, modification, repair or demolition of any building or structure or any appurtenances connected or attached to such buildings or structures. The term applies but is not limited to the repair, replacement modification or construction of roads, bridges, sidewalks, traffic devices, parking lots, drainage, underground and overhead utilities.

*CONSULTANT* is the person lawfully licensed to practice Architecture or Engineering and registered in the State of Florida, or an entity lawfully practicing Architecture or Engineering, identified as such in the Construction Contract, and is referred to throughout the Contract Documents as if singular in number and masculine in genre. The term CONSULTANT means the Architect or Engineer or his authorized representative.

*CONTRACT DOCUMENTS* consist of the Invitation to Bid, Agreement, General and Special Conditions of the Contract, Specifications, the Plans, Supplemental Information, Addenda issued prior to execution of the Contract, all written modifications issued after execution of the Contract, all provisions required by law to be inserted in this Contract whether actually inserted or not, and a Contract Number issued by the COUNTY.



A *MODIFICATION* is:

- (1) A written Amendment to the Contract.
- (2) A Change Order.
- (3) A written interpretation necessary for the proper execution or progress of the Work issued by the OWNER'S Representative.
- (4) A Field Change Order.
- (5) A Field Directive Change.

*CONTRACT PRICE* means the total monies payable to the CONTRACTOR under the Contract Documents.

*CONTRACT TIME* means the number of Calendar days stated in the Agreement for the purpose of establishing Substantial Completion and Final Completion dates.

*CONTRACTOR* is the person, firm, joint venture, or corporation with whom the COUNTY has contracted and who has the primary responsibility for performance of the work.

*COUNTY* means the Board of County Commissioners of Lee County, Florida, a political subdivision of the State of Florida, its successors and assigns. Also hereinafter referred to as OWNER.

*DAYS* - The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically designated. A calendar day constitutes twenty four hours measured from midnight to the next midnight.

*DEFECTIVE* - An adjective which when modifying the word "Work" refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to the OWNER'S REPRESENTATIVE recommendation of final payment.

*EFFECTIVE DATE OF THE AGREEMENT* means the date on which the agreement is signed and delivered by the latter of the two parties.

*ENGINEER* shall mean the Director of the Lee County Department of Transportation or his designated County Project Manager.

*FIELD CHANGE ORDER* is a written change order requested by the OWNER'S Representative, accepted by the CONTRACTOR, and approved by the PROJECT MANAGER for minor changes in the Work, not involving adjustments in the Contract Sum or an extension of Time, and not inconsistent with the overall intent of the Contract Documents.

*FIELD DIRECTIVE CHANGE* - A written directive to the CONTRACT, issued on or after the effective date of the Agreement ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as defined elsewhere in these documents. A Field Directive Change

may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Field Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or the Contract Time.

*FINAL ACCEPTANCE* means acceptance of the Work by the COUNTY upon the expiration of the warranty period as stated in the Contract Documents.

*MATERIALS* - Anything used in the process of, but not limited to, constructing, demolishing, renovating or remodeling of any building, structure, road, bridge, recreational facility, transportation element and utility or any addition thereto utilized for this project.

*NOTICE* means written notice. Notice shall be served upon the CONTRACTOR either personally or by leaving the said Notice at his residence or with his agency in charge of the Work, or addressed to the CONTRACTOR at the residence or place of business stated in the Bid Proposal and deposited in a postpaid wrapper in any United States Mailbox.

*NOTICE TO PROCEED* is a written instrument issued by the COUNTY to the CONTRACTOR, authorizing the CONTRACTOR to commence Work on the Project. The NOTICE TO PROCEED shall include the effective date of Commencement.

*NOTICE OF AWARD* means the written Notice given by the COUNTY to the successful Bidder.

*NOTICE OF TERMINATION* is a written instrument issued in accordance with the Contract Documents by the COUNTY to the CONTRACTOR or by the CONTRACTOR to the COUNTY notifying the receiving party that the Contract is being terminated. The NOTICE shall clearly identify the effective date the Contract is to be terminated.

*OWNER'S REPRESENTATIVE* is the CONSULTANT contracted by the COUNTY for Professional Services during the construction phase of this project or a qualified person authorized as his official representative, or in the absence of such a contract, the project Manager will be considered the OWNER'S REPRESENTATIVE for the purpose of this Contract Document. The OWNER'S REPRESENTATIVE is not authorized to issue change orders to the contract sum, contract time or scope of work without express approval of the Board of County Commissioners.

*PLANS AND/OR DRAWINGS* are a graphic representation of the arrangement of the materials or parts of the construction of the project and are a portion of the Contract Documents.

*PROCUREMENT MANAGEMENT* shall mean the Director of Lee County's Procurement Management Department or designee.

*PROJECT* shall mean the entire improvement of which this contract forms a part.



*PROJECT MANAGER* is an employee of the Department or the COUNTY which requested the Contract and is a designee authorized by or for that Department who is the representative of the Board of County Commissioners in matters concerning the contractor of this project. The project manager will act as the OWNER'S REPRESENTATIVE in the absence of a contract with a CONSULTANT. The PROJECT MANAGER is not authorized to issue changes to the Contract Sum, Contract Time, or Scope of Work without express approval by the Department Director, County Manager, or Board of County Commissioners.

The PROJECT MANAGER, within the authority conferred by the Board of County Commissioners, acting as the COUNTY'S designated representative shall initiate written Change Orders, and notification to the CONTRACTOR of any and all changes approved by the COUNTY in the CONTRACTOR'S (1) compensation (2) time and/or schedule of service delivery; (3) any Amendment (s) or other change(s) relative to the WORK and ADDITIONAL SERVICES pursuant to this Contract, or AMENDMENTS, or CHANGE ORDERS pertaining thereto. Following COUNTY approval, the Project Manager shall coordinate assurance of any such documents. The PROJECT MANAGER or his designee shall be responsible for acting on the COUNTY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Contract, or any AMENDMENT(S), or CHANGE ORDER(S) issued there under.

*SPECIFICATIONS* are written documents organized into divisions, sections, and articles which provide detailed instructions to the CONTRACTOR pertaining, but not limited to, materials, style, workmanship, fabrication, dimensions, colors, warranties, finishes, quality, manufacturer, grade and operational data of all components to be provided by the CONTRACTOR and incorporated into the Project.

*SUB-CONTRACTOR* is a person, firm, partnership, corporation, or entity who has a direct contract with the CONTRACTOR to perform any of the Work at the site. The term Sub-contractor does not include those whose sole purpose is that of a supplier of materials. A supplier of materials shall be classified as a Sub-contractor if it enters into any agreement, whether written or verbal, for the installation of said materials. The term Sub-contractor means a Sub-contractor or its authorized representative.

*SUPPLIER* - A manufacturer, fabricator, distributor, materialmen or vendor.

*SURETY* is the surety company or individual that is bound by Contract bond with and for the CONTRACTOR who is primarily liable, and is responsible for CONTRACTOR'S acceptable performance of the Project and payment of all debts pertaining to the Contract Documents in accordance with Section 255.05, Florida Statutes.

*UNDERGROUND FACILITIES* - All pipeline, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

WORK is the construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

## **2. Starting the Work**

Written Notice to Proceed is contingent upon and will be done subsequent to the CONTRACTOR fully satisfying the COUNTY'S stated insurance and Bond submittal requirements. Until the CONTRACTOR receives the COUNTY'S written Notice to Proceed, the CONTRACTOR is advised that the COUNTY will not be liable for any expenses which the CONTRACTOR may incur relative to this Contract before the written Notice to Proceed is issued.

- 2.1. The Contract time shall commence to run from the date specified in the "Notice to Proceed".
- 2.2. The CONTRACTOR is required, before commencing the Work, to deliver to the COUNTY the Public Payment and Performance Bond issued by a surety insurer authorized to do business in the State of Florida as Surety. The Bond must state the name and principal business address of both the principal and the Surety and must contain a description of the project sufficient to identify it and post in conspicuous place at the project site.
- 2.3. The COUNTY will forward to the CONTRACTOR a Notice of Commencement along with a copy of the recorded Public Payment and Performance Bond with instructions to post in a conspicuous spot on the project site.

## **3. Interpretation Intent, Amending and Reuse of Contract Documents**

It is the intent of the Specifications and Plans to describe a complete Project to be constructed in accordance with the Contract Documents.

- 3.1 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall immediately call it to the attention of the OWNER'S REPRESENTATIVE in writing before proceeding with the Work affected thereby.
- 3.2 Any Work that may be reasonably inferred from the specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for.
- 3.3 Work, materials or equipment described in words which have a well-known technical or trade meaning, shall be deemed to refer to such recognized standards.
- 3.4 In resolving conflicts, errors, and discrepancies, the order of precedence of the Contract Document is as follows:



- (1) Change Order
- (2) Agreement
- (3) Addenda
- (4) Special Conditions
- (5) General Conditions
- (6) Specifications
- (7) Supplemental Information
- (8) Drawings
- (9) Figure Dimensions
- (10) Scale Dimensions (Large Scale Drawings supersede Small Scale Drawings)
- (11) Terms and Conditions

### 3.5 Amending and Supplementing Contract Documents

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

3.5.1 A formal Written Amendment,

3.5.2 A Change Order.

3.5.3 A Field Directive Change.

The Contract Price and the Contract Time may only be changed by a Change Order or Written Amendment.

### 3.6 In addition, the requirements of the Contract Documents may be supplemented and minor variations and deviations of the Work may be authorized, in one or more of the following ways:

3.6.1 A Field Change Order,

3.6.2 The OWNER'S REPRESENTATIVE approval of a Shop Drawing or sample, or

3.6.3 The OWNER'S REPRESENTATIVE written interpretation or clarification.

### 3.7 Reuse of Documents

Neither the CONTRACTOR nor any SUB-CONTRACTOR or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the COUNTY shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of the CONSULTANT; and they shall not reuse any of them on extensions of the Project or any other project without written consent of the COUNTY or their CONSULTANT and the specific written verification or adaptation by the CONSULTANT.

## 4 Availability of Lands

The COUNTY will furnish, as indicated in the Contract Documents and not later than the date when needed by the CONTRACTOR, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designated for the use of the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained by the COUNTY unless otherwise specified in the Contract

Documents. If the CONTRACTOR believes that any delay in the COUNTY'S furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefore. The CONTRACTOR will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment unless designated otherwise. The OWNER'S REPRESENTATIVE will, upon request, furnish to the CONTRACTOR copies of all available boundary and topographic surveys as required and sub-surface tests. The CONTRACTOR shall be responsible for staging and storing equipment or materials. All parcels utilized for staging shall be secured. All parcels utilized for staging will be kept in a neat and orderly fashion and then restored to the landowner's satisfaction upon terminating the use of the staging area or improved as noted in the plans. The CONTRACTOR shall maintain on the job site written proof of authorization for the use of any private land. The COUNTY does not condone trespass on private property and will hold the CONTRACTOR liable for any such trespass. Right-of-way maps, if available, of the lands upon which the improvements will be made shall be provided upon request from the OWNER'S REPRESENTATIVE. The CONTRACTOR may use these lands for work associated with this contract only. The CONTRACTOR shall verify the availability of these lands with the Lee County D.O.T. project manager prior to the issuance of the notice to proceed.

#### 4.1 Physical Conditions

Explorations and Reports: Reference is made to the Supplemental Information for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by the CONSULTANT and/or the COUNTY in preparation of the Contract Documents. These reports are not part of the contract Documents. The CONTRACTOR may rely upon the accuracy of the technical data contained in such reports but not upon the non-technical data, interpretations or opinions contained therein for the completeness or accuracy thereof for the CONTRACTOR'S purposes of preparing or submitting a bid. Except as indicated in the immediately preceding sentence, the CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site. The technical data which will be made available only at the CONTRACTOR'S request may not be sufficient for construction purposes. Additional investigations may be necessary for the purposes of carrying out the construction project.

#### 4.2 Existing Structures: Reference is made to the Supplemental Information for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by the CONSULTANT and/or the COUNTY in preparation of the Contract Documents. The CONTRACT may rely upon the accuracy of the technical data contained in such drawings but not for the completeness thereof for the purposes of preparing or submitting a bid. Except as indicated in the immediately preceding sentence, the CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.

#### 4.3 Unless otherwise stated, the CONTRACTOR shall be fully responsible for the removal of any materials, debris, garbage, vehicles or other such



items which would interfere with the undertaking and completion of the project. By submission of a bid, the CONTRACTOR assumes full responsibility for the expenses associated with such removal. There shall not be an increase in time or price associated with such removal.

4.4 Report of Differing Conditions: If the CONTRACTOR believes that:

4.4.1.1 Any technical data on which the CONTRACTOR is entitled to is inaccurate, or

4.4.1.2 Any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents.

4.4.1.3 The CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted) notify the OWNER'S REPRESENTATIVE in writing about the inaccuracy or difference.

4.5 OWNER'S REPRESENTATIVE Review: The OWNER'S REPRESENTATIVE will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise the COUNTY in writing (with a copy to the CONTRACTOR) of the OWNER'S REPRESENTATIVE'S findings and conclusions.

4.6 Possible Document Change: If the OWNER'S REPRESENTATIVE and the COUNTY conclude that there is a material error in the Contract Documents and a change in the Contract Documents is required, a Field Directive Change, a Field Change or a Change Order will be issued as to reflect and document the consequences of the inaccuracy or difference.

4.7 Possible Price and Time Adjustments: In each case of a material error in the Contract Documents, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference.

4.8 Physical Conditions - Underground Facilities

Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to the COUNTY or the CONSULTANT by the owners of such Underground facilities or by others. Unless it is otherwise expressly provided in the Supplemental Information:

4.8.1 The CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof and for repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price. The

CONSULTANT and COUNTY shall not be responsible for the accuracy or completeness of any such information or data.

- 4.9 Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted) identify the owner of such Underground Facility and give written notice thereof to that owner and to the OWNER'S REPRESENTATIVE. The OWNER'S REPRESENTATIVE will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and with the COUNTY'S approval, the Contract Documents will be amended or supplemented to the extent necessary. During such time, the CONTRACTOR shall be responsible for the safety and protection of such Underground Facility. The CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of. Locations of existing underground utilities are not field confirmed. In the case of a conflict between this or any other utility and proposed improvements, it shall be the CONTRACTOR'S duty to coordinate with all utility company relocation activities whether shown or not shown in the plans. Coordination is to include efforts by the CONTRACTOR to minimize time lost due to unexpected utility relocation or modifications.

4.10 Reference Points

The COUNTY shall provide engineering surveys to establish reference points, as specified in the Supplemental Information, for construction which in the judgment of the COUNTY and the CONSULTANT are necessary to enable CONTRACTOR to proceed with the Work. The CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the Technical Specifications), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the COUNTY. The CONTRACTOR shall report to the OWNER'S REPRESENTATIVE whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

## 5. Bonds and Insurance

5.1. Public Payment and Performance Bond

The CONTRACTOR will execute the Public Payment and Performance Bonds included herein as security for the faithful performance and payment of all his obligations under the Contract Documents.

- 5.2. This Bond shall be in amounts at least equal to the Contract Price and in such form and with such securities as are acceptable to the COUNTY. Prior to execution of the Contract Documents, the COUNTY may require the CONTRACTOR to furnish such other bonds, in such form and with such sureties as it may require. If such bonds are required by written instructions given prior to opening of Bids, the Premiums shall



be paid by the CONTRACTOR. If the Contract is increased by a Change Order, it shall be the CONTRACTOR'S responsibility to insure that the Public Payment and Performance Bond be amended accordingly and a copy of the amendment forwarded to PROCUREMENT MANAGEMENT.

- 5.3. If the surety on any bond furnished by the CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements imposed by the Contract Documents, the CONTRACTOR shall within five calendar days thereafter substitute another Bond and Surety, both of which shall be acceptable to the COUNTY.
- 5.4. If the CONTRACTOR cannot obtain another bond and surety within five calendar days the COUNTY will accept and the CONTRACTOR shall submit an irrevocable letter of credit drawn on a Lee County, Florida bank until the bond and surety can be obtained.

## **6 Qualifications of Surety Companies**

In order to be acceptable to the COUNTY, a surety company issuing Bid Guaranty Bonds or 100% Public Payment and Performance Bonds, called for in these specifications, shall meet and comply with the following minimum standards:

- 6.1 General  
All Sureties for Lee County projects must be admitted to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05.
- 6.2 Attorneys-in-Fact who sign bid bonds or Public Payment and Performance Bonds for Lee County projects must file with such bond a certified copy of their Power of Attorney to sign such bond.
- 6.3 Agents of surety companies must list their name, address, and telephone number on all bonds.
- 6.4 The life of all bonds provided to Lee County shall extend twelve months beyond the date of final payment and shall contain a waiver of alternation to the terms of the Contract, extensions of time and/or forbearance on the part of the COUNTY.
- 6.5 To be acceptable to the OWNER on projects not in excess of \$500,000.00, Surety shall comply with these minimum provisions of State Statute 287.0935 as follows:
  - 6.5.1 Surety must have twice the minimum surplus and capital required by Florida Insurance Code at the time of bid solicitation.
  - 6.5.2 Surety must be in compliance with all provisions of the Florida Insurance Code and hold a currently valid certificate of authority issued by the United States Department of the Treasury under SS.31 U.S.C. 9404-9308.
  - 6.5.3 Sureties on projects in excess of \$500,000.00 shall comply with the above minimum provisions as well as being rated thru A.M. Best shall comply with the following provisions:
  - 6.5.4 The Surety shall be rated as "A-" or better as to General Policyholders Rating and Class VII or better as to financial category by the most current Best's Key Rating Guide, published by A.M. Best Company.
  - 6.5.5 Surety must have fulfilled all of its obligations on all other bonds previously given to the COUNTY.

- 6.5.6 Surety must have a minimum underwriting limitation of \$5,000,000 published in the latest edition of the Federal Register for Federal Bonds (U.S. Dept. of Treasury).
- 6.6 Letter of Credit
- At any time during the life of the letter of credit, should the rating of financial institution fall below both of the minimum ratings as indicated in the Contract Documents, or should the financial institution become insolvent, the CONTRACTOR must, within five calendar days after notification by the COUNTY:
- 6.6.1 Replace the existing letter of credit with a replacement letter of credit from a financial institution with either of the minimum ratings as specified in the Contract Documents, or
- 6.6.2 Have the existing letter of credit confirmed by a financial institution with either of the minimum ratings as specified in the Contract Documents.
- 6.6.3 At the COUNTY'S option, the letter of credit may be replaced by a Public Payment and Performance Bond in accordance with the COUNTY'S existing bond policies.
- 6.7 Failure to comply with this provision may result in any or all of the following actions by the COUNTY:
- 6.7.1 Suspension of the CONTRACTOR'S right to pull building permits and schedule inspections;
- 6.7.2 A stop work order; and/or Revocation of the Land Development Permit.
- 6.8 Financial Institutions/Letters of Credit
- In order to be acceptable to the COUNTY, a financial institution issuing 100% Letters of Credit, called for in these specifications, shall meet and comply with the following minimum standards:
- 6.8.1 General
- The face of the letter of credit must be in a format utilizing Lee County Standard Form and indicate the following:
- 6.9.1.1 The letter of credit is "clean" and "irrevocable";
- 6.9.1.2 An exact expiration date. The life of all letters of credit provided to Lee County shall extend twelve months beyond the date of final payment;
- 6.9.1.3 Statement of the purpose or project for which the letter of credit is issued;
- 6.9.1.4 A specific amount of the letter of credit, in U.S. dollars;
- 6.9.1.5 The method of disbursement of draws against the letter of credit;
- 6.9.1.6 The street address where draws against the letter of credit may be made; and
- 6.9.1.7 Venue in Lee County.
- 6.9.1.8 Verification of the status or certification of any financial institution may be made with:
- Department of Insurance and Treasurer  
Bureau of Collateral Securities  
200 East Gaines Street  
Tallahassee, FL 32377-0345  
Phone (850) 922-3167

Or



Lee County Procurement Management  
1500 Monroe Street, 4<sup>th</sup> Floor  
Fort Myers, FL 33901  
Phone (239) 533-8881

Or

Lee County Risk Management  
2115 Second Street  
Fort Myers, FL 33901  
Phone (239) 533-2221

6.9.1.9 At the time of issuance of the letter of credit, the financial institution must have a minimum “peer group” rating of 50 in the latest Sheshunoff Quarterly Listing or a minimum rating of 125 in the latest IDC Bank Financial Quarterly Listing.

6.9.1.9.1.1.1 5.7.3 Letters of Credit from financial institutions which do not meet either of the minimum ratings indicated above must be confirmed by a financial institution with either of the minimum ratings indicated above.

6.9.1.9.1.1.2 5.7.4 All financial institutions which issue or confirm any Letter of Credit must be authorized by the Secretary of State to do business in the State of Florida, shall show proof of same upon request by COUNTY staff, and agree to venue in Lee County.

6.9.2 In addition to the institutions meeting the aforementioned requirements, the Federal Home Loan Bank of Atlanta is authorized to issue and confirm letters of credit which are in accordance with the provisions above and all subsequent sub-paragraphs.

6.9.3 These actions shall be in effect until a satisfactory replacement bond or letter of credit is accepted by the COUNTY. The CONTRACTOR agreement shall so provide for replacement or confirmation in accordance with this policy.

## **7 Contractor’s Liability Insurance**

7.1 The CONTRACTOR will purchase and maintain such insurance as will protect him from claims under Worker’s Compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees including claims insured by usual personal injury, sickness and disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible

property including loss of use resulting there from any or all of which may arise out of or result from the CONTRACTOR'S operations under the Contract Documents, whether such operations be by himself or any Sub-contractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall be written for no less than the limits of liability specified in the Contract Documents or required by law, whichever is greater, and shall include contractual liability insurance. As a prerequisite to the COUNTY signing the Contract, the CONTRACTOR will file with the COUNTY certificates of such insurance, acceptable to the COUNTY; these certificates shall contain a provision for cancellation.

## 7.2 Insurance Requirements

- 7.2.1 Before final execution of the Agreement and until acceptance of the Work by the COUNTY, the CONTRACTOR shall procure and maintain insurance of the types and the limits specified by the Insurance Guide included in the Solicitation.
- 7.2.2 All CONTRACTOR'S Certificates of Insurance must be approved by the Lee County Risk Manager (or designee) before the final execution of the agreement by the COUNTY.
- 7.2.3 An Insurance Certificate shall be required from the successful BIDDER. Such form must be properly executed and submitted by an authorized representative of the insurance company and successful BIDDER within seven calendar days after notification by Lee County of the Board of County Commissioners' approval to award the contract. Such certificate of insurance state that the coverage is primary, and shall be in the types and amounts stated in the Contract Documents. Certificate should include producers' phone number and reference the name of the project.

## 8 Contractor's Responsibilities

### 8.2 Supervision and Superintendence

- 8.1.1 The CONTRACTOR will supervise and direct the Work efficiently. He will be solely responsible for the means, methods, techniques, sequences, safety, and procedure of construction, unless otherwise specified. The CONTRACTOR will be responsible to see that the finished Work complies with the Contract Documents.
- 8.1.2 The CONTRACTOR will keep on the site at all times when work is being performed, a competent, resident superintendent who shall not be replaced without prior written notice to the OWNER'S REPRESENTATIVE. The superintendent will be the CONTRACTOR'S representative at the site and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be binding as if given to the CONTRACTOR.



## **9 Labor Material and Equipment**

- 9.1 The CONTRACTOR will provide competent, suitable, qualified personnel to lay out the Work and perform construction as required by the Contract Documents. He will at all times maintain good discipline and order at the site.
- 9.2 The CONTRACTOR will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, heat, light, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work unless otherwise specified. All materials and equipment such as concrete pipe, inlets, manhole covers, etc., furnished by the CONTRACTOR shall be made by the same manufacturer, e.g., all pipe by one company, all inlets by one company, etc.
- 9.3 All materials and equipment will be new except as otherwise provided in the Contract Documents. If required by the OWNER'S REPRESENTATIVE, the CONTRACTOR will furnish satisfactory evidence as to the kind and quality of materials and equipment furnished.
- 9.4 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricator or processors except as otherwise provided in the Contract Documents.
- 9.5 In instances where the act is applicable due to the nature of the bid matter with which this bid package is concerned, all material, equipment, etc., as proposed and offered by CONTRACTOR must meet and conform to all O.S.H.A. requirements; the CONTRACTOR'S signature upon the bid proposal form being by this reference considered a certification of such fact.

## **10 Adjusting the Progress Schedule**

- 10.1 The CONTRACTOR shall submit to the OWNER'S REPRESENTATIVE for acceptance of adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the Contract Documents applicable thereto. The COUNTY reserves the right to reject the progress schedule from the CONTRACTOR which in its judgment does not appear to devote sufficient resources of manpower to enable the timely completion of the project. If the COUNTY requests the progress schedule to be adjusted, the CONTRACTOR shall do so and perform the work according to the adjusted schedule at no additional cost to the COUNTY.

## **11 Substitute Materials or Equipment**

- 11.1 If it is indicated in the specifications that the CONTRACTOR may

furnish or use a substitute that is equal to any material or equipment specified, and if the CONTRACTOR wishes to furnish or use a proposed substitute, he will, within thirty calendar days after the award of the Contract, make written application to the OWNER'S REPRESENTATIVE for approval of such a substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the written approval of the COUNTY who shall be the judge of quality. Whether or not the COUNTY accepts a proposed substitute, the CONTRACTOR shall reimburse the COUNTY for any charges or cost for evaluating any proposed substitute.

## **12 Concerning Sub-contractors**

- 12.1 The CONTRACTOR will be fully responsible for all acts and omissions of his SUB-CONTRACTORS and of persons directly or indirectly employed by them and of persons for whose acts they may be liable to the same extent that they are employed by him. Nothing in the Contract Documents shall create any contractual relationship between any SUB-CONTRACTOR and the COUNTY. The COUNTY may, upon request, furnish to any SUB-CONTRACTOR, to the extent practicable, evidence of amounts paid to the CONTRACTOR on account of specific Work done.
- 12.2 The divisions and sections of the specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among SUB-CONTRACTORS or delineating the Work to be performed by any specific trade.
- 12.3 The CONTRACTOR agrees to bind specifically every SUB-CONTRACTOR to the applicable terms and conditions of these Contract Documents for the benefit of the COUNTY.
- 12.4 All Work performed for the CONTRACTOR by a SUB-CONTRACTOR shall be pursuant to an appropriate agreement between the CONTRACTOR and the SUB-CONTRACTOR which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or perils covered by insurance, except such rights as they may have to the proceeds of such insurance held by the COUNTY as trustee.

## **13 Patent Fees and Royalties**

- 13.1 The costs involved in fees, royalties, or claims for any patented invention, article, process or method that may be used upon, or in a manner connected with the work under this contract, shall be paid by the CONTRACTOR. The CONTRACTOR and his sureties, together with his officers, agents, and employees, shall protect and hold the COUNTY harmless against any and all demands made for such fees or claims brought or made by holder of any invention or patent. Before final payment is made on the account of this Contract, the CONTRACTOR shall, if requested by the



COUNTY, furnish acceptable proof of a proper release from all such fees or claims.

- 13.2 Should the CONTRACTOR, his agent, employee, or any of them be enjoined from furnishing or using any invention, article, material or plans supplied or required to be supplied or used under this contract, the CONTRACTOR shall promptly pay such royalties and secure the requisite licenses; or, subject to acceptance by the COUNTY, substitute other articles, materials or appliances in lieu thereof which are of equal efficiency, quality, finish, suitability and market value to those planned or required under the contract. Descriptive information of these substitutions shall be submitted to the OWNER'S REPRESENTATIVE for determination of general conformance to the design concept and the construction contract. Should the COUNTY elect to use the substitution, the CONTRACTOR agrees to pay such royalties and secure such valid licenses as may be requisite for the COUNTY, his officers, agents, and employees, or any of them, to use such invention, article, material, or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof.

#### **14 Permits**

- 14.1 Unless otherwise specified herein, the CONTRACTOR will secure and pay for all permits, impact fees, and licenses and will pay all governmental charges and inspections' fees necessary for the prosecution of the Work which are applicable at the time of his bid. The CONTRACTOR will also pay all public utility charges and connection fees except as provided for in the Contract Documents. Permits and licenses of regulatory agencies which are necessary to be maintained after completion of the guarantee period shall be secured and paid for by the COUNTY.
- 14.2 Pursuant to the requirements of F.S. 218.80, the following County permits and fees are required to be obtained and paid for by the CONTRACTOR.
- 14.2 This is a disclosure of permits and fees, required by Lee County, for this project and does not relieve the contractor of its responsibility to obtain and pay for permits required by other governmental entities as specified elsewhere in this document.
- 14.3 The CONTRACTOR will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Drawings are at a variance therewith, he will give the OWNER'S REPRESENTATIVE prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the OWNER'S REPRESENTATIVE, he will bear all cost arising there from; however, it shall not be his primary responsibility to

make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

**15 Licenses**

15.1 The CONTRACTOR must be properly licensed, within the jurisdiction where the project is to be constructed, to perform the work specified in the Scope of Work at the time of bid submittal.

**16 Use of Premises**

16.1 The CONTRACTOR will confine his equipment, the storage of materials and equipment, and the operations of his workmen to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.

**17 Record Drawings**

17.1 The CONTRACTOR will keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order, and annotated to show all changes made during the construction process or addition and exact location of underground or otherwise concealed components such as, but not limited to, plumbing, air conditioning, electric, culverts, drainage structures, water main, force mains, service lines, wiring, traffic loops, pond or ditch bottoms and banks, signal poles, signs, and conduit which were not installed exactly as shown on the contract drawings. These shall be available to the OWNER'S REPRESENTATIVE and shall be verified by the OWNER'S REPRESENTATIVE at 30%, 60%, and 100% completion of the Project. The CONTRACTOR shall submit to the OWNER'S REPRESENTATIVE one complete set of all recorded changes made during Construction entitled "As-Built", and dated. Submittals shall be made in accordance with the above and shall be submitted at the time of substantial completion.

17.2 The sum of \$5,000.00 shall be withheld from the final payment until written acceptance or all of the Record Drawings by the OWNER'S REPRESENTATIVE has occurred.

17.3 Certified "as-built" information, which the CONTRACTOR must show on marked-up copies of the design drawings, prints, and other materials as specified above shall include both authorized and unauthorized changes to horizontal pavement dimensions, finish pavement grades, finish dimensions, elevations and alignment of the items noted in Article 17.1, and any modifications to material types from that specified in the bid plans and specifications. As a prerequisite to any payments, the CONTRACTOR shall make available to the Engineer all "as-built" information pertinent to the design drawings each month prior to his submission of a monthly application for payment. The CONTRACTOR shall also obtain "as-built" cross-sections of the roadway, ditches, channels, and other drainage ways as shown in the Contract Documents at intervals not to exceed 100 ft. The CONTRACTOR shall set benchmarks on or within 100 ft. of each control structure constructed as part of this project. A complete description including elevation and location of each control



structure benchmark shall be provided to the Engineer as part of the “as-built” information. The elevation shall be clearly and permanently indicated on each benchmark.

- 17.4 “As-built” dimensions and elevations shall be obtained by a Professional Land Surveyor registered in the State of Florida pursuant to Chapter 472, Florida Statutes. The “as-built” drawings shall be signed and sealed by the CONTRACTOR’S Professional Land Surveyor in accordance with Section 472.025, Florida Statutes.
- 17.5 All pertinent surveyors’ field survey notes containing the “as-built” data shall be sealed and submitted to the Engineer for review and acceptance prior to authorization of the final payment.
- 17.6 “As-built” data shall be secured and the accuracy of measurements shall be 0.01 ft.
- 17.7 All sub-surface improvements considered part of the Work as shown in the Contract Documents shall be “as-built” by the CONTRACTOR prior to backfilling.
- 17.8 A final bench level circuit shall be secured indicating accuracy of vertical closure and a copy of these field notes shall be submitted to the Engineer before final acceptance of the project.
- 17.9 The CONTRACTOR shall annotate and show all “as-built” information on 11” x 17” prints of the bid plans during the course of the construction process. Upon completion of all contract work, but prior to authorization of the final payment by the Engineer, the CONTRACTOR shall deliver one (1) set of such annotated, in neat draftsman-like manner, “as-built” 11” x 17” prints to the Engineer for approval. Upon approval of such “as-built” plans, the CONTRACTOR shall forthwith provide two (2) sets of these drawings containing all “as-built” information, a CD of the “as-built” electronic files in AutoCAD or MicroStation format and data which have been sealed by a Professional Land Surveyor by the CONTRACTOR at the CONTRACTOR’S cost and forthwith become the property of the COUNTY.
- 17.10 The cost of preparing, maintaining, and providing “as-built” plans and documents as specified in this Article must be included in the Lump Sum payment for mobilization for each part of the Bid Schedule providing for Mobilization.
- 17.11 Shop drawing submittals processed by the Engineer shall not be construed as Change Orders; the purpose of a shop drawing is to demonstrate to the Engineer that the CONTRACTOR understands the design concept, and that his understanding is demonstrated by indicating the equipment and material to be furnished and installed. Corrections or changes indicated by the Engineer in the shop drawings do not constitute authorization to perform extra work.
- 17.12 The review of shop drawings and schedules shall be considered general and shall not be construed as permitting any departures from the contract requirements. The design drawings and contract specifications shall take precedence over the shop drawings in the event of deviations, discrepancy, or conflict.

## **18 Safety and Protection**

- 18.1 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to:
- 18.1.1 All employees on the Project and other persons who may be affected thereby;
  - 18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
  - 18.1.3 Other property at the site or adjacent thereto including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
  - 18.1.4 The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection and, in addition, he will comply with all applicable recommendations of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, Inc.; "Roadway and Traffic Design Standards" latest edition published by the Florida Department of Transportation, specifically Index 600-650; and Occupational Safety and Health Administration published by the United States Department of Labor. He will notify owners of adjacent utilities when prosecution of the Work may affect them. All damage, injury or loss to any property caused directly or indirectly, in whole or in part by the CONTRACTOR, any SUB-CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable will be remedied by the CONTRACTOR; except any damage or loss attributable to the fault of the Drawings or the Specifications or to the acts or omissions of the COUNTY, and not attributable, directly or indirectly, in whole or in part, to the fault of negligence of the CONTRACTOR.
  - 18.1.5 The CONTRACTOR will designate a member of his organization whose responsibility will be to plan for the prevention of accidents at the site. This person shall be the CONTRACTOR'S Superintendent unless otherwise designated in writing by the CONTRACTOR to the OWNER'S REPRESENTATIVE.



## **19 Emergencies**

19.1 In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the COUNTY, is obligated to act at his discretion to prevent threatened damage, injury or loss. He will give the OWNER'S REPRESENTATIVE prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby. If the COUNTY and the OWNER'S REPRESENTATIVE determine that a change to the Contract Documents is required because of the action taken in response to an emergency, a Field Directive Change or Change Order shall thereupon be issued covering the changes and deviations involved.

## **20 Shop Drawings and Samples**

20.1 After checking and verifying all field measurements, the CONTRACTOR will submit to the OWNER'S REPRESENTATIVE for approval, in accordance with the acceptable schedule of Shop Drawing submission, five copies (or at the option of the OWNER'S REPRESENTATIVE, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the CONTRACTOR and identified as the OWNER'S REPRESENTATIVE may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the OWNER'S REPRESENTATIVE to review the information as required.

20.2 The CONTRACTOR will also submit to the OWNER'S REPRESENTATIVE for approval with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of the CONTRACTOR, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

20.3 At the time of each submission, the CONTRACTOR will in writing call the OWNER'S REPRESENTATIVE'S attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract Documents and, in addition, shall cause a specific notation to be made on each shop drawing submitted for review and approval of each such variation.

20.4 The OWNER'S REPRESENTATIVE will review and approve with reasonable promptness Shop Drawings and Samples, but its review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The approval of a separate item as such will not

indicate approval of the assembly in which the item functions. The CONTRACTOR will make any corrections required by the OWNER'S REPRESENTATIVE and will return the required number of corrected copies of Shop Drawings and re-submit new samples until approved. All cost incurred by the COUNTY for the review of a shop drawing in excess of two reviews shall be the CONTRACTORS responsibility. The CONTRACTOR'S stamp of approval on any Shop Drawing or sample shall constitute a representation to the OWNER'S REPRESENTATIVE that the CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Document.

- 20.5 No work requiring a Shop Drawing or sample submissions shall be commenced until the submission has been approved by the OWNER'S REPRESENTATIVE. Any related Work performed prior to review and approval by the COUNTY of the pertinent submission will be the sole expense and responsibility of the CONTRACTOR. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the OWNER'S REPRESENTATIVE.
- 20.6 The OWNER'S REPRESENTATIVE approval of Shop Drawings or samples shall not relieve the CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents, unless the CONTRACTOR has in writing called the OWNER'S REPRESENTATIVE attention to such deviation at the time of submission and the COUNTY and the OWNER'S REPRESENTATIVE have given written approval to the specific deviation; nor shall any approval by the OWNER'S REPRESENTATIVE relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.
  - 20.6.1 The CONTRACTOR shall, upon completion of the work, furnish to the Engineer two (2) complete sets of prints, neatly bound together, and in good condition, of all the CONTRACTOR'S, Subcontractors' and manufacturers' drawings as finally checked and reviewed by the Engineer with all modifications accepted by the Engineer subsequent thereto, showing the work as actually completed. Such "as-built" information for bridges, culverts, and similar structures shall also be provided by the CONTRACTOR.

## **21 Indemnification**

- 21.1 The CONTRACTOR shall indemnify, save harmless and defend the COUNTY and all of its officers, agents, consultants and employees from and against all



losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act or omission of the CONTRACTOR, his agent, consultants, employees, sub-contractors etc., in the execution of the work or in consequence of any negligence or carelessness in guarding the same and agrees to assume any related cost.

- 21.2 The CONTRACTOR shall assume all risk and bear any loss or injury to property or persons occasioned by neglect or accident during the progress of work until the same shall have been completed and accepted. The CONTRACTOR agrees to repair, restore or rebuild any damages he causes to any property of the COUNTY. He shall also assume all blame or loss by reason of neglect or violation of any state or federal law or municipal rule, regulation or order. The CONTRACTOR shall give to the proper authorities all required notices relating to the work, obtain all official permits and licenses and pay all proper fees. He shall repair any damage that may have occurred to any adjoining building, structure, utility or private property in the course of this work.

## **22 Cleaning Up**

- 22.1 The CONTRACTOR will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the COUNTY. The CONTRACTOR will restore to their original condition those portions of the site not designated for alteration by the Contract Documents.
- 22.2 If the CONTRACTOR fails to clean up as provided in the Contract Documents, the COUNTY may do so and the cost thereof shall be deducted from the final retainage due the CONTRACTOR.

## **23 Continuing the Work**

- 23.1 The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes and disagreements with the COUNTY. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted (The COUNTY May Stop Work) or as the CONTRACTOR and the COUNTY may otherwise agree in writing.

## **24 Anti-Discrimination**

- 24.1 The CONTRACTOR for itself, its successors in interest, and assignees, as part of the consideration thereof covenant and agree that:
- 24.2 In the furnishing of services to the COUNTY hereunder, no person on the grounds of race, religion, color, age, sex, national origin, handicap or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- 24.3 The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, national origin, handicap or marital status. The CONTRACTOR will make affirmative efforts to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, age, sex, national origin, handicap or marital status. Such action shall include, but not be limited to, acts of employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships.
- 24.4 CONTRACTOR agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this anti-discrimination clause.
- 24.5 CONTRACTOR will provide all information and reports required by relevant regulations and/or applicable directives. In addition, the CONTRACTOR shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY to be pertinent to ascertain compliance. The CONTRACTOR shall maintain and make available relevant data showing the extent to which members of minority groups are beneficiaries under these contracts.
- 24.6 Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR shall so certify to the COUNTY its efforts made toward obtaining said information. The CONTRACTOR shall remain obligated under this paragraph until the expiration of three years after the termination of this CONTRACT.
- 24.7 In the event of breach of any of the above anti-discrimination covenants, the COUNTY shall have the right to impose sanctions as it may determine to be appropriate, including withholding payment to the CONTRACTOR or canceling, terminating or suspending this CONTRACT, in whole or in part.
- 24.8 Additionally, the CONTRACTOR may be declared ineligible for further COUNTY contracts by rule, regulation or order of the Board of County



Commissioners of Lee County, or as otherwise provided by law.

- 24.9 The CONTRACTOR will send to each labor union, or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other contract of understanding, a notice informing the labor union or worker's representative of the CONTRACTOR'S commitments under this assurance, and shall post copies of the notice in conspicuous places available to the employees and the applicants for employment.
- 24.10 The CONTRACTOR will include the provisions in every sub-contract under this contract to insure its provisions will be binding upon each Sub-contractor. The CONTRACTOR will take such action with respect to any Sub-contractor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

**25 Work by Others**

- 25.1 The COUNTY may perform additional Work related to the Project by itself, or it may let other direct contracts which shall contain General Conditions similar to these.
- 25.2 The CONTRACTOR will afford the other Contractors who are parties to such direct contracts (or the COUNTY, if it is performing the additional Work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of the Work, and shall properly connect and coordinate his work with theirs. Should the Contract entail relocation of facilities not a part of this Contract, the CONTRACTOR will coordinate and cooperate with the applicable entity responsible for this portion of the Work.
- 25.3 Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners at their expense, unless otherwise provided in the Contract. It is understood and agreed that the CONTRACTOR has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the plans and that no additional compensation will be allowed for any delays, inconveniences, or damage sustained to him due to any interference from the said utility appurtenances or the operation of moving them. If any part of the CONTRACTOR'S work depends (for proper execution)

upon the Work of any such other Contractor (or the COUNTY), the CONTRACTOR will inspect and promptly report to the OWNER'S REPRESENTATIVE in writing, any defects, deficiencies or delays in such Work that render it unsuitable for such proper execution and results. His failure to report shall constitute an acceptance of the Work, except as to defects, deficiencies and delays which may appear in the other Work after the execution of his Work.

25.4 The CONTRACTOR will do all cutting, fitting and patching of his Work, which is consistent with the Contract Documents that may be required to make its several parts come together properly and fit it to receive or be received by such other Work. The CONTRACTOR will not endanger any Work of others by cutting, excavating or otherwise altering such other Work and will only cut or alter such other work with the written consent of the OWNER'S REPRESENTATIVE.

25.5 If the performance of additional Work by other Contractors or the COUNTY is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional Work.

25.6 The CONTRACTOR shall be responsible for coordination with all activities with adjacent projects.

## **26 Owner's Representative Status During Construction**

### **26.1 County's Representatives**

26.1.1 The COUNTY shall issue all communications to the CONTRACTOR through the OWNER'S REPRESENTATIVE.

### **26.2 Clarifications and Interpretations**

26.2.1 The OWNER'S REPRESENTATIVE will issue with reasonable promptness, through the COUNTY, such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as the COUNTY may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, the CONTRACTOR may make a claim.



## 26.3 Authorized Variations in Work

26.3.1 The OWNER'S REPRESENTATIVE may authorize, with prior approval from the COUNTY minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Change Order and the CONTRACTOR shall perform the Work involved promptly. If the CONTRACTOR believes that a Field Change Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, the CONTRACTOR may make a claim.

## 27. Changes in Work

- 27.1 Without invalidating the Agreement, the COUNTY may unilaterally and at any time or from time to time order additions, deletions or revisions in the Work; these will be authorized by Change Orders or Field Directive Change. Upon receipt of a Change Order or Field Directive Change, the CONTRACTOR will proceed with the Work involved.
- 27.2 All such Work shall be executed under the applicable conditions of the Contract Documents.
- 27.3 If any Change Order or Field Directive Change causes an increase or decrease in the Contract Price or any extension or shortening of the Contract Time, an equitable adjustment will be made.
- 27.4 Additional Work performed by the CONTRACTOR without written authorization of a change in the form of an approved Change Order will not entitle him to an increase in the Contract Price or any extension of the Contract Time, except in the case of an emergency.
- 27.5 It is the CONTRACTOR'S responsibility to notify the Surety of any changes affecting the general scope of the Work or change of the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The Surety's Acceptance must be submitted to the OWNER'S REPRESENTATIVE, by the CONTRACTOR, within ten calendar days of the initiation of the change.

## 28 Change of Contract Price

- 28.1 The Contract Price constitutes the total compensation payable to the CONTRACTOR for performing the Work. All duties,

responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at his expense without change in the Contract Price.

- 28.2 The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be in writing and delivered to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty calendar days after such occurrence (unless COUNTY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR'S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR has reason to believe it is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance. All claims for adjustment in the Contract Price shall be reviewed by the OWNER'S REPRESENTATIVE. Any change in the Contract Price shall be incorporated in a Change Order and approved by the COUNTY. No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.
- 28.3 Where the Work involved is covered by unit prices contained in the Contract Documents or subsequently agreed upon, by application of unit prices to the quantities of the items involved.
- 28.4 By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
- 28.5 By cost of the Work and mutually acceptable fixed amount for overhead and profit agreed upon by the parties.
- 28.6 If none of the above methods is agreed upon, the value shall be determined by the COUNTY on the basis of cost of the Work and a percentage for overhead and profit. Cost shall only include labor (payroll, payroll taxes, fringe benefits, worker's compensation, etc.), materials, equipment, and other incidentals directly related to the Work involved.
- 28.7 In such cases the CONTRACTOR will submit in the form prescribed by the COUNTY an itemized cost breakdown together with supporting data. The amount of credit to be allowed by the CONTRACTOR to the COUNTY for any such change which results



in a net decrease in cost will be the amount of the actual net decrease as determined by the COUNTY. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net decrease, if any.

## **29 Cash Allowance**

29.1 It is understood that the CONTRACTOR has included in the Contract Price any allowances so named in the Contract Documents and shall cause the Work so covered to be done by such materialmen, suppliers, or SUB-CONTRACTORS and for such sums within the limit of the allowances as the COUNTY may approve. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. The CONTRACTOR agrees that the original Contract Price includes such sums as he deems proper for cost and profit on account of cash allowances. No demand for an additional sum for overhead or profit in connection therewith will be allowed.

### **29.2 Unit Price Work**

29.2.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price.

29.2.2 Each unit price will be deemed to include an amount considered by the CONTRACTOR to be adequate to cover the CONTRACTOR'S overhead and profit for each separately identified item.

29.2.3 The unit price of an item of Unit Price Work shall be subject to revaluation and adjustment under the following conditions:

29.2.3.1 If the total cost of a particular item of Unit Price Work amounts to 5% or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by the CONTRACTOR differs by more than 15% from the estimated quantity of such item indicated in the Agreement; and,

- 29.2.3.2 If there is no corresponding adjustment with respect to any other item of Work; and
- 29.2.3.3 If the CONTRACTOR believes that it has incurred additional expense as a result thereof; or
- 29.2.3.4 If the COUNTY believes that the quantity variation entitles it to an adjustment in the unit price, either the COUNTY or the CONTRACTOR may make a claim for an adjustment in the Contract Price if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

### **30 Change of Contract Time**

- 30.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be in writing and delivered to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and stating general nature of the claim. Notice of the extent of the claim with supporting data (analysis and documentation) shall be delivered within sixty calendar days after such occurrence (unless the OWNER'S REPRESENTATIVE allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR'S written statement that the adjustment claimed is the entire adjustment to which the CONTRACTOR has reason to believe it is entitled as a result of the occurrence of said event. If adverse weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that the weather conditions had an adverse effect on the scheduled construction. No claim by the CONTRACTOR under this provision shall be allowed unless the CONTRACTOR has given the notice and the analysis and documentation required in this paragraph. All claims for adjustment in the Contract Time shall be determined by the OWNER'S REPRESENTATIVE. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 30.2 The COUNTY shall not be responsible for any delay in the completion of the project where the delay is beyond the control or without fault or negligence on behalf of the COUNTY. The COUNTY shall not be held accountable for extra compensation or an



extension of time due to default by the CONTRACTOR, SUB-CONTRACTORS, or suppliers in the furnishing of labor or materials for the project, or having to replace defective materials.

- 30.3 The CONTRACTOR shall be entitled to a claim for an extension of time when a delay or hindrance is caused by an act of God, or any act or omission on the part of the COUNTY, provided the CONTRACTOR gives notice to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and having stated the general nature of the claim. The CONTRACTOR'S sole remedy shall be an extension of Contract Time.
- 30.4 No extension of Contract Time or increases in Contract Price shall be granted for any delay caused either by (1) inadequate crewing, default or bankruptcy of lower tier contract, slow submittals, etc., or (2) by severe though not unusual weather conditions (other than hurricanes and tornadoes) or (3) any delay impacting a portion of the Work within the available total float or slack time and not necessarily preventing completion of the Work within the Contract Time unless otherwise agreed to by the COUNTY in its sole discretion or (4) for any delay which is caused by the CONTRACTOR having to replace defective material or equipment or (5) delays attributable to the lack of performance by Sub-contractors regardless of the reasons.
- 30.5 All time limits stated in the Contract Documents are of the essence of the Agreement. Shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court cost) for delay by either party.

### **31 Warranty and Guarantee: Acceptance of Defective Work**

#### **31.1 Warranty and Guarantee**

31.1.1 The CONTRACTOR warrants and guarantees to the COUNTY that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects and in accordance with the requirements of the Contract Documents and any inspections, test or approvals referred to in this Article. All unsatisfactory Work, all faulty Work, and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided

herein. Contractor is to assign any and all warranties or guarantees on equipment, materials, etc. to the COUNTY.

## 31.2 Tests and Inspections

31.2.1 If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the OWNER'S REPRESENTATIVE forty-eight (48) hours' notice of readiness therefore. The CONTRACTOR will furnish the OWNER'S REPRESENTATIVE with the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organizations as may be required by law or the Contract Documents. If any such Work required to be inspected, tested or approved is covered without written approval of the OWNER'S REPRESENTATIVE, it shall, if requested by the OWNER'S REPRESENTATIVE, be uncovered for observation at the CONTRACTOR'S expense. The cost of all such inspections, tests and approvals shall be borne by the CONTRACTOR unless otherwise provided.

31.2.2 Project field testing of materials required by the specifications or the OWNER'S REPRESENTATIVE shall be provided by and at the expense of the COUNTY. The CONTRACTOR shall coordinate and schedule the required testing. The Contractor shall pay for all retests when the initial test result reveals that the materials failed to meet the requirements of the specifications. The CONTRACTOR shall notify the OWNER'S REPRESENTATIVE twenty-four (24) hours prior to conducting any test so the OWNER's REPRESENTATIVE may be present.

31.2.3 The OWNER'S REPRESENTATIVE shall have the right to require all materials to be submitted to tests prior to incorporation in the Work. In some instances, it may be expedient to perform these tests at the source of supply, and for this reason, it is required that the CONTRACTOR furnish the OWNER'S REPRESENTATIVE with the information concerning the location of his source before incorporating material into the Work. This does not in any way obligate the OWNER'S REPRESENTATIVE to perform tests for



acceptance of material and does not relieve the CONTRACTOR of his responsibility to furnish satisfactory material. The CONTRACTOR shall furnish manufacturer's certificates of compliance with these specifications covering manufactured items incorporated in the Work.

31.2.4 Neither observations by the OWNER'S REPRESENTATIVE, nor inspections, tests or approvals by persons other than the CONTRACTOR shall relieve the CONTRACTOR from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

31.2.5 Testing/Permits: The CONTRACTOR shall be responsible for performing any testing and the cost for all items that may be required as part of the NPDES, FDEP, USACOE and SFWMD permits.

## **32 Close Out Procedure**

### **32.1 General Operating/Maintenance Instructions & Manuals**

32.1.1 The CONTRACTOR shall organize maintenance operating manual information into four suitable sets of manageable size, and bind into individual binders properly identified and indexed (thumb-tabbed). Emergency instructions, spare parts listing, warranties, wiring diagrams, recommended "turn around" cycles, inspection procedures, shop drawings, product data, and similar acceptable information shall be included. The CONTRACTOR shall bind each manual of each set in a heavy duty, 3-ring vinyl covered binder, and include pocket folders for folded sheet information. Mark identification on both front and spine of each binder.

32.1.2 Arrange for each installer of work requiring continuing maintenance (by the OWNER) or operation, to meet with the OWNER'S personnel, at the project site, to provide basic instructions needed for proper operation and maintenance of the entire work. Include instructions by manufacturer's representatives where installers are not expert in the required procedures. Review maintenance manuals, record documentation, tools, spare parts and materials, lubricants, fuels, identification system, control sequences, hazards, cleaning and similar procedures and facilities. For operational equipment, demonstrate start-up, shut-down,

emergency operations, noise and vibration adjustments, safety, economy/efficiency adjustments, and similar operations. Review maintenance and operations in relation with applicable guaranties, warranties, agreements to maintain, bonds, and similar continuing commitments.

### **33 Access to the Work**

- 33.1 The COUNTY and the OWNER'S REPRESENTATIVE shall at all times have access to the Work. The CONTRACTOR shall provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

### **34 Uncovering the Work**

- 34.1 If any work has been covered which the OWNER'S REPRESENTATIVE has not specifically requested to observe prior to its being covered, or if the OWNER'S REPRESENTATIVE considers it necessary or advisable that covered Work be inspected or tested by others, the CONTRACTOR, at the OWNER'S REPRESENTATIVE'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the OWNER'S REPRESENTATIVE may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the CONTRACTOR will bear all the expense of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If, however, such Work is not found to be defective, the CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction, if he makes a claim therefore.

### **35 County May Stop Work**

- 35.1 If the Work is defective, if the CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, or if the CONTRACTOR fails to make prompt payments to SUB-CONTRACTORS for labor, materials or equipment: the COUNTY may order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the COUNTY to stop the work shall not give rise to any duty on the part of the COUNTY to exercise this right for the benefit of the CONTRACTOR or any other party.
- 35.2 Notwithstanding Paragraph 35.1, the COUNTY may also issue a Stop Work Order for the following reasons:
- 35.2.1 Insufficient Maintenance of Traffic practices.
  - 35.2.2 Failure to comply with permits regarding pollution control.
  - 35.2.3 Insufficient construction materials or methods.



- 35.2.4 Failure to provide a safe working environment in accordance with the US Department of Labor Occupational Safety and Health Administration (OSHA).
- 35.3 Upon notice of the Stop Work Order, the CONTRACTOR shall cease all contracted work except for the activities required to correct the problem and as directed by the COUNTY.
- 35.4 If the CONTRACTOR fails to correct the problem causing the Stop Work Order and there is immediate threat to the public's health, safety, or environmental protection, the COUNTY may perform any remedial activities necessary to protect the public and environment. Any costs incurred by the County in the performance of this work shall be deducted from monies due the Contractor or paid by the Contractor to the County.
- 35.5 No increase in the Contract Price or extension of the Contract Time will be granted for any delays or loss of time due to a Stop Work Order.

### **36 Correction of Removal of Defective Work**

- 36.1 If required by the OWNER'S REPRESENTATIVE prior to approval of final payment, the CONTRACTOR will, promptly, without cost to the COUNTY and as specified by the OWNER'S REPRESENTATIVE, either correct any defective Work whether or not fabricated, installed or completed or, if the Work has been rejected by the OWNER'S REPRESENTATIVE, remove it from the site and replace it with non-defective Work. If the CONTRACTOR does not correct such defective Work or remove and replace such rejected Work within ten calendar days, all as specified in a written notice from the OWNER'S REPRESENTATIVE, the OWNER'S REPRESENTATIVE may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement shall be paid by the CONTRACTOR. The CONTRACTOR will also bear the expense of making good all Work of others destroyed or damaged by his correction, removal or replacement of his defective Work.

### **37 One Year Correction Period**

- 37.1 If, after the approval of the final payment and prior to the expiration of one year after the date of Final Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, the CONTRACTOR will promptly, without cost to the COUNTY, and in accordance with the OWNER'S REPRESENTATIVE'S written instructions, either correct such defective Work or, if it has been rejected by the OWNER'S

REPRESENTATIVE, remove it from the site and replace it with non-defective Work. If, within seven calendar days, the CONTRACTOR does not comply with the terms of such instructions, the Bonding Company shall be notified of default and requested to make repairs or replacement, the COUNTY may have the defective Work corrected or the rejected Work removed and replaced. All direct and indirect costs of such removal and replacement shall be paid by the CONTRACTOR.

### **38 Acceptance of Defective Work**

- 38.1 If, instead of requiring correction or removal and replacement of defective Work, the COUNTY prefers to accept it, the COUNTY may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the appropriate revisions to the Contract Documents including an appropriate reduction in the Contract Price. If the acceptance occurs after approval of the final payment, an appropriate amount shall be paid by the CONTRACTOR to the COUNTY.

### **39 Neglected Work By Contractor**

- 39.1 If the CONTRACTOR should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the COUNTY may, after three calendar days written notice to the CONTRACTOR and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the CONTRACTOR. A Change Order shall be issued incorporating the appropriate revision to the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due the CONTRACTOR are not sufficient to cover such amount, the CONTRACTOR shall pay the difference to the COUNTY.

### **40 Payment and Completion**

- 40.1 Schedule of Values
- 40.1.1 Within ten (10) calendar days after the effective date of the Agreement, the CONTRACTOR must submit a schedule of values of the Work including quantities and unit prices totaling to the Contract Price. This schedule shall be satisfactory in form and substance to the COUNTY and shall subdivide the Work into sufficient detail to serve as the basis for progress payments during construction. Upon approval of the schedule of values by the OWNER'S REPRESENTATIVE, it shall be incorporated into the Estimate and Requisition for Payment prescribed by the COUNTY. Unit Price Contracts shall have the bid proposal



prices incorporated into the Estimate and Requisition for Payment.

**40.2 Application for Progress Payment**

40.2.1 Bid proposal units and unit prices shall serve as the basis for progress payments during construction. The bid proposal process shall be incorporated into the Estimate and Requisition for Payment Form No. CSD:505(4) prescribed by the COUNTY.

40.2.2 Not more often than once a month, nor less often than specified in the approved payment schedule, and on a date established at the Project Pre-Construction Conference, the CONTRACTOR will submit to the OWNER'S REPRESENTATIVE for review the Estimate and Requisition for Payment form filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Application and supported by such data as the OWNER'S REPRESENTATIVE may reasonably require. Also, if payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by such supporting data, satisfactory to the OWNER'S REPRESENTATIVE, as will establish the COUNTY'S title to the material and equipment and protect its interest therein, including applicable insurance. All progress payments will be subject to the retainage percentage specified in the Contract Documents. Such retainage shall be paid and will be issued in the final payment after acceptance by the COUNTY of the Work.

**41 Contractor's Warranty of Title**

41.1 The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an application for progress payment, whether incorporated in the Project or not, will be passed to the COUNTY prior to the next making of application for progress payment, free and clear of all liens, claims, security interest and encumbrances; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the CONTRACTOR or by any other person performing the Work at the site or furnishing materials and equipment for the Project subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.

**42 Approval of Payments**

42.1 The OWNER'S REPRESENTATIVE will, within ten calendar days after receipt of each Application for Payment, either indicate his

approval of payment and deliver the application to the COUNTY or return the Application to the CONTRACTOR indicating in writing the reason for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and re-submit the Application. The COUNTY will, within five calendar days after receipt of each approved application for payment, either indicate their approval of payment, and within fifteen calendar days pay the CONTRACTOR the amount approved, or return the application to the CONTRACTOR thru the OWNER'S REPRESENTATIVE indicating in writing the reason for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the application to the OWNER'S REPRESENTATIVE.

- 42.2 The OWNER'S REPRESENTATIVE'S approval of any payment requested in an Application for Payment shall constitute a representation by him to the COUNTY, based on the OWNER'S REPRESENTATIVE'S on-site observations of the Work in progress and on his review of the Application for Payment and the supporting data that the CONTRACTOR is entitled to payment of the amount approved.
- 42.3 The OWNER'S REPRESENTATIVE'S approval of final payment shall constitute an additional representation by him to the COUNTY that the conditions precedent to the CONTRACTOR'S being entitled to final payment as set forth have been fulfilled.
- 42.4 The OWNER'S REPRESENTATIVE may refuse to approve the whole or any part of any payment if in his opinion; he is unable to make such representations to the COUNTY. He may then refuse to approve any such payment because of subsequently discovered evidence or the results of subsequent inspections or test, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect the COUNTY from loss because:
  - 42.4.1 The Work is defective;
  - 42.4.2 A portion of such payment is the subject of a dispute or claim that has been filed;
  - 42.4.3 The Contract Price has been reduced because of Modifications;
  - 42.4.4 The COUNTY has been required to correct defective Work or complete the Work, or of unsatisfactory prosecution of the Work, including failure to clean up as required.

### **43 Substantial Completion**

- 43.1 Prior to final payment, the CONTRACTOR shall, in writing to the OWNER'S REPRESENTATIVE, certify that the entire Project is substantially complete and request that the OWNER'S REPRESENTATIVE issue a Certificate of Substantial Completion. Within fourteen calendar days thereafter, the OWNER'S REPRESENTATIVE and the CONTRACTOR will make an



inspection of the Project to determine the status of completion. If the COUNTY does not consider the Project substantially complete, it will notify the CONTRACTOR in writing giving the reasons therefore. If the COUNTY considers the Project substantially complete, a Certificate of Substantial Completion will be issued. This certificate shall fix the date of Substantial Completion and the responsibilities between the COUNTY and the CONTRACTOR for maintenance, heat and utilities. The Certificate of Substantial Completion will also include a punch list of items to be completed or corrected, said time to be within the Contract Time. The COUNTY shall have the right to exclude the CONTRACTOR from the Project after the date of Substantial Completion but the COUNTY will allow the CONTRACTOR reasonable access to complete items on the punch list.

#### **44 Partial Utilization**

- 44.1 Prior to final payment, the OWNER'S REPRESENTATIVE may request the CONTRACTOR to permit the use of a specified part of the Project which the COUNTY believes it may use without significant interference with construction of the other parts of the Project. If the CONTRACTOR agrees, he will certify to the OWNER'S REPRESENTATIVE that said part of the Project is substantially complete and request the OWNER'S REPRESENTATIVE to issue a Certificate of Substantial Completion for that part of the Project. Within fourteen calendar days thereafter, the OWNER'S REPRESENTATIVE and the CONTRACTOR will make an inspection of that part of the Project to determine its status of completion. If the COUNTY considers that part of the Project to be substantially complete, the OWNER'S REPRESENTATIVE will deliver to the CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, and listing the punch list of items to be completed or corrected before final payment and fixing the responsibility between the COUNTY and the CONTRACTOR for maintenance, heat and utilities as to that part of the Project. The COUNTY shall have the right to exclude the CONTRACTOR from any part of the Project which is so certified to be substantially complete but the COUNTY will allow the CONTRACTOR reasonable access to complete or correct items on the punch list.

#### **45 Final Inspection**

- 45.1 Upon written notice from the CONTRACTOR that the Project is complete, the OWNER'S REPRESENTATIVE will make a final inspection with the CONTRACTOR and will notify the

CONTRACTOR in writing of any particulars which this inspection reveals that the Work is defective. The CONTRACTOR shall immediately make such corrections as are necessary to remedy the defects within a reasonable time.

#### **46 Final Inspection for Payment**

- 46.1 After the CONTRACTOR has completed any such corrections to the satisfaction of the OWNER'S REPRESENTATIVE and delivered all maintenance and operating instructions, schedules, guarantees, bonds, Certificates of Inspection and other documents as required by the Contract Documents, he may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by legally effective final releases or waivers of liens from the CONTRACTOR and all SUB-CONTRACTORS which performed services for the CONTRACTOR pursuant to the Contract Documents and the consent of surety, if applicable to final payment.

#### **47 Approval of Final Payment**

- 47.1 If, on the basis of its observations and review of the Work during construction, its final inspection and its review of the final Estimate and Requisition for Payment, all as required by the Contract Documents, the OWNER'S REPRESENTATIVE is satisfied that the Work has been completed and the CONTRACTOR has fulfilled all of his obligations under the Contract Documents, it will, within ten calendar days after receipt of the final Application for Payment, indicate in writing its approval of payment and deliver the application to the COUNTY. Otherwise, it will return the Application to the CONTRACTOR, indicating in writing its reason for refusing to approve final payment, in which case the CONTRACTOR will make the necessary corrections and re-submit the Application. The COUNTY will, within fifteen calendar days after receipt of approved application for final payment, either indicate their approval of the estimate and requisition application for payment and within fifteen calendar days pay the CONTRACTOR the amount approved by the COUNTY and issue a Certificate of Final Completion or return the application thru the OWNER'S REPRESENTATIVE indicating in writing the reason for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the application to the OWNER'S REPRESENTATIVE.
- 47.2 If, after substantial Completion of the Work, final completion is materially delayed through no fault of the CONTRACTOR, and the OWNER'S REPRESENTATIVE so confirms, the COUNTY shall and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if



bonds have been furnished as required, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the OWNER'S REPRESENTATIVE, prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

- 47.3 If liquidated damages are to be deducted from the final payment, the COUNTY shall so notify the CONTRACTOR in writing at least seven calendar days prior to the COUNTY'S submittal to Finance.
- 47.4 The Contractor will be required to submit with his final payment documents a DBE Participation Certification, indicating all DBE sub-contractor(s) and amount(s) utilized for the project.
- 47.5 If the CONTRACTOR did not utilize the DBE firm(s) listed on the Bid Proposal, a letter of justification, as to why shall be submitted along with the DBE Participation Certification.
- 47.6 At the final completion of the construction project if the county project manager experienced problems with the CONTRACTOR the project manager will prepare a Contractor Performance Evaluation, and forward to the Contractor for review, comment and signature.
- 47.7 Upon receipt of the Contractor Performance Evaluation the CONTRACTOR will have seven calendar days, from the date received, to review, comment, sign and return back to the project manager. If the evaluation has not been received back from the CONTRACTOR within the seven calendar days, the COUNTY will assume the CONTRACTOR fully agrees with and has no comments to the evaluation. The evaluation will then be placed on file with Lee County Procurement Management.

#### **48 Contractor's Continuing Obligation**

- 48.1 The CONTRACTOR'S obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the COUNTY, the issuance of the Certificates of Completion, any payment by the COUNTY to the CONTRACTOR under the Contract Documents, any use or occupancy of the Project or any part thereof by the COUNTY, any act of acceptance by the COUNTY, any failure to do so, nor any correction of defective Work by the COUNTY shall constitute an acceptance of Work not in accordance with the Contract Documents.

#### **49 Waiver of Claims**

- 49.1 The making and acceptance of final payment shall constitute:
  - 49.1.1 A waiver of all claims by the COUNTY against the CONTRACTOR other than those arising from unsettled liens, from defective Work appearing after final payment or

- from failure to comply with the requirements of the Contract Documents, or from the terms of any special guarantees specified therein, and,
- 49.1.2 A waiver of all claims by the CONTRACTOR against the COUNTY other than those previously made in writing and still unsettled.

## **50 Suspension of Work and Termination**

### **50.1 County May Suspend Work**

- 50.1.1 The COUNTY may at any time and without cause suspend the Work or any portion thereof for a period of not more than ninety calendar days by notice in writing to the CONTRACTOR. The COUNTY shall fix the date on which Work shall be resumed and the CONTRACTOR will resume the Work on the date so fixed. The CONTRACTOR will be allowed an increase in the Contract Price, an extension of the Contract Time or both, if such increases are justified and directly attributable to any COUNTY suspension and if he makes a claim thereof.

## **51 County May Terminate**

- 51.1 If the CONTRACTOR is adjudged bankrupt or insolvent, if he makes a general assignment for the benefit of his creditors, if a trustee or receiver is appointed for the CONTRACTOR or for any of his property, if he files a petition to take advantage of any debtor's act or reorganizes under the bankruptcy or similar laws, if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, if he repeatedly fails to make prompt payments to SUB-CONTRACTORS for labor, materials or equipment, if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, if he disregards the authority of the OWNER'S REPRESENTATIVE, or if he otherwise substantially violates any provisions of the Contract Documents, then the COUNTY may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety seven (7) calendar days' written notice, terminate the services of the CONTRACTOR and take possession of the Project and all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR and finish the Work by whatever method the COUNTY may deem expedient or arrange with the Surety to complete the project. The CONTRACTOR, if notified by the COUNTY to do so, shall promptly remove any part of his equipment and supplies from the property of the COUNTY; failing, the COUNTY shall have the right to remove such equipment and supplies at the expense of the CONTRACTOR.
- 51.2 In such case the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of



the Contract Price exceeds the direct and indirect cost of completing the Project, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such cost exceeds such unpaid balance, the CONTRACTOR will pay the difference to the COUNTY. Such cost incurred by the COUNTY will be determined by the COUNTY and incorporated in a Change Order.

- 51.3 Where the CONTRACTOR'S services have been so terminated by the COUNTY, said termination shall not affect any rights of the COUNTY against the CONTRACTOR then existing or which may thereafter accrue.
- 51.4 If so terminated, any retention or payment of monies by the COUNTY due the CONTRACTOR will not release the CONTRACTOR from liability accruing under this Contract.
- 51.5 If after notice of termination of the CONTRACTOR'S right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued.
- 51.6 Upon thirty (30) calendar days' written notice to the CONTRACTOR, the COUNTY may without cause and without prejudice to any other right or remedy elect to abandon the Project and terminate the Agreement. In such case the CONTRACTOR shall be paid for all Work executed and any expense sustained plus a reasonable profit.

## **52 Contractor May Stop Work or Terminate The Contract**

- 52.1 If through no fault of the CONTRACTOR, or a Sub-contractor, or their agents or employees or any other persons performing portions of the Work under Contract with the CONTRACTOR, the WORK is suspended for a period of more than ninety calendar days by the COUNTY or under an order of court or other public authority, or the OWNER'S REPRESENTATIVE has not issued a certificate for payment and has not notified the CONTRACTOR of the reason for withholding certification or because the COUNTY has not made payment on a certificate for payment within the time stated in the Contract Documents, then the CONTRACTOR may, upon seven calendar days written notice to the COUNTY and the OWNER'S REPRESENTATIVE, terminate the Agreement and recover from the COUNTY payment for all Work executed and proven loss with respect to materials, equipment, tools and construction equipment and machinery, including reasonable overhead, profit and damages.
- 52.2 In addition and in lieu of terminating the Agreement, if the OWNER'S REPRESENTATIVE has failed to act on an application

for payment or the COUNTY has failed to make any payment as aforesaid, the CONTRACTOR may upon seven calendar days written notice to the COUNTY and the OWNER'S REPRESENTATIVE stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve the CONTRACTOR of the obligation to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with the COUNTY.

## **53 Miscellaneous**

### **53.1 General**

53.1.1 All Specifications, Drawings and copies thereof furnished by the COUNTY, to the CONTRACTOR, shall remain the COUNTY'S property. They shall not be used on another Project.

53.1.2 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warrants, guarantees and obligations imposed upon the CONTRACTOR and the rights and remedies available to the COUNTY thereunder shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.

53.1.3 Should the COUNTY or the CONTRACTOR suffer injury or damage to its person or property because of any error, omission or act of the other or any of his employees, agents, or others for whose acts he is legally liable, claim should be made in writing to the other party within seven calendar days of the first observance of such injury or damage.

53.1.4 The Contract Documents shall be governed by the laws of the State of Florida, the County of Lee, and the municipality in which the project is being done.

53.2 Right-of-Way Station Boards: The CONTRACTOR must establish and maintain throughout construction the right-of-way station boards at every even station within ten (10) days after the Notice to Proceed to assist and expedite construction and utility coordination. No additional compensation or separate pay item will be made for this work.

53.3 Abbreviations: Reference in the technical specifications to the specifications or requirements of technical societies, associated organization, or bodies shall mean their most current specifications. These groups are identified in the technical specifications.

53.4 Use of Public Streets: The use of public streets and roads shall be such as to minimize any inconvenience to the public and to other traffic. Any earth or other excavation materials spilled from trucks shall be removed by the CONTRACTOR and the streets and roads shall be cleaned by the CONTRACTOR to the satisfaction of the



COUNTY.

- 53.5 Damage to Existing Property, Structures and Utilities: The CONTRACTOR shall be held responsible for and shall repair all damage to pavement beyond the limits of the contract or outside the right-of-way. Also, the CONTRACTOR shall repair if damaged buildings, telephone or other cables, poles, signs, mailboxes, irrigation piping, water pipes, sanitary pipes, or other structures which may be encountered, whether or not they are shown on the Drawings. Information shown on the Drawings as to the location of existing utilities has been prepared from the most reliable data available to the Engineer. However, this information is not guaranteed, and it shall be the CONTRACTOR'S responsibility to determine the location, character, and depth of any existing utilities. The CONTRACTOR shall assist the utility companies, by every means possible, to determine said locations. The CONTRACTOR shall exercise extreme caution to eliminate any possibility of any damage to utilities resulting from his activities.
- 53.5.1 At least two (2) business days prior to excavating any section of the Work, the CONTRACTOR shall call the utility companies noted on the plans and inform them that Work on the specific section is about to commence and request that they field locate their underground utilities.
- 53.5.2 When proceeding with the Work, the CONTRACTOR shall exercise due caution to protect all underground and overhead utilities and existing structures from damage. In keeping with the Trench Safety Act, the CONTRACTOR shall provide all sheeting, shoring, and bracing that may be required to properly protect adjacent property, structures and people. The CONTRACTOR shall repair, to the satisfaction of the OWNER, any surface or subsurface Improvement damaged during the course of the Work (unless such improvement is shown to be abandoned or removed) whether or not such improvement is shown on the Drawing. Should any utilities be encountered that are not shown on the Drawing, the CONTRACTOR shall immediately notify the OWNER'S REPRESENTATIVE and shall take all due caution necessary to protect the utility.
- 53.6 Adjustment of Grades: Adjustments of grades shown on Drawings may be necessary to conform to actual field conditions or to maintain cover under proposed future grades. Such adjustments shall be considered part of the job conditions and no extra compensation will be allowed for such changes, except where specifically otherwise noted in the plans or specifications. Such adjustments must be approved by the OWNER'S REPRESENTATIVE prior to being made.
- 53.7 Existing Drainage: Existing drainage shall be maintained at all times and drainage under construction shall be left open so as not to cause flooding due to blockage. Any damage to construction caused by this

requirement shall be the responsibility of the CONTRACTOR.

53.8 Reference to Other Specifications

53.8.1 Reference to FDOT Specifications shall mean the State of Florida Department of Transportation Standard Specifications for Road and Bridge Construction dated July 2016 and supplements thereto unless specifically stated otherwise in the Contract Documents. Where an FDOT Specification section cites or contains references to other sections, they shall also be included as though cited herein. Where FDOT Specifications refer to the “Engineer”, “Engineer of Test” or “Division of Test”, it shall be understood to mean the OWNER’S REPRESENTATIVE or his designee. Where FDOT Specifications refer to the “Department”, it shall mean the Department of Transportation of Lee County, Florida.

53.8.2 In case of conflict between the referenced FDOT Specifications and the Contract Documents, the Contract Documents shall govern.

53.8.3 Reference to AASHTO and ASTM are to the latest editions of published text of the American Association of Highway and Transportation Officials and the American Society for Testing and Materials, respectively.

53.9 Shoring

53.9.1 Unless trench banks are cut back on a stable slope, sheet and brace trenches shall be used as necessary to prevent caving or sliding, to provide protection for workmen and the pipe, and to protect adjacent structures and facilities. The CONTRACTOR shall not brace sheeting against the pipe, but shall brace it so that no concentrated loads of horizontal thrust are transmitted to the pipe. If portable metal box is used for bracing the slopes, the CONTRACTOR shall take care not to disturb the pipe when the box is removed.

53.9.2 The CONTRACTOR must comply with the Trench Safety Act, Florida Statutes Sections 553.60 – 553.64. Cost of compliance is not a separate pay item. Costs shall be included in the cost of pipe placement.

53.10 Dewatering: Dewatering of excavations, trenches, structures and utilities may be required. The CONTRACTOR shall be responsible for obtaining water use permits for dewatering operations, as necessary, from the South Florida Water Management District. No separate payment will be made for dewatering operations or procurement of dewatering permits. Costs shall be included in the cost of items as included in the Bid Form.

53.11 Excess Excavated Material: Unless otherwise specified, all excavated material in excess of the needs for backfill and area fill shall become the property of the CONTRACTOR, and the CONTRACTOR shall remove same from the project.

53.12 Asphalt Paving Conference: A pre-paving conference shall be held



prior to any asphalt placement. The conference is intended to closely coordinate the CONTRACTOR'S plant and site personnel with the COUNTY'S plant and field inspectors and establish expected quality assurance procedures. The CONTRACTOR shall not perform any paving prior to this conference.

- 53.13 Rock Excavation: All excavations for the installation of pipes, structures, foundations, or other contract items shall be unclassified and no additional or separate payment for rock excavation shall be provided not shall additional or separate payment be made for backfill required to compensate for excavated rock material that cannot be reused as backfill.

53.14 Permits

53.14.1 Copies of permits for this project other than for dewatering or NPDES will be provided by the COUNTY.

53.14.2 The CONTRACTOR shall abide by all conditions, statutes, and regulations issued by the jurisdiction authorities, boards and agencies of the COUNTY, State and Federal Governments. The CONTRACTOR shall be fully responsible for the execution and adherence to all directives, instructions, conditions, issuance of notices, special conditions, and limiting conditions contained in permits specifically issued for this project and which pertain to or affect the construction phase of this project. Except as may be provided elsewhere in these documents, the cost of materials, supplies, labor testing, permit fees and other direct or indirect expenses required to abide by or execute conditions of the permits shall be paid for by the CONTRACTOR. There is no direct or specific payment item in the bid for cost due to compliance with said permits. The CONTRACTOR'S reimbursement for said costs shall be distributed within the various items of work and materials associated with the construction of the project.

- 53.15 Field Office: CONTRACTOR is not required to provide a field office within the project limits as long as CONTRACTOR has a field office within Lee, Collier or Charlotte County prior to bidding. If CONTRACTOR does not have an established office within Lee, Collier or Charlotte County, then the CONTRACTOR shall provide and staff a field office within the project limits for the entire project duration, per FDOT requirements. This item shall be compensated under the mobilization item and no separate payment will be made. The CONTRACTOR shall coordinate the location of this field office with the Lee County DOT Project Manager prior to the issuance of the Notice to Proceed.

## 54 Computation of Time

- 54.1 When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day

of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

## **55 Maintenance of Records**

- 55.1 The CONTRACTOR shall keep adequate records and supporting documents applicable to this contractual matter. Said records and documentation will be retained by the CONTRACTOR for a minimum of five years from the date of termination of this Contract. The COUNTY and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the COUNTY deems necessary during the period of this Contract and during the period of five years thereafter; provided, however, such activity shall be conducted only during normal business hours. The COUNTY, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of, and otherwise inspect, any audit made at the direction of the CONTRACTOR as concerns the aforesaid records and documentation.
- 55.2 Vendor specifically acknowledges its obligations to comply with §119.0701, F.S., with regard to public records, and shall:
  - 55.2.1 keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Agreement;
  - 55.2.2 provide the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - 55.2.3 ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
  - 55.2.4 meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.
- 55.3 **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND**



**STREET, FORT MYERS, FL 33901,**  
**<http://www.leegov.com/publicrecords>.**

**56 Federal Requirements**

- 56.1 In the event this Contract is paid in whole or in part from any Federal Governmental agency or source, the specific terms, regulations and requirements governing the disbursement of these funds are incorporated by reference and made a part of this Contract as if attached hereto and become a part of this clause.

End of General Conditions Section

## SCOPE OF WORK AND SPECIFICATIONS

### GENERAL SCOPE OF PROJECT

Lee County desires to contract with a pool of vendors to perform alternative paving methods throughout Lee County on an as needed basis. Work may consist of: Asphaltic Surface Treatment Specifications, Full Depth Reclamation with Asphaltic Emulsion Specifications, Microsurfacing Specifications, Hot-In-Place Asphalt Recycling Special Conditions, RAP/Milling Placement Specifications, Fog Seal Specifications and Crack Filling/Sealing. All work performed to follow Federal, State, Local, OSHA and department mandated regulations and specifications for associated work.

Following project specific needs, additional services may be required to provide for full project completion. Such services shall be requested under this Bid on a project by project basis where Contractor or County deem necessary and applicable.

### PROJECT TERM

The successful bidder(s) shall be responsible for furnishing and delivering to the Lee County requesting Department(s) the commodity or services on an “as needed basis” for a one year period with the option to renew for three additional one year periods.

### PRICING

This is a “Master” contract, which is not for any specific project. Work will be negotiated, authorized, scheduled, funded, and accounted for by the issuance of Supplemental Task Authorizations, by the requesting department, division or other governmental entity. The County’s intent is to award to a pool of vendors who meet the minimum criteria and qualifications.

#### **1. Each project/task order will not exceed \$500,000.00.**

- 1.1. Any project/task order **\$50,000.00 or less** may be awarded to the vendor holding a valid contract under this bid, with the lowest unit prices, able to meet the required schedule.
- 1.2. Any project/task order **\$50,000.01, but less than \$500,000.00** must be quoted by a **minimum of 3 awarded vendors** holding a valid contract under this Bid.
- 1.3. Any project/task order **over \$100,000.00** must provide a payment and performance bond.
- 1.4. No vendor will be paid more than **\$4,000,000.00 per year**.
- 1.5. **Notice to Proceed (NTP)**
  - 1.5.1. All project/task order **\$50,000.00 or less** will **use the purchase order** as the notice to proceed. The start date and date or the number of day to complete the project must be included on the purchase order. If the start date is left off the purchase order then the date of the purchase order approval will default as the NTP start date.
  - 1.5.2. Projects **\$50,000.01 but less than \$500,000.00** will have a **formal NTP issued through the Procurement Management Division**.
- 1.6. The County retains the right to select any vendor to whom a multiple-vendor award has been made.
- 1.7. The County retains the right to separately and competitively bid any and all job estimates greater than \$500,000.00.



## **LETTER OF BONDABILITY**

This bid does not require a Bid Bond, however the Bidder must submit with their bid a Letter of Bondability from their Surety Company (not the surety agent) showing their bonding capacity which shall not be less than \$1,000,000.00. Any issuer of a Letter of Bondability must be licensed to transact a fidelity and surety business in the State of Florida, with an A.M. Best rating of B+ (Very Good) or better if Contractor's bid is under \$500,000.00, and A- (Excellent) or better if Contractor's bid is over \$500,000.00.

If the surety agent is named on the Surety's Power of Attorney as a true and lawful Attorney-in-Fact, to make, execute, seal and deliver said letter then a letter from the surety's agent will be allowed as long as a copy of the Surety's Power of Attorney documenting said appointment is included with the Letter of Bondability.

## PART G

### SUPPLEMENTARY GENERAL CONDITIONS

These Supplementary General Conditions amend or supplement the Standard General Conditions of the provisions as found herein and as indicated below. All provisions which are not so amended or supplemented remain full force and effect.

#### PHYSICAL CONDITIONS:

##### **SGC- 4.1.1.** Exploration and Reports.

(Add) Identification of report of exploration and test of subsurface conditions at the site which have been utilized in the preparation of the Contract Documents required by ARTICLE 4.1 are as follows:

N/A

##### **SGC-4.2.1.** Existing Structures

(Add) No additional drawings of physical conditions in or relating to existing surface and subsurface structures as required by ARTICLE 5.3 were used by the Consultant in preparation of the Contract Documents.

#### PHYSICAL CONDITIONS – UNDERGROUND FACILITIES

##### **SGC-4.8.1.** Delete in its entirety, substitute the following:

The Consultant and County shall not be responsible for the accuracy or completeness of any such information or data.

#### CONTRACTOR'S RESPONSIBILITIES

#### LABOR MATERIAL AND EQUIPMENT:

**SGC-9.6** (Add) Contractors shall pay all sales, consumer, use and similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

#### RECORD DRAWINGS:

**SGC-17.13** (Add) One (1) complete set of all reviewed shop drawings and samples shall be kept at the site at all times. During work specified or shown on the shop drawings, the Contractor shall make no deviation from reviewed drawings, and the changes made thereon by the Engineer. If any:

**SGC-17.14** (Add) The Contractor shall, upon completion of the work, furnish to the Engineer, two (2) complete sets of prints, neatly bound together, and in good condition, of all the contractor's, Subcontractor's and manufacturer's drawings as finally checked and reviewed by the Engineer with all modifications accepted by the Engineer subsequent thereto, showing the work as actually completed. Such "as-built" information for bridges, culverts, and similar structures shall also be provided by the Contractor pursuant to Article 5-14 herein.



## **ARTICLE 26.2 – OWNER’S REPRESENTATIVES STATUS DURING CONSTRUCTION CLARIFICATIONS AND INTERPRETATIONS**

**SGC-26.2.1** in the first sentence, delete “with reasonable promptness” and substitute “within fifteen (15) calendar days”.

## **ARTICLE 31- WARRANTY AND GUARANTEE: ACCEPTANCE OF DEFECTIVE WORK**

**SGC-31.1.1** (Add) in addition, the Contractor specifically warrants and guarantees that all sod installed by the Contractor will be free of pest plants and noxious weeds, including Tropical Soda Apple (*Solanum viarum*) at the time of final acceptance. The Contractor shall eradicate any and all occurrences of pest plants or noxious weeds that occur after installation and during the one year time period from the date of final completion to the final acceptance date, in a timely manner and method acceptable to the Owner.

### **COUNTY MAY STOP WORK:**

**SGC-35.1.1** (Add) Performing work, supplying sufficient skilled workmen or suitable materials or workmen shall be applicable to, but not be limited to, the Maintenance of Traffic or any portion thereof. The County may stop work because of insufficient Maintenance of Traffic practices by the Contractor.

Any delay or loss of time experienced by the Contractor due to work being stopped for insufficient Maintenance of Traffic practices shall not be grounds for an extension of Contract time.

**SGC-35.2** (Add) In addition to defective work, the County may stop the work as specified above for the following reasons:

- a. Failure to comply with permits regarding pollution control.
- b. Insufficient construction materials or methods.
- c. Failure to provide a safe working environment in accordance with OSHA or the Department of Labor, Safety and Health Regulations.

### **SUBSTANTIAL COMPLETION:**

**SGC-43.1** In the second sentence, delete “thereafter” and substitute “after the County’s receipt of the Contractor’s Certification”

**SGC-43.1** In the last sentence, delete “a reasonable time” and substitute fourteen (14) calendar days”.

## **ARTICLE 53-MISCELLANEOUS**

### **GENERAL**

**SGC-53.8.1** (Add) REFERENCE TO OTHER SPECIFICATIONS: Reference to F.D.O.T. Specifications shall mean the State of Florida Department of Transportation Standard Specifications for Road and Bridge Construction dated 2013 and supplements thereto unless specifically stated otherwise in the Contract Documents. Where an F.D.O.T. specification section cites or contains references to other sections, they shall also be included as though cited herein. Where F.D.O.T. Specifications refer to the “Engineer”, “Engineer of Test” or “Division of Test”, it shall be understood to mean the Owner’s Representative or his designee. Where F.D.O.T. specifications refer to the “Department”, it shall mean the

Department of Transportation of Lee County, Florida. In case of conflict between the referenced F.D.O.T. Specifications and the Contract Documents, the Contract Documents shall govern.

Reference to A.A.S.H.T.O and A.S.T.M. are to the latest editions of published text of the American Association of the State Highway and Transportation Officials and the American Society for Testing and Materials, respectively.

*End of Supplementary General Conditions*



## **INCLUSION OF FDOT SPECIFICATIONS**

The 2013 EDITION OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS (FDOT) FOR ROAD AND BRIDGE CONSTRUCTION together with all FDOT Supplements thereto shall apply to and form a part of this Contract as if fully written herein. Where a FDOT Section is cited that contains references to other Sections, they shall also be included as though written therein. IN CASE OF CONFLICT BETWEEN THE REFERENCED FDOT SPECIFICATIONS AND THE BID AND CONTRACT DOCUMENTS, THE BID AND CONTRACT DOCUMENTS SHALL GOVERN.

Modifications to FDOT Specifications and FDOT Supplements thereto are included herein in Section entitled SUPPLEMENTS TO FDOT SPECIFICATIONS.

Where FDOT Specifications refer to the Engineer, Engineer of Tests, or Division of Tests, it shall be understood to mean the Engineer of the County as stated in the Agreement.

Where FDOT Specifications refer to the Department, it shall mean the Department of Transportation of Lee County, Florida.

## **SUPPLEMENTS TO FDOT SPECIFICATIONS**

THE FOLLOWING SUPPLEMENTS MODIFY, CHANGE, DELETE OR ADD TO THE 2013 EDITION OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD D AND BRIDGE CONSTRUCTION (INCLUDING ALL FDOT SUPPLEMENTS THERETO). WHERE ANY SECTION OF THE FDOT SPECIFICATIONS IS MODIFIED, CHANGED, DELETED OR ADDED TO BY THESE SUPPLEMENTS, THE UNALTERED PORTION OF THAT SECTION SHALL REMAIN IN EFFECT.

### **Section 4 - Scope of Work**

ADD the following to Item 4-1, Intent of Contract:

**Location and Scope of Work:** This contract involves the road resurfacing and rebuilding of various streets located in Lee County.

The lowest responsive, responsible bid will be accepted. Lee County will issue plans of the proposed work and purchase orders for each job.

Add the following items to this Section 4-7 Safety and Health Regulations:

- 4-7.1 The CONTRACTOR shall comply with the Department of Labor, Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970, (PL 91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL 91-54).
- 4-7.2 All equipment furnished and installed under this contract shall comply to Part 1910, Occupational Safety and Health Standards and Amendments thereto.

### **Section 5 - Control of the Work**

**DELETE Item 5-7.1, Control Points furnished by the Department, in its entirety and insert the following:**

The CONTRACTOR shall be responsible for providing all surveying services required under this Contract. All surveying services must comply with the Minimum Technical Standards for Land Surveying, Chapter 21 HF-6, Florida Administrative Code pursuant to Florida Statutes 472-027.

The CONTRACTOR shall prior to commencing construction operations, hire or engage the services of a Registered Professional Land Surveyor, possessing current registration in the State of Florida, to make a thorough and diligent search for any and all horizontal and vertical control monumentation within the construction area. Any survey control found will be tied out sufficiently in such a manner so that the construction is completed all of the points can be re-



established to their original positions by the CONTRACTOR'S Licensed Land Surveyor. The ties will be kept in hard bound survey field books. The field notes will be clearly legible and properly indexed. Upon the completion of the project, the Surveyor will file with the County Surveyor a mylar based or reproducible drawing, consisting of sheets 24" x 36" showing a composite of work accomplished. The hard bound field books will accompany the drawings and become the property of the COUNTY.

Costs for surveying shall be included in the lump sum or unit prices for other bid items in this Contract. No separate payment shall be made for this work.

ADD the following to item 5-9, General Inspection Requirements:

Inspection and Testing:

Inspection shall be made following completion of each phase of the work and at other times as required. It is the responsibility of the CONTRACTOR to notify the Engineer or the COUNTY'S inspection personnel when inspections will be necessary. It will be the CONTRACTOR'S responsibility to secure approvals as necessary for acceptance of each phase of the project. It will be the CONTRACTOR'S responsibility to furnish the necessary guarantees required by the COUNTY for acceptance of construction.

Refer to General Condition 14.2 and the Supplementary Conditions for additional testing requirements.

ADD the following item:

5-15, Maintenance of Existing Drainages:

Existing drainages shall be maintained at all times. At times when the CONTRACTOR is not on the job, drainages under construction shall be left open so as not to cause flooding due to blockage. Any damage to construction caused by this requirement shall be the responsibility of the CONTRACTOR.

## **Section 7 - Legal Requirements and Responsibility to the Public**

ADD the following to Item 7-11.6, Utilities:

7-11.6.4 Protection of Existing Utilities and Improvements:

- a) The Contractor shall contract all utility companies and public works departments to determine detailed locations of all underground utilities before performing any excavation or stabilization of sub grade.
- b) When proceeding with the work, the CONTRACTOR shall exercise due caution to protect all underground and overhead utilities and existing structures from damage. The CONTRACTOR shall repair, to the satisfaction of the OWNER, any surface or subsurface

improvements damaged during the course of the work (unless such improvement is shown to be abandoned or removed) whether or not such improvement is shown on the drawings. Should any utilities be encountered that are not shown on the drawings, the CONTRACTOR shall immediately notify the Engineer and shall take whatever procedure necessary to protect the utility in accordance with FDOT Specifications.

- c) The CONTRACTOR shall be responsible for and restore to its original condition, all damage to pavement, buildings, telephone or other cables, water pipes, sanitary pipes or other structures beyond the limits of this Contract, which may be encountered, whether or not shown on the drawings.

ADD the following Item to 7.11, Preservation of Property:

7.11.7 Tree and Shrub Protection:

- 7.11.7.1 The CONTRACTOR shall exercise due care to protect all trees and shrubs designated to remain. Where trees and shrubs are adjacent to construction, they shall be protected and where damaged, restored to original condition. Tree limbs which interfere with equipment operation and are approved for pruning, shall be neatly trimmed and the tree coated with tree paint. Responsibility for damages, maintenance and protection of trees and shrubs shall be with the CONTRACTOR.

DELETE the following:

- 7-13 Insurance
- 7-16 Wage Rates for Federal Aid Projects
- 7-17 Supplemental Agreements

**Section 8 - Prosecution and Progress**

Delete Item 8-6.4, CONTRACTOR=S vacation; in its entirety.

Delete Item 8-10.2, Amount of Liquidated Damages, in its entirety.

**Section 9 - Measurement and Payment**

ADD Item 9-2.1.2 Bituminous Material from Florida Department of Transportation Standard Specifications for Road and Bridge Construction, 2004 as follows and re-number subsequent pages:

*On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons (5,000 MT) of asphalt concrete, the Department will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect during the month in*



which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing in the month when bids were received (BAPI), and then only on the portion that exceeds 5%.

The Department will determine the API for each month by averaging quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

The API will be available on the Construction Office web site before the 15<sup>th</sup> of each month at the following URL:

[www.11.myflorida.com/construction/fuel&Bit/Fuel&Bit.htm](http://www.11.myflorida.com/construction/fuel&Bit/Fuel&Bit.htm).

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$\$ \text{ Adjustment} = (ID)(\text{Gallons}(\text{liters}))$

Where ID = Index Difference =  $(CAPI - 0.95(BAPI))$  when the API has decreased between the month of bid and month of this progress estimate.

Where ID = Index Difference =  $(CAPI - 1.05(BAPI))$  when the API has increased between the month of bid and month of this progress estimate.

For asphalt concrete items payable by the ton (MT), the number of gallons (liters) will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb./gal (1.03 kg/L).

Asphalt concrete items payable by the square yard (square meter) will be converted to equivalent tons (MT) assuming a weight of 100 lb/yd<sup>2</sup> per inch (54 kg/m<sup>2</sup> per 25 mm).

Revise Item 9-3.2.1, Error in Plan Quantity, as follows:

In line five of the first paragraph, change five to fifteen. In line seven of the first paragraph, change \$500.00 to \$2,000.00.

Revise the schedule of amounts retained in Item 9-7.1 to read as follows:

| <u>Percentage Completed</u> | <u>Contract Amount<br/>Amount Retained</u> |
|-----------------------------|--------------------------------------------|
| 0-100                       | 10% of the value of work completed.        |

## **Section 101 – Mobilization**

### **101-1 Description.**

Perform preparatory work and operations in mobilizing for beginning work on the project, including, but not limited to, those operations necessary for the movement of personnel, equipment, supplies, and incidentals to the project site and for the establishment of temporary offices, buildings, safety equipment and first aid supplies, and sanitary and other facilities. Include the costs of bonds and any required insurance and any other preconstruction expense necessary for the start of the work, excluding the cost of construction materials.

### **101-2 Basis of Payment.**

101-2.1 When a Separate Item is Included in the Proposal:

When the proposal includes a separate item of payment for this work, the work and incidental costs specified as being covered under this Section will be paid for at the Contract lump sum price for the item of Mobilization.

Payment will be made under:

Item No. 101- 1- Mobilization -lump sum.

Item No. 2101- 1- Mobilization - lump sum.

101-2.2 Partial Payments:

When the proposal includes a separate pay item for Mobilization, partial payments will be made therefore in accordance with the following:

Percent of Original Contract Amount Earned

Allowable Percent of the Lump Sum Price for the Item\*

| Percent of Original Contract Amount Earned                                                                                                                                               | Allowable Percent of the Lump Sum Price for the Item* |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 5                                                                                                                                                                                        | 25                                                    |
| 10                                                                                                                                                                                       | 50                                                    |
| 25                                                                                                                                                                                       | 75                                                    |
| 50                                                                                                                                                                                       | 100                                                   |
| *Partial payments for any project will be limited to 10% of the original Contract amount for that project. Any remaining amount will be paid upon completion of all work on the project. |                                                       |

The standard retainage, as specified in 9-6, will be applied to these allowances. Partial payments made on this item will in no way act to preclude or limit any of the provisions for partial payments otherwise provided for by the Contract.

When more than one project or job (separate job number) is included in the Contract, the above percentages shall apply separately to each job which has a separate pay item for Mobilization. As an exception to partial payments being made based on Percent of Original Contract Amount Earned, the Department will pay the Contractor the invoice price of the Contract Bond when the Engineer has been furnished with a certified copy of the invoice from the Bonding Company. No other work will be required to receive payment for the Contract Bond included in the bid price for Mobilization

**Mobilization will be paid for according to the partial payment schedule indicated in Item No. 101-2.2, Partial Payments.**

**Payment shall be made under:**

Item No. 101-1

Mobilization -lump sum



## **Section 102 - Maintenance of Traffic**

Add the following to Item 102-1.4, Beginning Date of Contractor's Responsibility.

102-1.4 Contractor's Responsibility: Maintain traffic starting the day work begins on the project or on the first day Contract Time is charged, whichever is earlier.

Continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights. Provide an individual responsible for this review who is certified as an American Traffic Safety Services Association Certified Worksite Supervisor.

During the course of the construction the CONTRACTOR shall at all times be responsible for the safety and welfare of the traveling public.

Delete the first paragraph of Item 102-2.2, Number of Traffic Lanes, and replace it with the following:

During times when construction work is actively in progress on the project, the CONTRACTOR will be required to keep at least one lane of traffic open through the work area, and controlled by flagpersons shall be equipped with two-way radios. Traffic shall never be reduced to a lane width of less than 10 feet. Traffic control and warning devices shall not encroach on lanes used for maintenance of traffic. During times when work is not being actively conducted on the project, two lane traffic will be maintained. At no time shall there be more than a three inch (3") grade difference between adjacent traffic lanes.

Payment shall be made under:

Item No. 102-1 Maintenance of Traffic - lump sum

## **SECTION 104 - PREVENTION, CONTROL, AND ABATEMENT OF EROSION AND WATER POLLUTION**

### **104-1 Description.**

Provide erosion control measures on the project and in areas outside the right-of-way where work is accomplished in conjunction with the project, so as to prevent pollution of water, detrimental effects to public or private property adjacent to the project right-of-way and damage to work on the project. Construct and maintain temporary erosion control features or, where practical, construct and maintain permanent erosion control features as shown in the Plans or as may be directed by the Engineer.

Item No. 104- 12- Staked Turbidity Barrier - per foot.

## **SECTION 110 - CLEARING AND GRUBBING**

### **110-1 Description**

Clear and grub within the areas of the roadway right-of-way and of borrow pits, sand-

clay base material pits, lateral ditches, and any other areas shown in the Plans to be cleared and grubbed. Remove and dispose of all trees, stumps, roots and other such protruding objects, buildings, structures, appurtenances, existing flexible asphalt pavement, and other facilities necessary to prepare the area for the proposed construction.

Remove and dispose of all product and debris not required to be salvaged or not required to complete the construction. Also, perform certain miscellaneous work the Engineer considers necessary for the complete preparation of the overall project site, as follows:

- (a) Plug any water wells that are encountered within the right-of-way and that are to be abandoned.
- (b) Level the terrain outside the limits of construction for purposes of facilitating maintenance and other post-construction operations in accordance with 110-10.3.
- (c) Trim trees and shrubs within the project right-of-way that are identified in the Contract Documents. Meet the requirements for such miscellaneous work as specified in 110-10.

Item No. 110- 1- Clearing and Grubbing - lump sum.

Item No. 110- 3- Removal of Existing Structures - lump sum.

Item No. 110- 4- Removal of Existing Pavement - per square yard

### **Section 120 - Excavation and Embankment**

Add the following to Item 120-13.3, Description:

The CONTRACTOR may be required to furnish and place embankment materials for building up shoulders after the leveling and resurfacing work has been completed. Such embankment will be placed on locations as directed by the ENGINEER.

Existing shoulder material meeting the requirements of these specifications may be incorporated into the new shoulders. For the work specified under this Section, payment will be made for the number of cubic yards of material delivered and incorporated into the work. The volume shall be based upon truck measurements. In the loading of trucks, the material shall be heaped in the truck bodies and then struck-off level with the sides of the truck leaving no voids along the perimeter of the truck body. Payment shall be made at the contract unit price per cubic yard. Such payment shall include the cost of supplying, transporting, placing, compacting and final dressing of such embankment material.

Payment shall be made under:

|                |                                    |
|----------------|------------------------------------|
| Item No. 120-1 | Roadway Excavation per square yard |
| Item No. 120-4 | Swale Grading per linear foot      |
| Item No. 120-6 | Embankment - per cubic yard        |

### **Section 280 – Asphalt Base Course III**

This work specified in this Section consists of constructing asphalt base courses in accordance with these specifications and in conformity with the lines, grids, widths and thicknesses shown on the plan. The mixes covered by this Section are designated as Asphalt Base Course Type I (ABC-1), Asphalt Base Course Type II (ABC-2), Asphalt Base Course Type III (ABC-3).



Payment shall be made under:

Item No. 280-1  
Asphalt Base Course – per ton

### **Section 327 – Milling of Existing Asphalt Pavement**

The work specified in this Section consists of removing asphaltic concrete pavement by milling to improve the rideability of the finished pavement, to lower the finished grade adjacent to existing curb prior to resurfacing, or to completely remove existing pavement. When milling to improve rideability, an average depth of cut will be specified in the plans. Unless otherwise specified, the milled material becomes the property of the Contractor.

Payment shall be made under:

Item No. 327-1                      Milling of Existing Asphalt Pavement – per square yard

### **Section 330 – Asphalt Leveling Course**

Construct plant-mixed hot bituminous pavements and bases. Establish and maintain a quality control system that provides assurance that all materials, products and completed construction submitted for acceptance meet Contract requirements. This Section establishes Acceptance Procedures for materials and work performed under Sections 280, 290, 331, 332, 33, 334, 335 and 337. More specific requirements pertaining to hot bituminous base and base widening construction are contained in Section 280.

Payment shall be made under:

Item No. 330-10                      Asphalt Leveling Course – per ton

### **Section 331 – Type “S” Asphaltic Concrete**

This Section specified the materials, the composition, and physical test properties for Type “S” Asphaltic Concrete (Type S-1, Type S-II or Type S-III as specified by the contract or when offered as alternatives, as selected by the Contractor). Where Type “S” Asphaltic Concrete is specified in the contract, if approved by the Engineer, the Contractor may also select Type S-III Asphaltic Concrete as an alternative for the final surface (no friction course specified) and as the final layer of structural course only, prior to the friction course. Type S-III Asphaltic Concrete will not be permitted as the final layer prior to the friction course.

Payment shall be made under:

This section also includes the method of determining the thickness of pavement the Department will pay for when payment is on a per ton (TN) basis.

Place all courses of leveling by the use of two motor graders, equip one with a spreader box. Use other types of leveling devices after they have been approved by the Engineer.

### **Section 425 - Inlets, Manholes and Junction Boxes**

#### 425-1 Description

The work specified in this Section consists of the construction of drop inlets, manholes, junction boxes, shoulder gutter inlets and yard drains. These structures shall be of reinforced concrete, or may be of brick masonry if circular and constructed in place, and shall include the necessary metal frames and gratings.

The work under this section shall also include the adjustment of those structures shown in the plans which are required to be adjusted for the satisfactory completion of the work. The new structures shall be constructed in conformity with the plans and in accordance with these specifications.

Delete Item 425-6.8, Adjusting Existing Structures, in its entirety and replace with the following:

#### 425-6.8, Adjusting Existing Structures

Existing manholes and valve boxes within the limits of the proposed work that do not conform to the finished grade of the proposed pavement shall be cut down or extended, and made to conform to the grade of the new pavement. The materials and construction methods for this work shall conform to the requirements of Article 425-2 Composition and Proportioning, 425-3 Materials, 425-4 Forms, 425-6.3 through 425-6.5. Construction Method of the Standard Specifications.

415-6.8-1, Adjusting Manhole Frames: The existing manhole frames shall be detached by saw cutting the asphalt away from the frame. Brick and Portland Type II, cement mortar mix shall be used to raise the frames flush to the finished grade of the road. (Hydraulic cement is not acceptable for the purpose.) The frame shall be centered on the manhole cone. The road surface that is disturbed by detaching the frame shall be saw-cut, trimmed to neat square lines and the void space shall be filled flush to the road surface with one of the following materials:

1. 3,000 PSI (minimum) concrete with bar or mat reinforcement.
2. Type I, or Type II, Hot-Mix, asphaltic concrete. If asphalt is used, it shall be within the allowable temperature range at the time of the installations. Asphalt that has dropped below the allowable range shall be rejected.



All other material shall conform to the latest requirements of the Florida Department of Transportation, Lee County Department of Transportation and Lee County Utilities.

If any manhole frames or covers are found broken or otherwise defective, the Owners representative shall be notified prior to the CONTRACTOR starting work on the affected manhole.

All manhole and valve box raising, and other clean up work as directed by the ENGINEER, shall be done no later than TWO WEEKS after the surface course is installed on the adjacent roadway. Further paving may be suspended as directed by the ENGINEER until this timing can be achieved. All manhole and valve box raising, and other clean up work as directed by the ENGINEER, shall be done no later than TWO WEEKS after the surface course is installed on the adjacent roadway. Further paving may be suspended as directed by the ENGINEER until the timing can be achieved.

### **SECTION 430 -PIPE CULVERTS**

#### **430-1 Description.**

Furnish and install drainage pipe and end sections at the locations called for in the Plans.

Furnish and construct joints and connections to existing pipes, catch basins, inlets, manholes, walls, etc., as may be required to complete the work.

Construct structural plate pipe culverts or underdrains in accordance with Sections 435 and 440. Obtain pipe culverts from a Producer currently on the Department's list of Producers with Accepted Quality Control Programs. Producers seeking inclusion on the list shall meet the requirements of 105-3. When the producer's Quality Control Program is suspended, accept responsibility of either obtaining drainage products from another producer with an accepted Quality Control

Program or await re-approval of the producer's Quality Control Program. The Engineer will not allow changes in Contract Time or completion dates as a result of the producer's Quality Control Program suspension. Accept responsibility for all delay costs or other costs associated with the producer's Quality Control Program suspension.

#### **430-2 Materials.**

**430-2.1 Pipe:** Meet the following requirements:

Concrete Pipe .....Section 449

#### **520-1 Description.**

Construct portland cement concrete curb and gutter, concrete traffic separator, valley gutter, special concrete gutter, and any other types of concrete curb not specified in other Sections.

#### **520-2 Materials.**

**520-2.1 Concrete:** Use concrete meeting the requirements of Section 347

#### 522-9 Method of Measurement:

The quantity to be paid for under this Section shall be the area in square yards of concrete measured in place, completed and accepted. Measurement shall be as specified in 9-1.3.1. No deduction will be made for any areas occupied by manholes, inlets or other drainage structures or by public utility appurtenances within the area.

#### 522-10 Basis of Payment:

The quantity, determined as provided above, shall be paid for at the contract unit price per square yard for concrete, which price and payment shall be full compensation for all work specified in this Section. Excavation shall be paid for under the items for grading work on the project.

425-6.8-2 Adjusting Valve Boxes: Valve Boxes shall be carefully centered over the operating nut of the valve. The valve box shall be adjusted such that the cover is flush with the pavement. The 30" x 30" x 4" concrete pad shall be poured to support the valve box, such that surface loads are not transmitted to the pipe valve. Care shall be taken to prevent earth or other material from entering the valve box.

Payment shall be made under:

|                |                               |
|----------------|-------------------------------|
| Item No. 425-1 | Adjust Manholes - each        |
| Item No. 425-6 | Adjustable Valve Boxes - each |

All manhole and valve box raising, and other clean up work as directed by the ENGINEER, shall be done no later than TWO WEEKS after the surface course is installed on the adjacent roadway. Further paving may be suspended as directed by the ENGINEER until this timing can be achieved.

#### 527-1 Description.

Furnish and install Detectable Warning devices on newly constructed and/or existing concrete or asphalt walking surfaces (curb ramps, sidewalks, shared-use paths, etc.) constructed in accordance with the Design Standards, Index No. 304.

#### **Section 570 – Seeding/Mulching**

The work specified in this Section consists of the establishing of a stand of grass on slopes, shoulders, and other areas called for, by seeding, or by seeding and mulching. The work of grassing under this Section shall include seeding and fertilizing, mulching as required, and maintaining the grassed areas until the completion of the project.

Payment shall be made under:

|                |                                    |
|----------------|------------------------------------|
| Item No. 570-1 | Seeding/Mulching – per square yard |
|----------------|------------------------------------|



## **Section 575 - Sodding**

Add the following to item description:

Sodding will be required to be placed on all disturbed areas adjacent to the pavement and in other locations on the project as directed by the ENGINEER. Sod will be placed along the edges of the pavement in a 2 foot width. Replacement sod shall be of the same type as was removed during construction.

Payment shall be made under:

|                |                           |
|----------------|---------------------------|
| Item No. 575-1 | Sodding - per square yard |
|----------------|---------------------------|

Add the following to Item 575-3.3, Placing Sod:

At the completion of the project, all sod shall be staked well rooted, and be at least 80% green. All sod placed in slopes of 2:1 or steeper shall be staked.

Add the following to the end of paragraph 575-3.5, Maintenance:

In addition, the CONTRACTOR shall maintain all sod free of the weed Tropical Soda Ash (*Solanum Viarum*), from the time of initial installation, and during the one year time period from the date of final acceptance. The CONTRACTOR shall eradicate any and all occurrences of Tropical Soda Ash in a timely manner and method acceptable to the OWNER.

Add the following to Section 575-4, Method of Measurement:

The area of sod shall be determined by measuring the square yards used.

## **Section 700 – Highway Signing**

Furnish and erect aluminum or steel roadway signs, with supporting posts or columns, at the locations shown in the plans, in accordance with the details shown in the plans. Reflectorize all signs, and, when so specified in the plans, provide overhead signs with lighting.

Payment shall be made under:

|                 |                                                    |
|-----------------|----------------------------------------------------|
| Item No. 706-   | RPM -each                                          |
| Item No. 710-25 | 6" Solid Traffic Stripe – Paint – per linear foot  |
| Item No. 710-27 | 6" Skip Traffic Stripe – Paint – per linear foot   |
| Item No. 711-3  | Pave Message – Thermo- each                        |
| Item No. 711-4  | Directional Arrow - Thermo - each                  |
| Item No. 711-33 | 6" Skip Traffic Stripe – Thermo – per linear foot  |
| Item No. 711-35 | 18" Solid Stripe – Thermo – per linear foot        |
| Item No. 711-36 | 6" Solid Traffic Stripe – Thermo – per linear foot |

## Microsurfacing Specifications

The work specified in this section consists of placement of a polymer modified Microsurface on a prepared existing paved road, placed within the lines, grades, and thickness established by the City or County.

Description: Microsurfacing is a polymer-modified cold-mix paving system that begins as a mixture of dense-graded aggregate, polymer modified asphalt emulsion, water, and mineral fillers placed in a slurry state at ambient air temperature to extend the service life of both urban and rural roads within the City or County. The end product should maintain a skid-resistant surface in variable thick sections throughout the service life of the micro surfacing.

### **Materials:**

**Emulsified Asphalt:** Provide a quick- traffic latex modified cationic type CSS emulsion with natural or synthetic latex conforming to the requirements specified in AASHTO M208 or ASTM D2397 for CSS-1H,

| Property                               | MINIMUM  | MAXIMUM |
|----------------------------------------|----------|---------|
| VISCOSITY, SAYBOLT FUROL @ 25° C, SEC. | 20.0     | 90.0    |
| PARTICLE CHARGE                        | POSITIVE | ---     |
| SIEVE TEST                             | ---      | 0.1     |
| DISTILLATION:                          | ---      | ---     |
| OIL DISTILLATE, BY VOLUME, %           | ---      | 0.5     |
| RESIDUE FROM DISTILLATION, %           | 62.0     | ---     |
| PENETRATION, 25°C, 100G, 5 SEC.        | 40.0     | 100.0   |
| DUCTILITY, 77° F, 50 MM/ SEC.          | 70.0     | ---     |

plus the following:

| AASHTO TEST NO. | ASTM TEST NO. | QUALITY                                 | SPECIFICATION           |
|-----------------|---------------|-----------------------------------------|-------------------------|
| T53             | D36           | Softening Point                         | 135 °F (57 °C) Min.     |
| T59             | D244          | Residue after Distillation              | 62% Minimum             |
| T49             | 2397          | Penetration at 77 ° F (25 ° C)          | 40 – 90*                |
|                 | 2170          | Kinematic Viscosity @ 275 ° F (135 ° C) | 650 cSt/sec. Minimum °F |



It shall pass all applicable storage and settlement tests. The cement mixing test shall be waived for this emulsion. The polymer material shall be milled or blended into the asphalt or emulsifier solution prior to the emulsification process.

The minimum amount and type of polymer modifier shall be determined by the laboratory performing the mix design. The minimum amount required will be based on asphalt weight content and will be certified by the emulsion supplier. In general, a three percent (3%) polymer solids, based on asphalt weight, is considered minimum.

The five-day (5) settlement test may be waived, provided job stored emulsion is used within thirty-six (36) hours from the time of the shipment, or the stored material has had additional emulsion blended into it prior to use.

Each load of emulsified asphalt shall be accompanied with a Certificate of Analysis/Compliance to assure that it is the same as that used in the mix design. For the first load of emulsified asphalt produced for the project, the supplier shall submit a sample to the owning agency's designated laboratory for testing. At any time during application, the owner / buying agency may sample and test all subsequent loads of emulsified asphalt delivered to the project to verify and determine compliance with specification requirements. Where these tests identify material outside specification requirements, the owner may require the supplier to cease shipment of that pretested emulsified asphalt product. Further shipment of that pretested emulsified asphalt product to the owning agency's projects will remain suspended until the cause of the problem is evaluated and corrected by the supplier as necessary to the satisfaction of the owning agency.

**Aggregate:** The mineral aggregate used shall be of the type and grade specified for the particular use of the Microsurfacing. The aggregate shall be a manufactured crushed stone such as granite, slag, limestone, chat, or other high-quality aggregate, or combination thereof. To assure the material is totally crushed, one-hundred percent (100%) of the parent aggregate will be larger than the largest stone in the gradation to be used.

When aggregate is tested according to the following test, it should meet these minimum requirements:

| AASHTO TEST NO. | ASTM TEST NO. | QUALITY             | SPECIFICATION                                              |
|-----------------|---------------|---------------------|------------------------------------------------------------|
| AASHTO T176     | ASTM D2419    | Sand Equivalent     | 65 Minimum                                                 |
| AASHTO T104     | ASTM C88      | Soundness           | 15% Maximum using $Na_2SO_4$ or 25% Maximum using $MgSO_4$ |
| AASHTO T96      | ASTM C131     | Abrasion Resistance | 30% Maximum                                                |

The abrasion test is to be run on the parent aggregate. The aggregate should meet state-approved polishing values. Proven performance may justify the use of aggregates that may not pass all of the above tests.

When tested in accordance with AASHTO T27 (ASTM C136) and AASHTO T11 (ASTM C117), the target (mix design) aggregate gradation (including the mineral filler) shall be within one of the following bands.

| SIEVE SIZE             | TYPE II<br>PERCENT<br>PASSING | TYPE III<br>PERCENT<br>PASSING | STOCKPILE<br>TOLERANCE |
|------------------------|-------------------------------|--------------------------------|------------------------|
| $\frac{3}{8}$ (9.5 mm) | 100                           | 100                            |                        |
| #4 (4.75 mm)           | 90 – 100                      | 70 - 90                        | ± 5 %                  |
| #8 (2.36 mm)           | 65 – 90                       | 45 – 70                        | ± 5 %                  |
| #16 (1.18 mm)          | 45 – 70                       | 28 - 50                        | ± 5 %                  |
| #30 (600 $\mu$ m)      | 30 – 50                       | 19 - 34                        | ± 5 %                  |
| #50 (300 $\mu$ m)      | 18 – 30                       | 12 - 25                        | ± 4 %                  |
| #100 (150 $\mu$ m)     | 10 – 21                       | 7 - 18                         | ± 3 %                  |
| #200 (75 $\mu$ m)      | 5 – 15                        | 5 - 15                         | ± 2 %                  |

The job mix (target) gradation shall be within the gradation band for the desired type. After the target gradation has been submitted (this should be the gradation that the mix design is based on), then the percent passing each sieve shall not vary by more than the stockpile tolerance shown in the above table for each individual sieve, and still remain within the gradation band. It is recommended that the percent passing shall not go from the high end to the low end of the range for any two consecutive screens.

The aggregate will be accepted at the job location stockpile or when loading into the support units for delivery to the lay-down machine. The stockpile shall be accepted based on five gradation tests according to AASHTO T2 (ASTM D75). If the average of the five tests are within the gradation tolerances, then the materials will be accepted. If the tests show the material to be out, the contractor will be given the choice to either remove the material or blend other aggregate with the stockpiled material to bring it into specification. Materials used in blending must meet the quality tests before blending and must be blended in a manner to produce a consistent gradation. If blending is used, it will require that a new mix design be performed. The contractor shall supply copies of the aggregate tickets to the customer within 24 hours of delivery to the job site.

Screening shall be required at the stockpile prior to delivery to the paving machine if there are any problems created by having oversize material in the mix.

**Mineral filler:** (if required) shall be any recognized brand of non-air entrained Portland cement or hydrated lime that is free from lumps. It may be accepted upon visual inspection. The type and amount of mineral filler needed shall be determined by a laboratory mix design and will be considered as part of the aggregate gradation. An increase or decrease of less than one percent (1%) may be permitted when the Microsurfacing is being placed if it is found to be necessary for better consistency or set times.



**Water:** Potable and free of harmful or deleterious materials.

**Additives:** Additives may be added to the emulsion mix or any of the component materials to provide the control of the quick-traffic properties. They must be included as part of the mix design and be compatible with the other components of the mix.

**Mix Design:** The Contractor shall submit to the City or County for approval a complete mix design with an aggregate source used on five (5) similar micro surfacing projects. The mix design shall be prepared and certified by a laboratory which has experience in designing Microsurfacing. After the mix design has been approved, no substitution will be permitted, unless approved by the City or County. Compatibility of the aggregate, polymer-modified emulsion, mineral filler, and other additives shall be verified by the mix design. The mix design shall be made with the same aggregate gradation that the contractor will provide on the project. Recommended tests and values are as follows:

| ISSA TEST NO. | DESCRIPTION                                                                  | SPECIFICATION                                                                                                |
|---------------|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| ISSA TB-139   | Wet Cohesion<br>@ 30 Minutes Minimum (Set)<br>@ 60 Minutes Minimum (Traffic) | 12 Kg-cm Minimum<br>20 Kg-cm Minimum or Near Spin                                                            |
| ISSA TB-109   | Excess Asphalt by LWT Sand Adhesion                                          | 50 g/ft <sup>2</sup> Maximum (538 g/m <sup>2</sup> Maximum)                                                  |
| ISSA TB-114   | Wet Stripping                                                                | Pass (90% Minimum)                                                                                           |
| ISSA TB-100   | Wet-Track Abrasion Loss<br>One-hour Soak<br><br>Six-day Soak                 | 50 g/ft <sup>2</sup> (538 g/m <sup>2</sup> ) Maximum<br>75 g/ft <sup>2</sup> (807 g/m <sup>2</sup> ) Maximum |

The Wet Track Abrasion test is performed under laboratory conditions as a component of the mix design process. The purpose of this test is to determine the minimum asphalt content of a micro surface system. The Wet Track Abrasion Test is not recommended as a field quality control or acceptance test. Some systems require longer times for the asphalt to adhere to the stone. In these systems, a modified Marshall Stability Test (ISSA TB-148) or Hveem Cohesimeter Test (ASTM D 1560) has been used to confirm asphalt content.

| ISSA TEST NO. | DESCRIPTION                                                                          | SPECIFICATION                       |
|---------------|--------------------------------------------------------------------------------------|-------------------------------------|
| ISSA TB-147   | Lateral Displacement<br>Specific Gravity after 1,000 Cycles of 125 Pounds (56.71 Kg) | 5% Maximum<br>2.10% Maximum         |
| ISSA TB-113   | Mix Time @ 77°F (25°C)                                                               | Controllable to 120 Seconds Minimum |

The mixing test is used to predict how long the material can be mixed in the machines before it begins to break. It is more for information to be used by the contractor than for quality of the end product.

The mixing test and set-time test should be checked at the highest temperatures expected during construction.

The mix design should report the quantitative effects of moisture content on the unit weight of the aggregate (bulking effect). The report must clearly show the proportions of aggregate, mineral filler (minimum and maximum), water (minimum and maximum), additive usage, and polymer-modified asphalt emulsion based on the dry weight of the aggregate.

All the component materials used in the mix design shall be representative of the materials proposed by the contractor to be used on the project. The percentages of each individual material required shall be shown in the laboratory report. Adjustments may be required during construction, based on field conditions. The Project Manager will give final approval for all such adjustments.

| <u>COMPONENT<br/>MATERIALS</u> | <u>LIMITS</u>                                        |
|--------------------------------|------------------------------------------------------|
| Residual Asphalt               | 7% to 10.5% by dry weight of aggregate               |
| Mineral Filler                 | 0.0 to 3% by dry weight of aggregate                 |
| Polymer-Based Modifier         | Minimum of 3% solids based on bitumen weight content |
| Additives                      | As needed                                            |
| Water                          | As required to produce proper mix consistency        |

#### **Sampling and Testing:**

The Engineer at their discretion shall obtain two samples of micro surfacing mixture for each day of production. The samples shall be obtained at different periods during the production day and the Engineer shall test each sample at the expense of the City or County in accordance with FM 5-563 and FM 1-T 030 to determine the residual asphalt content and the gradation of each sample. Evaporate all water from the sample prior to testing.

#### **EQUIPMENT:**

**Mixing Equipment:** The machine shall be specifically designed and manufactured to lay Microsurfacing. The material shall be mixed by an automatic-sequenced, self-propelled Microsurfacing mixing machine, which shall be a continuous-flow mixing unit able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive, and water to a revolving multi-blade, double-shafted mixer and to discharge the mixed product on a continuous-flow basis.



The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive and water to maintain an adequate supply to the proportioning controls.

The machine shall be equipped to allow the operator to have full control, from the rear of the machine, of the forward and reverse speeds during applications of the Microsurfacing material and be equipped with opposite-side driver stations to assist in alignment. The self-loading device, opposite-side driver stations, and forward and reverse speed controls shall be original equipment manufacturer design.

**Proportioning Devices:** Individual volume or weight controls for proportioning each material to be added to the mix (i.e. aggregate, mineral filler, emulsified asphalt, additive, and water) shall be provided and properly marked. These proportioning devices are used in material calibration and determining the material output at any time.

**Spreading Device:** The mixture shall be agitated and spread uniformly in the surfacing box by means of twin-shafted paddles or spiral augers fixed in the spreader box. A front seal shall be provided to insure no loss of the mixture at the road contact point. The rear seal shall act as a final strike-off and shall be adjustable. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved to produce a free flow of material to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.

**Secondary Strike-off:** A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same adjustments as the spreader box. No burlap drags will be permitted on the final applications.

**Rut-Filling Box:** When required, before the final surface course is placed, preliminary Microsurfacing material may be required to fill ruts, utility cuts, depressions in the existing surface, etc. Ruts of one-half ( $\frac{1}{2}$ ) inch (12.7 mm) or greater in depth shall be filled independently with a rut-filling spreader box, either five foot (5) (1.5m) or six foot (6) (1.8 m) in width. For irregular or shallow rutting of less than one-half ( $\frac{1}{2}$ ) inch (12.7 mm) in depth, a full-width scratch-coat pass may be used as directed by the County. Ruts that are in excess of one and one-half ( $1\frac{1}{2}$ ) inches (38.1 mm) in depth may require multiple placements with the rut-filling spreader box to restore the cross-section. All rut-filling level-up material should cure under traffic for at least a twenty-four (24) hour period before additional material is placed on top of the level-up.

**Auxiliary Equipment:** Suitable surface preparation equipment, traffic control equipment, hand tools, and any other support and safety equipment shall be provided by the contractor as necessary, (or as the County requires) to perform the work.

**General:** Each mixing unit to be used in the performance of the work shall be calibrated in the presence of the City or County prior to construction. Previous calibration documentation covering the exact materials to be used may be acceptable, provided that no more than sixty (60) days have lapsed. The documentation shall include an individual calibration of each material at various settings, which can be related to the

machine metering devices. No machine will be allowed to work on the project until the calibration has been completed and/or accepted.

All equipment, tools, and machines used in the performance of this work shall be maintained in satisfactory working condition at all times to ensure a high-quality product. Availability of quality assurance devices (such as a 15' straight edge) shall be the responsibility of the **Contractor**.

### **Construction:**

**Weather Limitations:** Microsurfacing shall not be applied if either the pavement or air temperature is below 50°F (10°C) and falling, but may be applied when both pavement and air temperatures are above 45°F (7°C) and rising. No Microsurfacing shall be applied when there is the possibility that the finished product will freeze within 24 hours. The mixture shall not be applied when weather conditions prolong opening to traffic beyond a reasonable time or as directed by the County.

**Surface Preparation:** Immediately prior to applying the Microsurfacing, the surface shall be cleared of all loose material, silt spots, vegetation, and other objectionable material. Any standard cleaning method will be acceptable. If water is used, cracks shall be allowed to dry thoroughly before applying Microsurfacing. Manholes, valve boxes, drop inlets and other service entrances shall be protected from the Microsurfacing by a suitable method. The County shall approve the surface preparation prior to surfacing. No dry aggregate either spilled from the lay-down machine or existing on the road, will be permitted.

**Tack Coat:** Normally, tack coat is not required unless the surface to be covered is extremely dry and raveled or is concrete or brick. If required, the tack coat should consist of one part emulsified asphalt/three parts water and should be applied with a standard distributor. The emulsified asphalt should be SS or CSS grade. The distributor shall be capable of applying the dilution evenly at a rate of 0.05 to 0.10 gal/yd<sup>2</sup> (0.23 to 0.45 l/m<sup>2</sup>). The tack coat shall be allowed to cure sufficiently before the application of Microsurfacing. If a tack coat is to be required, it must be billed as a separate pay item.

**Application:** A test strip shall be placed in conditions similar to those expected to be encountered during the project unless specifically waived by the county.

When required by local conditions, the surface shall be pre-wetted ahead of the spreader box. The rate of application of the spray shall be adjusted during the day to suit temperatures, surface texture, humidity, and dryness of the pavement.

The Microsurfacing shall be of the desired consistency upon leaving the mixer. A sufficient amount of material shall be carried in all parts of the spreader at all times so that a complete coverage is obtained. Overloading of the spreader shall be avoided. No lumping, balling, or unmixed aggregate shall be permitted.

No streaks, such as those caused by oversized aggregate, shall be left in the finished surface. If excess streaking develops, the job will be stopped until the contractor proves



to the Project Manager or his/her designee that the situation has been corrected. Excessive streaking is defined as more than four drag marks greater than one-half ( $\frac{1}{2}$ ) inch wide (12.7 mm) and four inches (4) long (101 mm), or one inch (1) wide (25.4 mm) and three (3) inches long (76.2 mm), in any 29.9 yd<sup>2</sup> (25 m<sup>2</sup>) area. No transverse ripples or longitudinal streaks of one-fourth ( $\frac{1}{4}$ ) inch in depth (6.4 m<sup>2</sup>) will be permitted, when measured by placing a ten (10) foot (3 m) straight edge over the surface.

The Microsurfacing mixture shall be of the proper consistency at all times, so as to provide the application rate required by the surface condition. The average single application rate, as measured by the Project Manager, shall be in accordance with the following table:

| AGGREGATE TYPE                      | LOCATION                               | SUGGESTED APPLICATION RATES                |
|-------------------------------------|----------------------------------------|--------------------------------------------|
| TYPE II<br>Single application       | Urban and Residential Streets          | 20 - 24 lb/yd <sup>2</sup><br>(+/- 2 lbs)  |
| TYPE II<br>Double application       | Urban, Residential, and Primary Routes | 30 - 34 lb/yd <sup>2</sup><br>(+/- 2 lbs)  |
| TYPE II<br>Heavy single application | Primary and Cold Mix Roads as directed | 24 - 28 lb/yd <sup>2</sup><br>(+/- 2 lbs)  |
| TYPE II<br>Heavy double application | Primary and Cold Mix Roads as directed | 38 - 42 lb/ yd <sup>2</sup><br>(+/- 2 lbs) |
| TYPE II Rut Fill                    | Wheel Ruts                             | Tonnage As Required                        |

Suggested application rates are based upon the weight of dry aggregate in the mixture. Application rates are affected by the unit weight of the aggregate.

Microsurfacing is often put down in two full-width passes in place of rut-filling when the rutting or deformation is not severe. When two passes are used, the first pass (scratch course) is made using a metal or stiff rubber strike-off and applying only what the surface demands for leveling. The second course is applied at 15 – 30 lb/yd<sup>2</sup> (8.1 – 16.3 kg/m<sup>2</sup>).

**Opening to Traffic:** Microsurfacing shall be capable of producing an emulsified asphalt paving mixture that will cure at a rate which will permit traffic on the pavement within one hour after application without damaging the pavement surface. Any damage done by traffic to the Microsurfacing shall be repaired by the contractor at his/her expense.

**Joints:** No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The contractor shall provide suitable-width spreading equipment to produce a minimum number of longitudinal joints throughout the project. When possible, longitudinal joints shall be placed on lane lines. Half passes and odd-width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. A maximum of three (3) inches (76.2 mm)

shall be allowed for overlap of longitudinal lane line joints. Also, the joint shall have no more than a one-fourth ( $\frac{1}{4}$ ) inch (6.4 mm) difference in elevation when measured by placing a ten (10) foot (3 m) straight edge over the joint and measuring the elevation drop-off.

**Mix Stability:** The Microsurfacing shall possess sufficient stability so that premature breaking of the material in the spreader box does not occur. The mixture shall be homogeneous during and following mixing and spreading. It shall be free of excess water or emulsion and free of segregation of the emulsion and aggregate fines from the coarser aggregate. Under no circumstances shall water be sprayed directly into the lay-down box while laying Microsurfacing material.

**Handwork:** Areas which cannot be reached with the machine shall be surfaced using hand squeegees to provide uniform coverage. If necessary, the area to be hand worked shall be lightly dampened prior to mix placement. Care shall be exercised to leave no unsightly appearance from hand work. The same type of finish as applied by the spreader box shall be required.

**Edgelines:** Care shall be taken to ensure straight lines along curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections will be kept straight to provide a good appearance. If necessary, a suitable material will be used to mask off the end of streets to provide straight lines. Edge lines shall not vary by more than  $\pm 2$  inches ( $\pm 50$  mm) horizontal variance in any 96 feet (30 m) of length.

**Clean-up:** All areas, such as man-ways, gutters, and intersections, shall have the Microsurfacing mix removed as specified by the County. The contractor shall, on a daily basis, remove any debris associated with the performance of the work, completely and thoroughly to the satisfaction of the County. In addition, the contractor shall, at the request of the County pressure wash any area such as, curb and gutter, private driveways, etc. removing any and all stains associated with the placement of the Microsurfacing.

**General Performance:**

Provide completed pavement which performs to the satisfaction of the engineer without bleeding, rutting, shoving, raveling, stripping, or showing other types of pavement distress or unsatisfactory performance.

**Traffic Control:**

Traffic shall not travel on fresh mix until rolling and blotting has been completed. All traffic control shall be in accordance with the FDOT Roadway Design Standards, most current edition and TP-102 (MOT). All associated devices shall be checked daily or more frequently as needed throughout the project for compliance. Where adjustments or corrections are needed, prompt revisions shall be made.



**Method of Measurement:**

If a pay item is listed on the Bid Form for work required in this Technical Provision, the quantity to be paid shall be as specified in the Bid Form including all items of work described herein. Any item necessary for Microsurfacing, and not specifically listed in another item in the Bid Form, shall be included in this item.

**Basis of Payment:**

The quantities to be paid for under this Technical Provision shall be included in the Square Yard price for Microsurfacing (Single application), Microsurfacing (Double application), Microsurfacing (Heavy single application), Microsurfacing (Heavy double application) and the per Ton price for Microsurfacing (Rut filling) or as listed in the Bid Form. The Unit price includes all items listed in the contract, including all General Conditions, Special Conditions and Technical Provisions pertaining to Microsurfacing, including all items of work described herein. No additional payment will be provided for any item necessary for the completion of this contract as detailed in the specifications.

**Warranty:**

The Contractor shall provide the City or County upon final acceptance of the Microsurfacing work, a warranty period of three years which shall include all labor, materials, hauling, traffic control and striping to repair the defective areas. Defective areas shall include debonding/delamination, bleeding, excessive raveling and aggregate loss exposing the old roadway surface. The Contractor shall perform all warranty work at no cost to the City or County.

## **RAP / Milling Placement Specifications**

**LCDOT PROVIDED** *RAP / Millings Typically Located at LCDOT Depot*

***TBD***

***or***

***5560 Zip Dr***

***Fort Myers, FL. 33905***

1. Mobilize a crusher to crush millings to 1/2" minus
2. Load & haul crushed millings to the attached locations
3. Prior to placement of the crushed RAP the existing roads shall be clipped and any low areas (pot holes included) shall be filled and rolled with a standard rolling pattern.
4. The crushed Rap must have the proper amount of moisture to allow for compaction,  
be placed by a self-propelled Paving Machine with a standard 10' main screed, be able to hold an 18' roadway from edge to edge, and will be compacted to a standard rolling pattern according to the 2000 Standard DOT Spec. Book
5. Spread rate of the application of crushed RAP of will be placed at 250 lbs. per SY
6. After accepted, it will have to be Primed & Sanded at an application rate not less than 0.10 Gal/Per SY, unless a lower rate is directed by LCDOT.
7. Dress the edges at any drop offs and positive Drainage
8. Driveway tie ends shall not exceed more than 1" at concrete or Paved drives



## **CRACK FILLING/SEALING**

### **1.1 Description**

All cracks within the specified area that are one quarter (1/4) inch or greater shall be properly prepared and sealed. All contractors and their subcontractors shall be FDOT prequalified. Crack filling material must cure for a minimum of 30 days prior to application of the micro surfacing.

### **1.2 References**

All reference standards and specifications shall be the current issue or latest revision at the first date of tender advertisement. These specifications herein are in addition to the following standards, specifications or publications listed below:

- ASTM D-5329: Standard Test Method for Sealants and Fillers, Hot-Applied, For Joints and Cracks in Asphaltic and Portland Cement Concrete Pavements.
- ASTM D36: Standard Test Method for Softening Point of Bitumen (Ring-and-Ball Apparatus)
- ASTM D3111: Standard Test Method for Flexibility Determination of Hot-Melt Adhesives by Mandrel Bend Test Method.
- ASTM DI13: Standard Test Method for Ductility of Bituminous Materials
- ASTM D-2669: Standard Test Method for Apparent Viscosity of Petroleum Waxes Compounded with Additives (Hot Melts)
- ASTM D4: Standard Test Method for Bitumen Content
- ASTM D6690: Standard Specification for Joint and Crack Sealants, Hot Applied, for Concrete and Asphalt Pavements

### **1.3 Submittals**

- a) The CONTRACTOR shall submit to the Project Manager the specifications sheets along with the manufacturer's suggested installation procedures of the type of crack seal that is to be used.
- b) A log sheet shall be maintained during the crack seal operations. The original of this log sheet shall be supplied to the Project Manager. A minimum of the following information shall be recorded:
  1. Date, time and amount added to the melter. The lot number from each box added shall be also recorded.
  2. Road name, date, time application process starts, amount installed, time application process ends.
  3. Weather conditions.
- c) The CONTRACTOR shall supply the Project Manager with tickets and the corresponding actual lot numbers removed from the boxes, showing the amount of gallons used for each road.

- d) A log of all herbicides, if any, shall be kept and a copy shall be supplied to the Project Manager within one (1) week of spraying. This log shall include the type of material, mixture rate, application rate, location, date, and time of application.

#### 1.4 Materials

- a) **Crack Seal:** Crack sealer product shall be Crafcro PolyFlex Type 3, product # 34521 or equivalent. It shall be an asphalt based product designed to be used to fill cracks and joints in asphalt. It shall have the ability to seal out water.
- b) **Blotting Material:** If required the blotting material shall be an aggregate such as cement dust, Crafcro Detack or equivalent, or other cover aggregate approved by the Project Manager.

#### 1.5 Equipment

- a) **Crack Sealant Application Equipment:** Equipment used to install the sealant into the cracks shall be as specified by the manufacturer and shall have the ability to fill cracks with two wands at the same time and maintain the proper temperature of the sealant throughout the sealing process.  
This heating unit shall be a jacketed double boiler melter and shall be equipped with an agitation system. The applicator hose's shall have a recirculation system or be equipped with a temperature controlled heating system. Pouring pots or gravity-fed sealant applicators shall not be used for sealing cracks and joints.
- b) **Compressor:** The compressor shall be 75 C.F.M. capacity, or more, to ensure an adequate supply of air to effectively clean the joints. Any pneumatic tool lubricator must be bypassed and a filter installed on the discharge valve to keep water and oil out of the lines.
- c) **Hot Compressed Air Equipment:** A hot compressed air lance shall be used to clean, dry and pre-heat cracks prior to applying sealant. The air lance shall consist of a compressor propane system providing a high temperature, high velocity blast of air.
- d) **Crack Cleaning Equipment:** Cleaning of excess debris shall be done by means of power sweepers, hand brooms, or air brooms.

#### 1.6 Work Methods

- a) **Weather:** No sealant shall be installed unless the ambient and pavement temperature are 40° and rising. There shall be no fog and no chance of rain. Any cracks that are not sealed the same day they are prepared shall be blown out with compressed air before the sealing operation continues. If rain or fog delays the sealing operation, the cracks shall be allowed to dry and shall have additional cleaning as required to remove any debris that may have been washed into the crack by rain. The cracks shall be completely dry before the seal treatment can resume. The Contractor may use the Hot Compressed Air Lance method of cleaning and drying the cracks with the approval of the Project Manager. Care shall be taken to not overheat the existing asphaltic concrete surface if this method is used.
- b) **Surface Preparation:** Prior to starting any application process the CONTRACTOR shall be responsible for removing any existing dirt and vegetation that is on the asphalt.



- c) **Crack Cleaning:** All cracks and joints shall be cleaned free of all deleterious materials, including any dust, old sealant, incompressible, and organic material. When vegetation exists in the cracks and joints, it shall be removed by either using propane torch or treated with an herbicide that sterilizes the soil. The method of removal is subject to the approval of the Project Manager. If an herbicide is used it shall be applied according to the manufacturer's specifications and shall be applied ahead of the operations so that the weed is totally browned. The applicator of the herbicide shall have the proper State of Florida Pesticide Applicators License. A copy of this license shall be supplied to the Project Manager upon request. A log of all herbicides shall be kept as specified in the section 1.3 Submittals and a copy shall be supplied to the Project Manager. All cracks are to be clean and are sufficiently dry before any crack sealing material is applied. All cracks shall be blown clean by high pressure air. All old material and other debris removed from the cracks shall be removed from the pavement surface immediately. Any cracks that are not sealed the same day they are prepared shall be blown out with compressed air before the sealing operation continues.
- d) **Sealant Heating:** The temperature of the sealant shall be heated and maintained using the manufacturer's recommended procedures. The sealant compound shall be melted slowly with constant agitation until it is in a lump-free, free-flowing state, within the temperature range recommended by the manufacturer for application. Care shall be taken to insure that the sealant is not heated above the manufacturer's recommended maximum temperature or for longer than the recommended application life. The Project Manager shall have the right to reject the product if it is determined that this has occurred.
- e) **Sealant Application:** The sealant shall be applied in the crack or joint reservoir uniformly from the bottom to the top and shall be filled without formation of entrapped air or voids. The sealant shall be installed so that it is recessed approximately one eighth (1/8) inch below the pavement surface to prevent tracking. Sealant shall be applied to slightly overfill the reservoir and then struck off using a "V" shaped squeegee. The remaining squeegee material shall be flush with the pavement surface. In no case shall the width of excess material on the pavement surface exceed (4) inches. At no time shall the sealant be in excess of one sixtieth (1/16) inch above the adjacent surface and shall extend no more than one and a half (1.5) inches from the crack edges. Each wand shall have removable heads so that variable width discs from two (2) to four (4) inches may be installed at the Project Managers request.
- f) **Blotting Application:** When traffic requires immediate use of the roadway, a blotting material shall be broadcast or sprayed over the fresh sealant to prevent it from being picked up and tracked. Any excessive or spilled sealer shall be removed by the CONTRACTOR using approved methods .
- During the period of construction and the warranty period the CONTRACTOR shall be responsible for processing any and all claims for property damage and or bodily injury caused by the failure of the Crack Sealing including but not limited to, motor vehicles or pedestrians. The CONTRACTOR shall be responsible for the payment of all property damage and bodily injury claims and agrees to save and hold harmless the COUNTY from all such claims. Claims not handled by the

CONTRACTOR or their representative in the proper manner, will be settled by the COUNTY. The COUNTY shall recover all costs from the CONTRACTOR. The CONTRACTOR shall be responsible for any claims of tracking as part of this specification. If there is a claim the CONTRACTOR shall be responsible for:

- 1) Applying more blotting material as necessary.
- 2) Address the tracked material by either removing or repairing the object that was affected.

**1.7 Method of Measurement.**

The measurement shall be made in amount of gallons of crack seal applied to the road, and shall be supported by the submittals as outlined in Section 1.3 Submittals, paragraph b. The amount of crack sealer shall be reported and invoiced for each road.

**1.8 Basis of Payment.**

Crack Sealing shall be based on a price per gallon. The unit price as shown on the Bid Sheet "Sealing" or "Routing and Sealing" shall be all inclusive to include cleaning, sealing, FDOT traffic control, mobilization and any other incidentals required to provide the COUNTY with a final product that will meet the specifications as described in the crack sealing section. All invoices shall contain the purchase order number, invoice date, itemized work detail including the amount of product applied to each road, date of service specific to each location, appropriate retention, person to contact and their phone number for billing questions and location of delivery or service, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative.

**1.9 Deficiencies and Repairs**

- a) Where the sealant subsides in the crack by more than  $1/8$  inch below the adjacent pavement surface, except where the pavement will be immediately overlaid, the surface of the sealant shall be cleaned and topped up.
- b) The sealant shall be removed, the routed crack rerouted at the Project Manager's discretion, and resealed if any of the following occur:
  - i) the sealant contains imbedded foreign material other than dusting material;
  - ii) the sealant contains entrapped air bubbles;
  - iii) the sealant has de-bonded or pulled away from the crack; or
  - iv) the sealant has been excessively heated.



## Polymer Modified Standard Slurry Seal

Polymer modified slurry seal is used in the same applications as a standard slurry seal however polymer slurry seal has higher binder cohesion that leads to improvements in resistance to raveling, especially in cul-de-sacs. Polymer modified slurry seals are more abrasion resistant and can be laid at higher application rates without bleeding or deformation. For airport application suitable variations are made- including rolling.

### 1.01 SCOPE

Slurry Seal shall consist of mixing asphalt emulsion, aggregate, and water and spreading the mixture on a surface or pavement where shown on the plans, as specified in these specifications and the special provisions, and as directed by the Engineer.

### 2.01 MATERIALS

The materials for slurry seal immediately prior to mixing shall conform to the following requirements:

#### 2.02 (a) POLYMER MODIFIED ASPHALT EMULSION

Emulsified asphalt shall provide a quick- traffic latex modified cationic type CSS emulsion with natural or synthetic latex conforming to the requirements specified in AASHTO M208 or ASTM D2397 for CSS-1H,

| Property                               | Minimum  | Maximum |
|----------------------------------------|----------|---------|
| Viscosity, Saybolt Furol @ 25° C, Sec. | 20.0     | 90.0    |
| Particle Charge                        | Positive | ---     |
| Sieve Test                             | ---      | 0.1     |
| Distillation:                          | ---      | ---     |
| Oil distillate, by volume, %           | ---      | 0.5     |
| Residue from Distillation, %           | 62.0     | ---     |
| Penetration, 25°C, 100g, 5 sec.        | 40.0     | 100.0   |
| Ductility, 77° F, 50 mm/ sec.          | 70.0     | ---     |

plus the following:

| AASHTO TEST NO. | ASTM TEST NO. | QUALITY                      | SPECIFICATION           |
|-----------------|---------------|------------------------------|-------------------------|
| T53             | D36           | Softening Point              | 135 °F (57 °C) Min.     |
| T59             | D244          | Residue after Distillation   | 62% Minimum             |
| T49             | 2397          | Penetration at 77 °F (25 °C) | 40 – 90*                |
|                 | 2170          | Kinematic Viscosity @        | 650 cSt/sec. Minimum °F |

|  |  |                 |  |
|--|--|-----------------|--|
|  |  | 275 °F (135 °C) |  |
|--|--|-----------------|--|

It shall pass all applicable storage and settlement tests. The cement mixing test shall be waived for this emulsion. The polymer material shall be milled or blended into the asphalt or emulsifier solution prior to the emulsification process.

The minimum amount and type of polymer modifier shall be determined by the laboratory performing the mix design. The minimum amount required will be based on asphalt weight content and will be certified by the emulsion supplier. In general, a one percent (1%) minimum to three (3%) maximum polymer solids, based on asphalt weight, is considered the standard.

The five-day (5) settlement test may be waived, provided job stored emulsion is used within thirty-six (36) hours from the time of the shipment, or the stored material has had additional emulsion blended into it prior to use.

Each load of emulsified asphalt shall be accompanied with a Certificate of Analysis/Compliance to assure that it is the same as that used in the mix design. For the first load of emulsified asphalt produced for the project, the supplier shall submit a sample to the owning agency's designated laboratory for testing. At any time during application, the owner / buying agency may sample and test all subsequent loads of emulsified asphalt delivered to the project to verify and determine compliance with specification requirements. Where these tests identify material outside specification requirements, the owner may require the supplier to cease shipment of that pretested emulsified asphalt product. Further shipment of that pretested emulsified asphalt product to the owning agency's projects will remain suspended until the cause of the problem is evaluated and corrected by the supplier as necessary to the satisfaction of the owning agency.

## 2.02 (b) WATER

Water shall be potable, free of harmful soluble salts and shall be of such quality that the asphalt will not separate from the emulsion before the slurry seal is in place in the work.

## 2.02 (c) AGGREGATE

The mineral aggregate used shall be of the type and grade specified for the particular use of the Slurry. The aggregate shall be a manufactured crushed stone such as granite, slag, limestone, chat, or other high-quality aggregate, or combination thereof. The material shall be free from vegetable matter and other deleterious substances. The percentage composition by weight of the aggregate shall conform to the following grading:

| <b>Type II</b>     |                           |
|--------------------|---------------------------|
| <b>Sieve Sizes</b> | <b>Percentage Passing</b> |
| 3/8"(9.5- mm)      | 100                       |
| No. 4(4.75- mm)    | 90-100                    |
| No. 8(2.36- mm)    | 65-90                     |
| No. 16(1.18- mm)   | 40-70                     |
| No. 30(600- um)    | 25-50                     |



|                                                   |       |
|---------------------------------------------------|-------|
| No. 200 (75- um)                                  | 5-15  |
| Approximate application rate (Pounds/Square Yard) | 23-26 |

The aggregate shall also conform to the following quality requirements:

| Test                                                                              | Test Method | Requirement                                          |
|-----------------------------------------------------------------------------------|-------------|------------------------------------------------------|
| Sand Equivalent                                                                   | ASTM D2419  | 65 Min.                                              |
| Soundness                                                                         | ASTM C88    | 15% Maximum using NA2 SO4 or 25% Maximum using MgSO4 |
| Abrasion Resistance*                                                              | ASTM C131   | 30% maximum after 500 revolutions                    |
| * Abrasion Resistance is to be performed on the parent aggregate before crushing. |             |                                                      |

## 2.02 (d) MINERAL FILLER

The mineral filler shall be either Portland Cement or other approved mineral fillers, if required. Portland Cement if used, shall be commercially available Type I-II and shall be free of lumps and clods.

## 2.03 MIX DESIGN

At least 7 working days before slurry seal placement commences, the Contractor shall submit to the Engineer for approval a laboratory report of tests and proposed mix design covering the specific materials to be used on the project. The percentage of asphalt emulsion proposed in the mix design shall be within the percentage range specified in Section 2.04 “Proportioning.”

The tests and mix design shall be performed by a laboratory capable of performing the applicable International Slurry Seal Association (ISSA) tests. The proposed slurry seal mixture shall conform to the requirements specified when tested in accordance with the following tests:

| Test                                                                                                       | ISSA Test Method | Requirement |
|------------------------------------------------------------------------------------------------------------|------------------|-------------|
| Slurry Seal Consistency, cm                                                                                | T106             | 3 max.      |
| Wet Stripping                                                                                              | T114             | Pass        |
| Compatibility                                                                                              | T115             | Pass (a)    |
| Cohesion Test, kg - cm within 1 hour                                                                       | T139             | 20 min. (b) |
| Wet Track Abrasion, g/sq..ft.                                                                              | T100             | 75 max.     |
| (a). Mixing test must pass at the maximum expected air temperature at the project site during application. |                  |             |
| (b). Using project source aggregate asphalt emulsion and set-control agents if used.                       |                  |             |

The laboratory report shall be signed by the laboratory that performed the tests and mix design and shall show the results of the tests on individual materials, comparing the test results to those required by the specifications. The report shall clearly show the proportions of aggregate, filler (as determined from the tests, minimum and maximum), water (minimum and maximum), asphalt solids content based on the dry weight of aggregate and set-control agent usage. Previous laboratory reports covering the same materials may be accepted provided they are made during the same calendar year.

## **2.04 PROPORTIONING**

Asphalt emulsion shall be added at a rate determined by the mix design and in the range of the table above. A job mix design shall be submitted by the Contractor for approval by the Engineer that conforms to the specification limits, and that is suitable for the traffic, climate conditions, curing conditions and final use. This will include recommended application rate of slurry to suit the job conditions.

The Slurry Seal mixture shall be proportioned by the operation of a single start/stop switch or lever which automatically sequences the introduction of aggregate, emulsified asphalt, admixtures, if used, and water to the pug mill.

Calibrated flow meters shall be provided to measure both the addition of water and liquid additives to the pug mill. If necessary for workability, a retarding agent, that will not adversely affect the seal, may be used.

Water, and retarder if used, shall be added to ensure proper workability and (a) permit uncontrolled traffic on the slurry seal no more than three (3) hours after placement without the occurrence of bleeding, raveling, separation or other distress; and (b) prevent development of bleeding, raveling, separation or other distress within fifteen (15) days after placing the slurry seal.

## **2.05 MIXING AND SPREADING EQUIPMENT**

The Slurry Seal shall be mixed in a self-propelled mixing machine equipped with a continuous flow pug mill capable of accurately delivering and automatically proportioning the aggregate, emulsified asphalt, water and additives to a double shafted, multi-blade pug mill mixer capable of minimum speeds of 200 revolutions per minute.

A minimum of three operational mixing machines of 12 cubic yard capacity, or larger, shall be maintained on the project. The mixed slurry seal retention time in the pug mill shall be less than three seconds. No retention of mixed slurry seal shall be allowed within the pug mill by gate shut-off or other mechanical means. Any machines with pugmill retention or shut-off gates shall have them removed prior to being used on this project. The mixing machine shall have sufficient storage capacity of aggregate, emulsified asphalt, and water to maintain an adequate supply to the proportioning controls.

The mixing machine shall be equipped with hydraulic controls for proportioning the material by volume to the mix. Each material control device shall be calibrated, properly marked, preset and lockable at the direction of the Engineer. The mixing machine shall be equipped with a water pressure system and nozzle type spray bars to provide a water spray immediately ahead of the



spreader box.

The mixing machine shall be equipped with an approved fines feeder that provides a uniform, positive, accurately metered, pre-determined amount of a mineral filler, if used, at the same time and location that the aggregate is fed.

The slurry mixture shall be uniformly spread by means of a controlled spreader box conforming to the following requirements:

The slurry shall be agitated and spread uniformly in the surfacing box by means of twin-shafted paddles or spiral augers fixed in the spreader box. A front seal shall be provided to insure no loss of the slurry at the road contact point. The rear seal shall act as a final strike-off and shall be adjustable. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved to produce a free flow of material to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.

A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same adjustments as the spreader box. No burlap drags will be permitted on the applications of the slurry seal.

Slurry mixture, to be spread in areas which cannot be reached with the machine spreader box shall be surfaced using hand squeegees to provide uniform coverage. If necessary, the area to be hand worked shall be lightly dampened prior to mix placement. Care shall be exercised to leave no unsightly appearance from hand work. The same type of finish as applied by the spreader box shall be required.

## **2.06 PLACING**

The slurry seal shall not be placed if either the pavement or the air temperature is below 55 degrees F (13C) and falling, but may be applied when both the air and pavement temperature is 45 degrees F (7C) or above and rising. The mixture shall not be applied if high relative humidity prolongs the curing beyond a reasonable time.

Before placing the slurry seal, the pavement surface shall be cleaned by sweeping, flushing or other means necessary to remove all loose particles of paving, all dirt and all other extraneous material.

48 hours prior to the slurry seal operations, the contractor shall notify all residents, businesses and agencies with an approved written notice detailing the streets and limits of work to be done along, with the hours of work.

Immediately before commencing the slurry seal operations, all surface metal utility covers (including survey monuments) shall be protected by thoroughly covering the surface with an appropriate adhesive and paper or plastic. No adhesive material shall be permitted to cover, seal or fill the joint between the frame and cover of the structure. Covers are to be uncovered and cleaned of slurry material by the end of the same work day.

Hand tools shall be available in order to remove spillage. Ridges or bumps in the finished surface will not be permitted. The mixture shall be uniform and homogeneous after spreading on the existing surface and shall not show separation of the emulsion and aggregate after setting.

Adequate means shall be provided to protect the slurry seal from damage from traffic until such time that the mixture has cured sufficiently so that the slurry seal will not adhere to and be picked up by the tires of the vehicles.

For the purpose of this project, the construction zone is defined to include all stockpile staging areas and travel routes to/from streets where the slurry seal is to be applied.

All traffic control shall be in accordance with the FDOT Roadway Design Standards, most current edition and TP-102 (MOT). All associated devices shall be checked daily or more frequently as needed throughout the project for compliance. Where adjustments or corrections are needed, prompt revisions shall be made.

Any deviations shall not be made without prior written approval from the project engineer.

## **2.07 MEASUREMENT**

Slurry seal will be measured and paid for by the square yard for the actual surface areas covered.

## **2.08 PAYMENT**

The contract price paid per square yard for slurry seal shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals and for doing all the work involved in the furnishing and placing of the slurry seal complete in place, including cleaning the surface and protecting the slurry seal until it has set, all as shown on the plans, as specified in these specifications and as directed by the Engineer.



## ASPHALTIC SURFACE TREATMENT (CHIP SEAL) SPECIFICATIONS

The work specified in this section consists of furnishing and applying a single or double application of bituminous surface treatment on a paved roadway or on a prepared road base, compacted to the lines, grades, and thickness established by the County and in substantial conformance with the limits established by the owner.

**Description:** Chip Seal is a pavement surface treatment option that combines a layer of polymer modified liquid asphalt emulsion placed on a prepared base with a layer of aggregate spread and compacted while the asphalt is still liquid.

### **Materials:**

**Aggregates:** Crushed granite conforming to FDOT specifications section 901, table 1 for #89, #78 or #67 gradation for coarse aggregates except as modified herein. The aggregate shall be washed granite obtained from a source approved by the owner. Sampling and testing of aggregate shall be the responsibility of the contractor. Copies of test results from the aggregate supplier shall be furnished to the owner prior to the start of the surface treatment.

**Liquid bituminous material for surface treatment:** CRS-2h liquid bituminous material conforming to FDOT specification section 916-4.1 except as modified herein. The bituminous material shall be polymer modified. The contractor shall certify the liquid bituminous material meets the aforementioned FDOT.

The Cationic mixing grade shall be homogenous and of high quality. The material shall be prepared from straight-run Venezuelan Asphalt of high ductility and shall contain a rubber hydrocarbon additive derived from latex in addition to carefully controlled amounts of selected diluents to promote work ability and minimize stripping. Additives that enhance pavement performance are subject to approval by the County.

### Cationic Asphalt Emulsion

| Material Designation                             |         |         |
|--------------------------------------------------|---------|---------|
|                                                  |         |         |
| Test on Emulsion:                                | Minimum | Maximum |
| Viscosity, Saybolt Furol, 77 degrees F (25 C), s | ---     | ---     |
| Viscosity, Saybolt, 122 degrees F (50 C), s      | 150     | 400     |
| Storage Stability Test, 24-h, %*                 |         | 1       |
| Distillation (prior to addition of diluent)      |         |         |
| % residue by volume of emulsion                  | 65      | ---     |
| % oil distillate by volume of emulsion           | ---     | 0.5     |
| Tests on Residue from Distillation:              | ---     | ---     |
| Penetration, 77 °F, 100 g., 5 sec.               | 70      | 110     |
| Solubility in Trichloroethylene, %               | 97.5    | ---     |
| Ductility, 77 °F, 5 cm./min., cm.                | 100     | ---     |

**Material Samples:**

The County will require the Contractor to sample and test each load of emulsion prior to delivery. The Contractor will also provide a sample of the emulsion, on site, prior to commencing work. The County will require the Contractor to provide sample containers and a local Independent testing laboratory for the analyzing of emulsion. The Contractor will be responsible for the cost of the testing. The County reserves the right to test any shipment of emulsion that is believed to be of substandard. All samples shall be shipped and stored in clean air tight sealed wide mouth jars or bottles made of plastic.

**Equipment:****Distributor:**

The liquid bituminous material shall be applied with a truck mounted, pressure distributor that has been calibrated within the previous twelve (12) months, for transverse and longitudinal application rate. The distributor shall be equipped, maintained and operated so that the bituminous material can be applied at controlled temperatures and rates from .035 to 1.5 gallons per square yard. The distributor shall be capable of applying bituminous material of variable widths up to sixteen (16) feet. The distributor shall uniformly apply the bituminous material to the specified rate with a maximum allowed variation of 0.015 gallons per square yard. Distributor equipment shall include tachometer, accurate volume measuring device, a calibrated tank and a thermometer for measuring the temperature of the tank's contents. Distributors shall be equipped with a heating device, asphalt pump and full circulating spray bars adjustable laterally and vertically. Distributors and transport trailers shall be equipped with a sampling valve. Distributor trucks shall be of the pressure type with insulated tanks. The use of gravity distributors will not be permitted. The valves shall be operated by levers so that one or all valves may be quickly opened or closed in one operation. The valves which control the flow from nozzles shall act positively so as to provide a uniform unbroken spread of bituminous material on the surface. The distributor shall be equipped with devices and charts to provide for accurate and rapid determination and control of the amount of bituminous material being applied and with a bitumeter of the auxiliary wheel type registering speed in feet per minute, and trip and total distance in feet.

**Aggregate Spreader:**

The aggregate spreader shall be a self-propelled unit capable of uniformly spreading the aggregate at the required rate on a minimum width of six (6") inches wider than the width of the lane to be treated. The spreader shall be calibrated within the previous twelve (12) months for transverse and longitudinal application. The spreader shall be equipped with a computer-controlled aggregate/chip spreader in order to ensure the appropriate aggregate coverage at varying speeds, unless approved otherwise by Engineer.

**Pneumatic Tire Rollers:**

The contractor shall use eight (8) to twelve (12) ton self-propelled pneumatic tire rollers with oscillating wheels and low pressure, smooth tires. Maintain the inflation of the tires such that in no two tires the air pressure varies more than 5 psi. The rollers will be equipped with an operating water system and coco pads. A sufficient number of rollers



and a sufficient number of passes shall be used to ensure cover aggregate is properly rolled.

**Self-Propelled Rotary Power Broom:**

The self-propelled rotary broom shall be designed, equipped, maintained and operated so the pavement surface can be swept clean. The broom shall have an adjustment to control the downward pressure.

**Additional equipment:**

Additional equipment will be needed to complete the operations required by this technical provision. All equipment necessary for the successful completion of projects governed by this technical provision shall be included in the unit costs associated herein. Availability of quality assurance devices (such as a 15' straight edge) shall be the responsibility of the Contractor.

**Construction:**

**Layout:**

The Contractor will be responsible for the string lining and lay out of the roadway prior to paving.

**Weather and Seasonal limitations:**

The surface treatment shall not be applied to a wet surface or when rain is occurring or the threat of rain is present immediately before placement. The surface treatment shall not be applied when the temperature is less than 50 degrees Fahrenheit in the shade. When applying emulsions, the temperature of the surface shall be a minimum of 55°F, and no more than 140°F.

**Preparation of Surface:**

The chip seal material shall be placed on a firm unyielding prepared roadway. The Contractor shall be responsible for clipping back shoulders and removing overburden or any other vegetation or debris to ensure that the road is free of organic and deleterious material. The contractor will be responsible for blowing or sweeping the road immediately ahead of the chip seal operation to make sure the road is free of loose aggregate and other debris.

Application of bituminous material:

**Liquid bituminous material shall be applied by means of a pressure type distributor in a uniform, continuous spread over the section to be treated. The distributor shall be moving forward at the proper speed when the liquid is discharged onto the pavement to provide an even and consistent application at the rate prescribed. If any areas are deficient the operation shall be stopped and corrected immediately. The liquid shall not be applied more than two hundred (200') feet in advance of the aggregate spreader when the ambient air temperature is above 75 degrees or one hundred (100') feet if the air temperature is below 75 degrees.**

- **Single Chip Seal:** Application of the liquid bituminous material shall be applied at a rate of .38 -.45 gallons per square yard depending on the composition of the

existing road bed, surface texture and the size of the aggregate in use.

- **Double Chip Seal:** The second application of liquid bituminous material shall be applied at a rate of .38 - .42 gallons per square yard depending upon the size of the first layer of aggregate that the liquid is sprayed upon and the size of the aggregate being placed over the first application of surface treatment.

#### **Application of cover Aggregate:**

Immediately following the spray application of the liquid bituminous material, cover aggregate shall be spread over the liquid material at a rate of 18 – 30 lbs square yard depending upon the type of road base and/or the size of the existing aggregate that is being resurfaced.

#### **Rolling:**

Immediately following the first application of the cover material, roll the entire surface with a pneumatic roller, followed immediately with the steel drum roller. Cover the entire surface one time with the steel drum roller. Then, roll the cover material again with the pneumatic roller. Continue rolling as long as necessary to ensure thorough keying of the cover aggregate into the liquid bituminous material. Eliminate the steel drum when rolling the second application of cover aggregate. Apply the second application of liquid and cover material the same day as the first application, as far as it is practicable and consistent with the setting of the liquid bituminous material.

#### **Sweeping:**

After rolling of the first application of cover aggregate, lightly broom the loose aggregate in a manner not to dislodge the aggregate embedded in the liquid. Sweep loose material from road bed. Following second application again broom loose aggregate from the road bed prior to the application of the fog seal. If temperatures exceed 85 degrees, it may be necessary to wait 24 hours before sweeping the first application of chip seal.

#### **Fog Seal:**

Upon direction from the engineer, fog seal is to be applied as a separate pay item. When surface treatment has set, a fog seal is to be applied at a rate of .1 to .15 gallons per square yard to the entire surface treatment. The liquid for fog seal shall be a cationic mixing type emulsion diluted forty (40%) percent with water. Fog seal shall then be lightly sanded at a rate of plus or minus two (2) pounds per square yard by means of a mechanical spreader.

#### **General Performance:**

Provide completed pavement which performs to the satisfaction of the engineer without bleeding, rutting, shoving, raveling, stripping, or showing other types of pavement distress or unsatisfactory performance.

#### **Traffic Control:**

The **Contractor** shall furnish all necessary traffic control, barricades, signs and flagmen, to ensure the safety of the traveling public and to all working personnel. Traffic



shall not travel on fresh mix until rolling and blotting has been completed. The Contractor shall submit an M.O.T plan indicating all facets of traffic control for the project area. The MOT plan must be approved in writing by the County prior to commencing any work. All traffic control shall be in accordance with the FDOT Roadway Design Standards, most current edition and TP-102. M.O.T. and associated devices shall be checked daily and periodically throughout the project for compliance; and where adjustments or corrections are needed, prompt revisions shall be made.

**Method of Measurement:**

If a pay item is listed on the Bid Form for work required in this Technical Provision, the quantity to be paid shall be as specified in the Bid Form including all items of work described herein. Any item necessary for Chip Seal, and not specifically listed in another item in the Bid Form, shall be included in this item. Should the contractor be directed to place Fog Seal as a secondary application to Chip Seal, it shall be measured separately as listed in the Technical Provision for Fog Seal.

**Basis of Payment:**

The quantities to be paid for under this Technical Provision shall be included in the Square Yard price for Chip Seal (Single application), Chip Seal (Double application) or as listed in the Bid Form. The Unit price includes all items listed in the contract, including all General Conditions, Special Conditions and Technical Provisions pertaining to Chip Seal, including all items of work described herein. No additional payment will be provided for any item necessary for the completion of this contract as detailed in the specifications, except that at the direction of the county, Fog Seal shall be applied and paid separately as listed in the Technical Provision for Fog Seal.

## FOG SEAL SPECIFICATIONS

The work specified in this section consists of furnishing and applying fog seal on existing roads at application rates described here-in.

Description: Fog seals are a method of adding asphalt to an existing pavement surface to improve sealing or waterproofing, prevent further stone loss by holding aggregate in place, or simply improve the surface appearance. Generally, fog seal is a light spray application of diluted asphalt emulsion used primarily to seal an existing asphalt surface to reduce raveling and enrich dry and weathered surfaces. However, inappropriate use can result in slick pavements and tracking of excess material.

### **Materials:**

The emulsion types recommended for fog seals may be cationic (i.e., a positive surface charge on the asphalt particles), or anionic (i.e., a negative surface charge on the asphalt particles). The primary types used are CSS-1h and SS-1h. In some circumstances, CQS-1h (and LMCQS-1h) will give a faster set.

**Liquid emulsified bituminous material for dilution:** CSS-1h liquid bituminous material conforming to the requirements of AASHTO M 208 or SS-1h conforming to the requirements of AASHTO M 140 (except as modified herein) shall be utilized. The contractor shall certify the liquid bituminous material meets the aforementioned specifications

The asphalt emulsion may contain up to 43% water prior to dilution. Original emulsion water and dilution water shall be limited to and not exceed for any reason 50% by volume. Therefore, residual asphalt shall equal 50% (+1%, -0%).

**Dilution Water and Emulsion Water:** Water introduced into the asphalt must be potable and free from detectable solids or incompatible soluble salts (hard water).

### **Material Samples:**

The County will require the Contractor to sample and test each load of emulsion prior to delivery. The Contractor will also provide a sample of the emulsion, on site, prior to commencing work. The County will require the Contractor to provide sample containers and a local Independent testing laboratory for the analyzing of emulsion. The Contractor will be responsible for the cost of the testing. The County reserves the right to test any shipment of emulsion that is believed to be of substandard. All samples shall be shipped and stored in clean air tight sealed wide mouth jars or bottles made of plastic.

### **Equipment:**

### **Distributor:**

The liquid bituminous material shall be applied with a truck mounted, pressure distributor that has been calibrated within the previous twelve (12) months, for transverse and longitudinal application rate. The distributor shall be equipped, maintained and operated so that the bituminous material can be applied at controlled temperatures and rates from



.03 to .22 gallons per square yard with nozzles adjusted to allow minimum overlap of 3x. The distributor shall be capable of applying bituminous material of variable widths up to sixteen (16) feet. The distributor shall uniformly apply the bituminous material to the specified rate with a maximum allowed variation of 0.015 gallons per square yard. Distributor equipment shall include tachometer, accurate volume measuring device, a calibrated tank and a thermometer for measuring the temperature of the tank's contents. Distributors shall be equipped with an asphalt pump and full circulating spray bars adjustable laterally and vertically. Distributors and transport trailers shall be equipped with a sampling valve. Distributor trucks shall be of the pressure type with insulated tanks. The use of gravity distributors will not be permitted. The valves shall be operated by levers so that one or all valves may be quickly opened or closed in one operation. The valves which control the flow from nozzles shall act positively so as to provide a uniform unbroken spread of bituminous material on the surface. The distributor shall be equipped with devices and charts to provide for accurate and rapid determination and control of the amount of bituminous material being applied and with a bitumeter of the auxiliary wheel type registering speed in feet per minute, and trip and total distance in feet.

**Additional equipment:**

Additional equipment will be needed to complete the operations required by this technical provision. All equipment necessary for the successful completion of projects governed by this technical provision shall be included in the unit costs associated herein. Availability of quality assurance devices shall be the responsibility of the Contractor.

**Construction:**

**Layout:**

The Contractor will be responsible for the lay out of the roadway and project planning and sequencing to meet traffic control requirements prior to paving.

**Weather and Seasonal limitations:**

The fog seal shall not be applied to a wet surface or when rain is occurring or the threat of rain is present immediately before placement. The surface treatment shall not be applied when the temperature is less than 50 degrees Fahrenheit in the shade. When applying emulsions, the temperature of the surface shall be a minimum of 59°F, and no more than 140°F.

If unexpected rain occurs prior to the emulsion breaking, the area shall be re-fogged at no cost to the county. Further, the contractor's traffic control and project monitoring shall continue until the surface is either free of emulsion or the emulsion applied has broke and the resultant surface is not slippery or dangerous to vehicular travel.

**Preparation of Surface:**

The contractor will be responsible for blowing or sweeping the road immediately ahead of the fog seal operation to make sure the road is free of loose aggregate and other debris. The surface shall be clean and dry prior to the application.

Application of bituminous material:

The emulsion shall be diluted no more than 24 hours before its intended use to avoid settlement of the diluted emulsion. Water shall be introduced into the emulsion. Introducing emulsion into water is not permitted. The emulsion shall be circulated using a centrifugal or other suitable pump to ensure uniformity as needed.

Properly calibrated distributor trucks with 4 to 5 mm (1/8" to 3/16") opening spray nozzles shall be used to apply the emulsion. The emulsion may be heated to 122°F maximum, or may be applied at ambient temperatures conforming to the requirements of this technical provision. The emulsion shall be sprayed at a rate as directed in the field by the county. Application will be determined dependent upon the surface conditions.

Tight Surface (low absorbance and relatively smooth) - .09-.14 gal/sy

Open Surface (relatively porous and absorbent with open voids) - .18-.22 gal/sy

**Exceptions:** When fog seal is required as a subsequent treatment to chip seal, OGCM, or other method described in this contract, materials, equipment and application shall be as described in this technical provision and as amended in the technical provision appropriate to the work the fog seal is subsequent to. If discrepancies occur, the County shall determine the appropriate specification.

#### **Traffic Control:**

The **Contractor** shall furnish all necessary traffic control, barricades, signs and flagmen, to ensure the safety of the traveling public and to all working personnel. Traffic shall not travel on fresh fog seal until material is sufficiently broke such that tire pickup does not occur. The Contractor shall submit an M.O.T plan indicating all facets of traffic control for the project area. The MOT plan must be approved in writing by the County prior to commencing any work. All traffic control shall be in accordance with the FDOT Roadway Design Standards, most current edition and TP-102. M.O.T. and associated devices shall be checked daily and periodically throughout the project for compliance; and where adjustments or corrections are needed, prompt revisions shall be made.

#### **Method of Measurement:**

If a pay item is listed on the Bid Form for work required in this Technical Provision, the quantity to be paid shall be as specified in the Bid Form including all items of work described herein. Any item necessary for Fog Seal, and not specifically listed in another item in the Bid Form, shall be included in this item.

#### **Basis of Payment:**

The quantities to be paid for under this Technical Provision shall be included in the per square yard price for Fog Seal. There will be a bid item for "Tight Surfaces" (.09-.14 gal/sy) and a separate bid item for "Open Surfaces" (.18-.22 gal/sy) as listed in the Bid Form. The Unit price includes all items listed in the contract, including all General Conditions, Special Conditions and Technical Provisions pertaining to Fog Seal, including all items of work described herein. No



additional payment will be provided for any item necessary for the completion of this contract as detailed in the specifications.

## FULL DEPTH RECLAMATION WITH ASPHALT EMULSION SPECIFICATIONS

This work shall consist of the preparation of a stabilized base course composed of a mixture of the existing bituminous concrete pavement, existing base course material and emulsified asphalt and other additives. The manufacturing of the stabilized base course shall be done by in-place pulverizing and blending of the existing pavement and base materials, and the introduction of asphalt emulsion and additives if called for in the Special Conditions or design mix formula. The process which results in a stabilized base course shall be accomplished in accordance with these specifications and conform to the lines and grades established by the engineer.

Existing asphalt pavement shall be pulverized by a method that does not damage the material below the plan depth as shown on the appropriate roadway section.

### **Materials:**

**RAP:** Materials must meet all requirements specified in the 2010 Florida Department of Transportation Standard Specifications for Road and Bridge Construction 283-2, except that 98% of all material is required to pass through a 50 mm (2 inch) sieve.

**Additional Base Materials:** Additional base materials may be needed for adjusting grade elevations as directed by the engineer, or for widening. When such additional material is required it shall be among those bases listed in FDOT Design Standards as General Use Optional Base Materials and meet applicable FDOT requirements for such.

**Asphalt Emulsion:** When asphalt emulsion treatment is specified, asphalt emulsion, type CSS-1h or CMS-2h mod., meeting the requirements of ASTM D2397-98, shall be utilized.

**Portland Cement:** When a blend of asphalt emulsion and Portland cement is specified the Portland cement shall be type I or II and conform to the latest standard requirements of ASTM C150 and AASHTO M85. If cement is added with emulsion no more than 4% shall be used on the project.

**Water:** The water for the base course compaction and foaming additive shall be clean and free from sewage, oil, acid, strong alkalies, or vegetable matter and it shall be in sufficient supply for mixing and curing. Water of questionable quality shall be tested in accordance with the requirements of AASHTO T 26.

**Soil:** The soil base to be reclaimed shall be evaluated by a professional geotechnical engineering laboratory to determine suitability in the stabilization process. The soil shall be free of roots, sod, weeds, and shall not contain gravel or stone retained on a 1-inch (25 mm) sieve, or more than 45% retained on a No. 4 (4.75 mm) sieve, as determined by ASTM C 136.



## **Equipment:**

**Road Reclaimer:** Shall be originally designed for pavement reclaiming of a size equal to or larger than a Caterpillar Model RM-350B with comparable specifications including horsepower and rotor size. The reclaimer shall be capable of pulverizing and mixing pavement, base materials, and subgrade soil to depth of 16 inches. It shall have the capability of introducing and metering additives uniformly and accurately and that positive displacement pumps accurately meter the planned amount of asphalt emulsion into the mixture. The reclaiming machine shall mix the emulsified asphalt additive thoroughly with the RAP and soil materials. The pump shall be mechanically or electronically interlocked with the ground speed of the machine. The asphalt metering system and water metering system shall be capable of continuously monitoring (GPM) flow, and totaling the quantity of water and asphalt applied into the mixing chamber. Additives shall be uniformly distributed and mixed with the pulverized material, any existing underlying material as specified.

**Motor Grader:** Shall be of sufficient size and horsepower to adequately rough grade the pulverized base and rough and finish grade the mixed and compacted base. The equipment shall be in good working order free from leaks and capable of maintaining an accurate grade and cross-slope.

**Rollers:** Shall be in good working order free from leaks and capable of compacting the mix to the requirements of this specification: Vibratory rollers shall be a minimum of 10 tons and capable of rolling in either vibratory or static mode. Three wheel static rollers shall be a minimum of 11 tons. Pneumatic tire rollers shall have a minimum of 9 oscillating wheels with smooth, low pressure tires (pressure shall be equally matched in all tires within 5 PSI) and weigh at least 20 tons. Initial compaction shall be accomplished by either single or dual drum vibratory or three wheel roller static rollers.

**Additional equipment:** Additional equipment will be needed to complete the operations required by this technical provision. All equipment necessary for the successful completion of projects governed by this technical provision shall be included in the unit costs associated herein. Availability of quality assurance devices (such as a 15' straight edge) shall be the responsibility of the Contractor.

**Cement Delivery Equipment:** A calibrated screw-type distributor shall be used with a curtain to accurately place the amount of cement required by the mix design onto the roadbed for mixing.

## **Construction:**

**Layout:** The Contractor will be responsible for the string lining and lay out of the roadway prior to paving. Elevations of the existing road must be referenced at sufficient intervals to ensure the roadway elevation is not changed in any location after final surface is placed. Method for layout and line and elevation reference must be approved by the engineer prior to beginning work. It is imperative that roadway elevations remain unchanged except cross slope correction or as approved by the engineer.

**Weather and Seasonal limitations:** The base shall not be mixed or placed while the atmospheric temperature is below 35 F (2 C) or when conditions indicate that the temperature may fall below 35 F (2 C) within 24 hours, or when the weather is foggy or rainy, or when the soil or sub grade is frozen.

**Mix Design:** Prior to base course construction, a minimum of one (1) core sample must be taken for every 5,000 square yards of the roadway. Representative samples of the RAP material, underlying base material and virgin materials, where applicable, shall be supplied to a nationally accredited laboratory for preliminary testing to determine the optimum moisture content and proportions of asphalt emulsion or foamed asphalt needed to produce a finished base course with a mix design target of 300 PSI and a final in place base compressive strength of 200 to 400 PSI. Laboratory tests of material to be reclaimed and virgin materials for use as base shall be performed to determine compliance with 3-day and 7-day minimum compressive strength requirements of the mixture and the quantity of asphalt emulsion or foamed asphalt required in the mix. Test specimens containing various amounts of asphalt emulsion or foamed asphalt are to be compacted in accordance with ASTM D558, and the optimum moisture for each amount of either is to be determined. Actual application quantities for the additives will be derived from the mix design. The minimum compressive strength requirements of the mixture shall be determined by the engineer. The mix design and laboratory testing shall be performed by a geotechnical engineering laboratory and all reports sealed by a professional engineer.

| <b>Mix Design Performance Criteria</b>                                                                                                                                       |                                           |                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|--------------------------------------|
| <i>100 mm specimens shall be prepared in a Superpave Gyratory compactor. The mixture should meet the following criteria at the selected design asphalt emulsion content:</i> |                                           |                                      |
| <b>Property</b>                                                                                                                                                              | <b>Criteria</b>                           | <b>Purpose</b>                       |
| Compaction effort, Superpave Gyratory Compactor AASHTO T312                                                                                                                  | 1.25° angle, 600 kPa stress, 30 gyrations | Density Indicator                    |
| Density, ASTM D2726 or equivalent                                                                                                                                            | Report                                    | Compaction Indicator                 |
| Gradation for Design Millings, ASTM C117                                                                                                                                     | Report                                    |                                      |
| *Marshall stability, ASTM D6926, D6927, 40°C                                                                                                                                 | 1,250 lb min.                             | Stability Indicator                  |
| **Resistance of Compacted Bituminous Mixture to Moisture Induced Damage AASHTO T283 - Retained stability based on cured stability                                            | 70 % min.                                 | Ability to withstand moisture damage |
| * Cured stability tested on compacted specimens after 60°C (140°F) curing to constant weight.                                                                                |                                           |                                      |
| **Vacuum saturation of 55 to 75 percent, water bath 25°C 23 hours, last hour at 40°C water bath                                                                              |                                           |                                      |

**Widening:** When the existing base is to be widened, the Contractor shall excavate the shoulder from the edge of the existing pavement to at least 6 inches beyond the



planned new width of the base prior to pulverization. All costs involved in collecting, hauling, and disposing of these materials shall be borne by the Contractor.

The bottom of the trench shall be kept free of loose soil and vegetation. Approved base material (those bases listed in FDOT Design Standards as General Use Optional Base Materials) shall be placed in the excavation uniformly and without loss or contamination. The Contractor shall correct all areas of irregular grade or deficient thickness and shall remove and replace material contaminated with soil, organic material, or debris.

After the final pass of the reclaimer, soil shall be drawn up against the widening material to close the excavation, and the shoulder shall be graded and compacted to produce a firm, even surface.

**Additional Material:** When additional material is to be added to correct cross slope deficiencies or change elevation as directed by the engineer, approved base material (those bases listed in FDOT Design Standards as General Use Optional Base Materials) shall be placed on the roadway prior to final pass for pulverization and mixed uniformly with the existing material.

**Pulverization:** The existing pavement and base material shall be pulverized and blended to the depth required so the entire mass of material shall be uniformly graded to the following gradation:

| SIEVE SIZE | PERCENT PASSING |
|------------|-----------------|
| 2"         | 98 - 100        |
| 1-1/2"     | 95              |

Material gradation may vary due to local aggregates and conditions. Multiple passes of the reclaimer may be necessary to achieve the required gradation.

The asphalt emulsion or asphalt and water (to produce a foamed asphalt) shall be introduced into the mix through the reclaimer uniformly and accurately and metered such that areas are of equal consistency and moisture content. The reclaimed material and additives shall be combined in place to meet the requirements specified in such proportions that the reclaimed mixture is of acceptable composition and stability. Before the start and at the end of each day's work and at any time requested, the engineer must be permitted access to the mixing equipment in order to read the meter to verify the quantity of asphalt emulsion applied during the day's work. Field adjustments shall be made as necessary to the recommended mix design under the guidance of a knowledgeable and competent technician or superintendent to obtain a satisfactory reclaimed mixture of consistent composition and stability throughout the Project.

After the material has been processed, it shall be compacted to the lines, grades, and depth required. Water may be applied to ensure optimum moisture content at the time of mixing and compaction.

**Compaction:** Commence rolling with self propelled rollers as required by this technical provision at the low side of the course, except leave 3 to 6 inches from any unsupported

edge or edges unrolled initially to prevent distortion. Density readings shall be taken by Contractor's licensed nuclear gauge operator and witnessed by the Engineer/inspector. A control strip of not less than 500 feet shall be constructed to develop proper rolling/compaction patterns and methods to obtain desired density. Whenever there is a change in the reclaimed material or compaction method, equipment or unacceptable results occur, a new control strip shall be constructed, tested and analyzed.

Rollers shall move at a uniform speed that shall not exceed 8 km/hour (5 miles/hour). For static rollers, the drive drum normally shall be in the forward position or nearest to the paver. Vibratory rollers shall be operated at the speed, frequency and amplitude required to obtain the required density and prevent defects in the mat.

The number, weight and type of rollers furnished shall be sufficient to obtain the required compaction of the reclaimed material. The field density of the compacted mixture shall be at least 95 percent of the maximum density of laboratory specimens prepared from samples of the base material taken from the material in place. The specimens shall be compacted in accordance with ASTM D 558. The in-place field density shall be determined in accordance with ASTM D 2922.

Any pavement shoving or other unacceptable displacement shall be corrected. The cause of the displacement shall be determined and corrective action taken immediately and before continuing rolling. Care shall be exercised in rolling the edges of the reclaimed mixture so the line and grade of the edge are maintained.

At the end of each day's production, a transverse construction joint shall be formed by a header or by cutting back into the compacted material to form a true vertical face free of loose material. The protection provided for construction joints shall permit the placing, spreading, and compacting of base material without injury to the work previously laid. Where it is necessary to operate or turn any equipment on the completed base course, sufficient protection and cover shall be provided to prevent damage to the finished surface. A supply of mats or wooden planks shall be maintained and used as approved and directed by the Engineer.

**Finishing:** Finishing operations shall be completed and the base course shall conform to the required lines, grades, and cross section. If necessary, the surface shall be lightly scarified to eliminate any imprints made by the compacting or shaping equipment. The surface shall then be recompacted to the required density. Correct all irregularities greater than 1/2" over ten feet to the satisfaction of the engineer.

**Protection and Curing:** After the base course has been finished as specified herein, it shall be protected against drying for a period of 5 to 7 days by the application of a prime coat as specified in FDOT Standard Specifications section 300 at a rate of not less than 0.15 gal/sy. The curing method shall begin as soon as possible, but no later than 24 hours after the completion of finishing operations. The finished base course shall be kept moist continuously until the curing material is placed.



At the time the prime coat is applied, the surface shall be dense, free of all loose and extraneous material, and shall contain sufficient moisture to prevent penetration of the bituminous material. Water shall be applied in sufficient quantity to fill the surface voids immediately before the bituminous curing material is applied.

The curing material shall be maintained and re-applied as needed by the Contractor during the 7-day protection period so that all of the soil-cement will be covered effectively during this period. Finished portions of soil-cement that are used by equipment in constructing an adjoining section shall be protected to prevent equipment from marring or damaging the completed work.

When the air temperature may be expected to reach the freezing point, sufficient protection from freezing shall be given the soil-cement for 7 days after its construction and until it has hardened.

**Thickness:** The average thickness of the base constructed during one day shall be within 1/2 inch (12 mm) of the thickness required, except that the thickness of any one point may be within 3/4 inch (19 mm) of that required. Where the average thickness shown by the measurements made in one day's construction is not within the tolerance given, the Engineer shall evaluate the area and determine if, in his/her opinion, it shall be reconstructed at the Contractor's expense or the deficiency deducted from the total material in place.

**Sampling and Testing:**

| <b><u>Control Testing for Full Depth Reclamation Field Sampling and Testing</u></b> |               |                                           |                                                  |
|-------------------------------------------------------------------------------------|---------------|-------------------------------------------|--------------------------------------------------|
| <b>Type of Test</b>                                                                 | <b>Method</b> | <b>Frequency</b>                          | <b>Size and Location</b>                         |
| RAP and Soil Cement Base Gradation                                                  | ASTM D-136    | Each 3000 SY (not less than once per day) | 20 lb min sampled from hopper                    |
| Moisture Density Relationship of Soil Cement Mixtures                               | ASTM D-558    | Each 1000 SY (not less than once per day) | 33 lb min sampled from pulverized base           |
| Compressive Strength of Molded Soil Cement Cylinders                                | ASTM D-1633   | Each 3000 SY (not less than once per day) | 33 lb min sampled from pulverized and mixed base |
| In-place Field Density                                                              | ASTM D-2922   | Each 250 SY (not less than once per day)  | Random locations after spreading and compacting  |

The depth of Reclaimed Bituminous Base Course shall be determined by measuring uncompacted reclaimed material immediately behind the screed in conjunction with measuring the milling depth prior to placement of reclaimed material. One depth measurement for each 250 square yards of completed base course shall be made. Any section deficient by 0.5 in (12 mm) or more from the specified depth shall be removed and satisfactorily replaced by the contractor at no additional cost. At the county's option, cores may be taken by the engineer in the finished product to further ensure base thickness meets requirements.

All delivery tickets and notes regarding any materials brought to the project site to complete this Contract must be given to the Engineer/Inspector upon delivery to the project site.

*Additional sampling and testing may be required if major changes in RAP characteristics are observed, such as a much coarser or finer gradation or a noticeable difference in asphalt content, or when considerable variability is occurring in the field test results.*

**Method of Measurement:**

If a pay item is listed on the Bid Form for work required in this Technical Provision, the quantity to be paid shall be as specified in the Bid Form including all items of work described herein. Any item necessary for Full Depth Reclamation with Asphalt Emulsion, and not specifically listed in another item in the Bid Form, shall be included in the SY Price for Pulverization including but not limited to shaping, compacting, finish grading, prime coat, sanding prime coat... Cost for introduction of asphaltic cement into the mixture shall be included in the per GL cost for Asphalt Emulsion. Cost for excavation for widening will be included in the CY Price for Excavation. Cost for additional materials needed for widening or adjustment of grade as directed by the engineer shall be included in the per TON Price for General Use Optional Base Material.

**Basis of Payment:**

The quantities to be paid for under this Technical Provision shall be included in the Square Yard price for Full Depth Reclamation (Pulverization), the per Gallon price for Asphalt Emulsion, the per Cubic Yard price for Excavation and the per TON price for General Use Optional Base Material. The Unit prices include all items listed in the contract, including all General Conditions, Special Conditions and Technical Provisions pertaining to Full Depth Reclamation with Asphalt Emulsion, including all items of work described herein. No additional payment will be provided for any item necessary for the completion of this contract as detailed in the specifications.



# Single Machine

## Hot-In-Place Asphalt Recycling Special Conditions

### 3.1 DESCRIPTION OF WORK

This work consists of rehabilitating the surface layer of the existing asphalt roadway to a depth of 1 inch and placing a layer of new Hot Mix Asphaltic Concrete (HMAC) material over the rehabilitated surface. This will be accomplished with a specially designated machine in a simultaneous process of heating, scarifying, applying an asphalt rejuvenating agent (emulsifier), thoroughly re-mixing, reshaping the existing surface, and an application of the final overlay. The new HMAC placed over the rejuvenated layer of existing asphalt shall be in compliance with the lines, grades, thickness, and typical cross section, established by the Director of Public Works or Designee.

**NOTE: The machine that heats, scarifies, rejuvenates, and remixes the materials must also lay the recycled asphalt material, as well as the new HMAC material. The Director of Public Works or his Designee will provide the list of streets for this application after the bid is awarded as required. Additional pre-heaters may be required to achieve the specified depth, as directed by the Director of Public Works or Designee.**

### 3.2 MATERIAL

a) Asphalt Rejuvenating Agent (Emulsifier) The Director of Public Works or Designee will approve the asphalt-rejuvenating agent. The recycling agent used to restore the plasticity of the existing asphalt pavement shall be an emulsified agent. The rejuvenating agent shall meet the minimum requirements of FDOT Specifications. A manufacturer's certification shall be submitted for the recycling agent.

b) Hot Mix Asphaltic Concrete: The Contractor will provide and deliver the F.D.O.T.-Type Hot mix asphalt concrete specified in the bid schedule.

### 3.3 JOB CONDITIONS

a) Weather limitations for this work shall be a minimum of 50 degrees F. and rising.

b) Normal working hours is 8 a.m. to 5 p.m. Monday through Friday. Work on holidays, weekends, will only be done if approved by the Director of Public Works or Designee.

c) Prior to the hot-in-place operation, the pavement shall be cleaned so as to be reasonably free from sand, dirt, and other deleterious substances that would affect the quality of the recycled mix.

**NOTE: No separate charge shall be made for this requirement.**

d) The Contractor shall be responsible for protecting the areas adjacent to the work.

### **3.4 EQUIPMENT**

a) All tools, equipment, and machinery shall be maintained in satisfactory working condition and shall be subject to the approval of the Director of Public Works or Designee.

b) Repaving machine:

**1) The machine:** Shall be an approved, self-contained, self-propelled, automated unit that heats, scarifies (or mills), automatically applies recycling agent at a uniform rate (determined by the Director of Public Works or Designee), thoroughly mixes, redistributes, and levels the existing asphalt to the specified depth, and lays the new HMAC material overlay. The new HMAC must be laid within 30 seconds after the scarification begins to ensure a hot monolithic bond with the recycled asphalt pavement. The machine shall also be capable of reworking the material around manholes and other obstacles; the machine shall be capable of adding and mixing the recycling agent evenly and shall be equipped with a leveling blade and screed for re-grading of the existing asphaltic concrete surface.

**2) Pre-heater:** This unit shall be hooded to prevent damage to adjacent property; including trees, shrubs, and landscaping. The heating hood shall be capable of heating the pavement surface to a minimum temperature of 225 degrees F, not to exceed 325 degrees F. This will allow for scarification to the required depth without breaking the aggregate particles or charring the pavement surface.

**3) Scarifying and Milling:** Units shall be automatically controlled units in order to control the depth of penetration and to clear utility manholes and other obstructions. The Director of Public Works or Designee shall direct the depth of scarification.

**NOTE: Scarifying depth may vary in range from 3/4 inch to 1 inch.**

**4) Recycling Agent Applicator:** This System shall be automatically controlled; the recycling agent must be applied to the scarifying material at a uniform rate (determined by the Director of Public Works or Designee.) The application rate shall be synchronized with the machine's forward speed to maintain a tolerance within 5% of the specified rate.

**5) Receiving Hopper and Conveying System:** The machine shall consist of a hopper and conveyor system to collect and transport the new HMAC to the finishing unit without segregation of the new material.



**6) Recycling Unit:** The machine shall consist of a system that mixes and redistributes and levels the scarified material over the width being processed to produce a uniform cross section of recycled material. The recycling screed shall be heated to have crown control, and be capable of redistributing the recycled material to the desired longitudinal grade and transverse cross section.

**7) Finishing unit:** The machine shall have an automatic controlled screed to produce a surface conforming to the surface thickness as required by the Director of Public Works or Designee. The thickness of the surface course lift shall not exceed 2 inches. This unit shall be capable of applying the new HMAC to a uniform longitudinal profile and cross slope of 1/4 inch per foot. The finishing screed must be heated and capable of electronically controlling the cross slope, and applying the new HMAC to produce a uniform surface and texture.

**8) Rollers:** Rolling equipment shall be of sufficient type and weight to compact the new HMAC and the recycled material to the required density as determined by the Director of Public Works or Designee. Sufficient number of rollers shall be furnished to keep up with the operation. All rolling should be completed before the temperature of the new HMAC drops below 190 F.

### **3.5 TRAFFIC CONTROL**

a) Temporary pavement markings shall be the responsibility of the Contractor. This may be either foil back traffic tape, or temporary reflective tabs.

b) Maintenance of Traffic: Suitable methods shall be used by the Contractor to protect the new asphalt surface from all types of vehicular traffic without damage. Opening the new roadway to traffic does not constitute acceptance of work. All work shall conform to the FDOT "Maintenance of Traffic" specifications.

c) The contractor will maintain at least one-way traffic and shall provide effective traffic control at all times. Two-lane traffic shall be maintained wherever possible.

d) No interruption of access to property shall be made unless prior arrangements acceptable to the owner of the affected property have been made and approved by the Director of Public Works or Designee.

e) Submit to the Director of Public Works or Designee for approval a Traffic Control Plan signed by a State of Florida Advance Trained Traffic Control Supervisor.

f) The Contractor shall have, at all times of operation, a Certified Traffic Control Supervisor on site.

### **3.6 EXECUTIONS**

Hold a pre-construction meeting prior to construction, and not later than seven days before start of operation. The Director of Public Works or Designee shall be notified at least 48 hours prior to commencement of **any** paving operation.

- a) The heating unit shall produce sufficient heat to soften the pavement uniformly without burning or charring the existing asphalt pavement.
- b) The process shall produce a welded, longitudinal joint, and the standing edge of the adjoining asphalt pavement shall fully heat to a width of at least 2 inches beyond the width to be scarified and recycled.
- c) Immediately following heating of the pavement, the existing surface shall be scarified (milled) to the specified depth. The machine shall have the capability of maintaining a recycled mat with a minimum temperature of 190 degrees F. and a maximum temperature of 225 degrees F. throughout the repaving operation.
- d) Due to the varying locations and properties of the existing asphalt paving, the following adjustments shall be made if required and directed by the Director of Public Works or Designee.
  - 1) Depth of scarification may be varied.
  - 2) Application rate for the recycling agent may vary and must be uniformly mixed.  
**Note: Payment for the item recycling agent will be the unit price per gallon used.**
  - 3) Contractor to provide sufficient testing to ascertain correct application rate of the emulsified agent.
- e) Cleanup- The Contractor will keep the work site free from accumulation of waste material; rubbish and debris from and about the work site, as well as all construction equipment, machinery, surplus materials, and will leave the site clean.
- f) The Contractor will restore to their original condition those portions of the work site, such as staging and stockpile areas, not designed for alteration as contained in the Delivery Order. This will include returning the area to the proper grade and slope as well as replacing sod, if so required by the Director of Public Works or Designee.

### **3.7 QUALITY CONTROL**

The Director of Public Works has the option of when and where tests may be taken to check if the surface is in compliance with thickness, smoothness, etc., and meets requirements of the specifications as directed by the Director of Public Works and as outlined in Section 334 FDOT.

Contractor will assign a Quality Control Supervisor of the project. This person will work in conjunction with the City/County Quality Control Inspector.



### **3.8 METHOD of MEASUREMENT**

- a) The accepted quantities of asphalt pavement surface recycled will be measured and paid by the square yard. Pay item, **Hot-In-Place Recycling-Square Yard unit price.**
- b) Asphalt recycling emulsion agent will be measured by the **gallon used in place** as determined by the Contractor and their predetermined Mix Design, and Director of Public Works or Designee, and the job supervisor. Pay item, Recycling Emulsion – Pre Gallon.
- c) Basis of payment for the work will be made on the unit price bid **per ton of asphaltic concrete per the price in the bid.** The basis of measurement shall be tonnage slips accepted by the Inspector at the job site for material placed and accepted.

### **3.10 MATERIAL SAFETY DATA**

The contractor shall submit a Material Safety Data Sheet in accordance with the requirements of 29 CFR 1910.1200(g) for all hazardous material identified and listed in the contractor's bid. Data shall be submitted whether or not the contractor is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet before the use of any hazardous material shall result in termination of the contract with the contractor for default.

### **3.11 CONTRACTOR INSPECTION REQUIREMENTS**

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies, material, equipment, or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturer parts.

Performance of inspection or testing by the City/County shall not relieve the Contractor of this responsibility nor waive any rights of the City/County to reject or otherwise obtain relief in relation to non-conforming supplies, material, equipment, or services.

### **3.12 DELIVERY of EXCESS QUANTITIES**

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the City/County receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. Quantities in excess will, at the option of the City, either be rejected and returned at the Contractor's expense, or retained and paid for by the City/County at the contract unit price.

## **EDGE MILLING ASPHALT PAVEMENT**

### **Part 2**

#### **3.13 GENERAL**

All edge milling work herein specified shall be performed in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction most recent edition at the time of bid submittal and this specification. Where there is conflict between this specification and FDOT's specifications, this specification shall overrule. All references in FDOT's specifications to the Engineer shall mean the City/County Director of Public Works or his/her Designee, herein after referenced to as the Director. The decision of the Director of Public Works shall be final on all items.

#### **3.14 EQUIPMENT**

- a) In general, the Contractor may perform the work using equipment, tools, machinery, etc. of their own choosing. However, all equipment to be used in the construction of the project shall be subject to approval or disapproval by the Director or designee.
- b) The equipment used in the cold plane milling operation shall be a machine capable of maintaining a depth of cut and cross slope across the entire pavement surface to the desired uniformity and texture as specified by the Director. The equipment shall be capable of accurately and automatically establishing profile grades along each edge of the machine (within + or - 1/8 inch) by automatic controls referencing from the existing pavement. The machine shall be equipped with a means to effectively limit the amount of dust escaping from the removal operation. To prevent infiltration of milled material into the storm sewer system, the sweeping operation shall be performed immediately after the milling operation.
- c) Jobsite storage of equipment shall be the responsibility of the Contractor.

#### **3.15 CONSTRUCTION METHODS**

##### **a) Edge Milling**

- 1) The pavement surface shall be removed to the depth, width, grade, and cross section as directed by the Director of Public Works or Designee, which will restore the pavement surface to a uniform longitudinal profile and cross section. Additional work at intersections may be needed to obtain smooth transitions.
- 2) In general, the work to be done shall be removal of existing asphalt pavement to a depth of (3/4) to one (1) inch below gutter elevation. However, in no case shall asphalt pavement be removed within one-half (1/2) inch of the base, unless approved by the Director. If the base is exposed, asphalt will be placed immediately over exposed areas. All asphalt above and in the gutter is to be removed by methods which will not damage concrete curb and gutter.



3) The City/County will not be liable and will accept no responsibility for damage by hidden unexposed manholes or other utility appurtenances done to the milling machine or any other equipment of the Contractor.

4) The Contractor shall construct transitions at all streets, driveway intersections, intersections and alleys (that have a transition greater than 1"), as directed by the Designee. The transitions shall be from a straight-line projection of the toe of the curb of the street being milled to a distance not to exceed one hundred (100) feet.

5) The Contractor shall edge mill on either or both sides of the street with a width of approximately six and one half (6 ½) feet, (single pass).

6) The milled material shall remain the property of the City/County.

7) The newly edge milled surface shall be properly cleaned; the Hot-In-Place asphalt recycling to follow the milling operation, or as directed by the Director of Public Works or Designee.

### **3.16 MEASUREMENT of WORK COMPLETED**

a) Asphalt edge milling shall be measured in square yards and in (0-1) inches of depth.

### **3.17 BASIS OF PAYMENT ASPHALTIC CONCRETE**

The quantity of asphalt being purchased hereunder is a rough approximation only and the total quantity of work to be included in the contract may vary widely depending upon the work that will be authorized by the City/County during the period covered by the proposed contract.

The basis of measurement shall be tonnage slips accepted by the Inspector at the job site for material placed and accepted. Asphalt installed in excess of required thickness shall be removed and reinstalled at Contractor's expense.

Basis of payment for the work will be made on the unit price bid per ton of asphaltic concrete per the price in the bid.

The bid price for the asphalt mix shall include the cost of liquid asphalt. There will be no separate payment for the bituminous material in the asphalt mix. Should it become necessary to increase the percentage of asphalt to satisfy the job mix formula (e.g., the minimum effective asphalt content) or other requirements of the specifications, no additional compensation will be made.

The bid price per ton for asphalt in the proposal shall remain in effect for one year.

## REQUIRED FORMS

### INVITATION TO BID

These forms are required and should be submitted with all submissions. If it is determined that forms in this selection are not applicable to your company or solicitation they should be marked “N/A or Not Applicable” across the form in large letters and returned with your submission package. **Note:** If submitting via hard copy the original must be a manually signed original. Include additional copies, if specified, in the Solicitation documents.

#### **Form # Title/Description**

##### **1 *Solicitation Response Form***

All signatures must be by a corporate authorized representative, witnessed, and corporate and/or notary seal (as applicable.) The corporate or mailing address must match the company information as it is listed on the Florida Department of State Division of Corporations. Attach a copy of the web-page(s) from <http://www.sunbiz.org> as certification of this required information. Sample attached for your reference.

Verify that all addenda and tax identification number have been provided.

##### **1a *Bid/Proposal Form***

This form is used to provide itemization of project cost. A more detailed “schedule of values” may be requested by the County

##### **1b *Business Relationship Disclosure Requirement* (as applicable)**

Sections 112.313(3) and 112.313(7), FL §, prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. If this **disclosure is applicable request form** “INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS” (Required by 112.313(12)(b), FL § (1983)) to be completed and **returned with solicitation response**. **It is the Bidder’s responsibility to request form and disclose this relationship, failure to do so could result in being declared non-responsive.**

NOTICE: UNDER THE PROVISIONS OF FL § 112.317 (1983), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.00.

##### **2 *Affidavit Certification Immigration Laws***

Form is acknowledgement that the Bidder is in compliance in regard to Immigration Laws.

##### **3 *Reference Survey***

Provide this form to a minimum of three references. This form will be turned in with the bid or proposal package.

1. **Section 1:** Bidder/Proposer to complete with reference respondent’s information prior to providing to them for their response. (This is **not** the Bidder/Proposer’s information.)
2. **Section 2:** Enter the name of the Bidder/Proposer; provide the project information that the reference respondent is to provide a response for.
3. The reference respondent should complete “**Section 3.**”
4. **Section 4:** The reference respondent to print and sign name
5. A **minimum of 3 reference responses** are requested to be returned with bid or proposal package.
6. Failure to obtain reference surveys may make your company non-responsive.



**4      *Negligence or Breach of Contract Disclosure Form***

The form may be used to disclose negligence or breach of contract litigation that your company may be a part of over the past ten years. You may need to duplicate this form to list all history. If the Bidder has more than 10 lawsuits, you may narrow them to litigation of the company or subsidiary submitting the solicitation response. Include, at a minimum, litigation for similar projects completed in the State of Florida. Final outcome should include in whose favor the litigation was settled and was a monetary amount awarded. The settlement amount may remain anonymous.

If you have **no litigation**, enter **“None”** in the first **“type of incident”** block of the form. Please do not write N/A on this form.

**5      *Affidavit Principal Place of Business***

Certifies Bidder’s location information. Local Vendor Preference and Location Point values are excluded when prohibited by grant or funding source. (In such cases form will be informational only.)

**6      *Sub-Contractor List* (as applicable)**

To be completed and returned when sub-contractors are to be utilized and are known at the time of the submission.

**7      *Public Entity Crime Form***

Any person or affiliate as defined by statute who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or a contract to provide any goods or services to the County; may not submit a bid on a contract with the County for the construction or repair of a public building or a public work; may not submit bids or leases of real property to the County; may not be awarded or perform works as a contractor, supplier, subcontractor, or consultant under a contract with the County, and may not transact business with the County in excess of \$25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list.

**8      *Trench Safety* (Required for Construction Projects Only)**

Self explanatory.

**9      *Bid Bond* (as applicable)**

Self explanatory

**10      *Required form 11 Minimum Requirements Table******Bid/Proposal Label*** (Required)

Self explanatory. Please affix to the outside of the sealed submission documents.

***Include any licenses or certifications requested*** (as applicable)

Local Business Tax Account (as applicable)

Bidder’s responsibility to insure the Solicitation Response is mailed or delivered in time to be received no later than the specified opening date and time. (If solicitation is not received prior to deadline it cannot be considered or accepted.)

**Form 1 – Solicitation Response Form**

V09/12/2016


**LEE COUNTY**  
 SOUTHWEST FLORIDA

**LEE COUNTY PROCUREMENT MANAGEMENT**  
**SOLICITATION RESPONSE FORM**

 Date Submitted: \_\_\_\_\_ Deadline Date: 5/10/2017

 SOLICITATION IDENTIFICATION: B170265/ANB

 SOLICITATION NAME: Alternative Paving Methods

COMPANY NAME: \_\_\_\_\_

NAME &amp; TITLE: (TYPED OR PRINTED) \_\_\_\_\_

BUSINESS ADDRESS: (PHYSICAL) \_\_\_\_\_

CORPORATE OR MAILING ADDRESS: \_\_\_\_\_

☐ SAME AS PHYSICAL \_\_\_\_\_

**ADDRESS MUST MATCH SUNBIZ.ORG** \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_

**NOTE REQUIREMENT: IT IS THE SOLE RESPONSIBILITY OF THE BIDDER/PROPOSER TO CHECK LEE COUNTY PROCUREMENT MANAGEMENT WEB SITE FOR ANY ADDENDA ISSUED FOR THIS PROJECT. THE COUNTY WILL POST ADDENDA TO THIS WEB PAGE, BUT WILL NOT NOTIFY.**

By responding to this sealed solicitation, the Bidder/Proposer makes all representations required by the instructions and further warrants and represents that: Bidder/Proposer has examined copies of all the solicitation documents and of the following addenda:

|                        |                        |                        |
|------------------------|------------------------|------------------------|
| No. _____ Dated: _____ | No. _____ Dated: _____ | No. _____ Dated: _____ |
| No. _____ Dated: _____ | No. _____ Dated: _____ | No. _____ Dated: _____ |

Tax Payer Identification Number: \_\_\_\_\_

(1) Employer Identification Number -OR- (2) Social Security Number:

**\*\* Lee County collects your social security number for tax reporting purposes only**

Please submit a copy of your registration from the website [www.sunbiz.org](http://www.sunbiz.org) establishing your firm as authorized (including authorized representatives) to conduct business in the State of Florida, as provided by the *Florida Department of State, Division of Corporations*. (a sample is attached for your reference)

1 **Collusion Statement:** Lee County, Fort Myers, Florida The undersigned, as Bidder/Proposer, hereby declares that no person or other persons, other than the undersigned, are interested in this solicitation as Principal, and that this solicitation is submitted without collusion with others; and that we have carefully read and examined the specifications or scope of work, and with full knowledge of all conditions under which the services herein is contemplated must be furnished, hereby bid/propose and agree to furnish this service according to the requirements set out in the solicitation documents, specifications or scope of work for said service for the prices as listed on the county provided price sheet or (CCNA) agree to negotiate prices in good faith if a contract is awarded.

2 **Scrutinized Companies Certification:**

Section 287.135, FL §, "Prohibition against contracting with scrutinized companies." Prohibits agencies from contracting with companies, for goods or services over \$1,000,000, that are on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, Scrutinized Companies that Boycott Israel List, have been engaged in a boycott of Israel, or been engaged in business operations in Cuba or Syria. The County reserves the right to review, on a case-by-case basis, and waive this stipulation if it is deemed to advantageous to the County.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above is in compliance with Section 287.135, FL §. I understand that submission of a false certification may subject company to contract termination, civil penalties, attorney's fees, and/or costs.



**Form#1 – Solicitation Form, Page 2**

- 3 Business Relationship Disclosure Requirement:** Sections 112.313(3) and 112.313(7), FL §, prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. See Part III, Chapter 112, FL §, and/or the brochure entitled "A Guide to the Sunshine Amendment and Code of Ethics for Public Officers, Candidates and Employees" for more details on these prohibitions. However, Section 112.313(12), FL § (1983), provides certain limited exemptions to the above-referenced prohibitions, including one where the business is awarded under a system of sealed, competitive bidding; the public official has exerted no influence on bid negotiations or specifications; and where disclosure is made, prior to or at the time of the submission of the bid, of the official's or his spouse's or child's interest and the nature of the intended business. The Commission on Ethics has promulgated this form for such disclosure, if and when applicable to a public officer or employee.

**If this disclosure is applicable request form “*INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS*” (Required by 112.313(12)(b), FL § (1983)) to be completed and returned with solicitation response. It is the bidder/proposer’s responsibility to disclose this relationship, failure to do so could result in being declared non-responsive.**

☐ **Business Relationship Applicable (request form)**

☐ **Business Relationship NOT Applicable**

- 4** Disadvantaged Business Enterprise (DBE) bidder/proposer? If yes, please attach a current certificate.

Yes

No

**ALL SUBMISSIONS MUST BE EXECUTED BY AN AUTHORIZED AUTHORITY OF THE BIDDER/PROPOSER, WITNESSED AND SEALED (AS APPLICABLE)**

\_\_\_\_\_  
Company Name (Name printed or typed)

\_\_\_\_\_  
Authorized Representative Name (printed or typed)

\_\_\_\_\_  
Authorized Representative’s Title (printed or typed)

\_\_\_\_\_  
Authorized Representative’s Signature



(Affix Corporate Seal, as applicable)

\_\_\_\_\_  
Witnessed/Attested by:

(Witness/Secretary name and title printed or typed)

\_\_\_\_\_  
Witness/Secretary Signature

Any blank spaces on the form(s), qualifying notes or exceptions, counter offers, lack of required submittals, or signatures, on County’s Form may result in the submission being declared non-responsive by the County.

**Detail by Entity Name****Florida Profit Corporation**

Bill's Widget Corporation

**Filing Information**

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**Principal Address**

555 N Main Street  
Your Town, USA 99999  
Changed 02/11/2012

**Mailing Address**

555 N Main Street  
MYour Town, USA 99999  
Changed 02/11/2012

**Registered Agent Name & Address**

My Registered Agent  
111 Registration Road  
Registration, USA99999

Name Changed: 12/14/2006

Address Changed: 12/14/2006

**Officer/Director Detail****Name & Address**

Title P

President, First  
555 AVENUE  
Anytown, USA99999

Title V

President, Second  
555 AVENUE  
Anytown, USA99999





Lee County Procurement Management  
**BID/PROPOSAL FORM**

**Company Name:** \_\_\_\_\_

**Solicitation #** B170265/ANB **Solicitation Name** Alternative Paving Methods

Having carefully examined the “Terms and Conditions”, and the “Detailed Specifications”, all of which are contained herein, propose to furnish the following which meet these specifications.

**This page serves as a header/placeholder only. Please refer to the Excel document provided with the solicitation for the complete Bid Schedule. The Excel document contains formulas for convenience, however it is the Contractor’s responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).**

**REMINDER: In the event there is a discrepancy between the total quoted amount or the extended amounts and the unit prices quoted, the unit prices will prevail and the corrected sum will be considered the quoted price.**

**The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will deem Bidder as non-responsive and ineligible for award.**

**PRICING:**

Pricing shall be inclusive of all labor, equipment, supplies, overhead, profit, material, and any other incidental costs required to perform and complete all work as specified herein. Please provide an electronic copy of your excel bid sheet with your bid submission.

Consumer Price Index (CPI): Contract prices for equipment and/or service will remain firm through the first contract year. Contractors must request price adjustments, in writing, 30 days prior to the renewal date. If a contractor fails to request a CPI price adjustment 30 days prior to the contract renewal date, no price increase will be accepted. Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Miami Area. No retroactive contract price adjustments will be allowed.

*Form 2 – Affidavit Certification of Immigration Laws*



**AFFIDAVIT CERTIFICATION IMMIGRATION LAWS**

SOLICITATION NO.: B170265/ANB SOLICITATION NAME: Alternative Paving Methods

LEE COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT (“INA”).

LEE COUNTY MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY LEE COUNTY.**

BIDDER/PROPOSER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_, by \_\_\_\_\_ who has produced

(Print or Type Name)

\_\_\_\_\_ as identification.

(Type of Identification and Number)

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
Printed Name of Notary Public

\_\_\_\_\_  
Notary Commission Number/Expiration



The signee of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. **LEE COUNTY RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME.**

## Form 3 Reference Survey



## Lee County Procurement Management

**REFERENCE SURVEY**

Solicitation # B170265/ANB

**Alternative Paving Methods**

|                  |                                  |                                         |               |
|------------------|----------------------------------|-----------------------------------------|---------------|
| <b>Section 1</b> | Reference Respondent Information | <b>Please return completed form to:</b> |               |
| <b>FROM:</b>     | _____                            | <b>Bidder/Proposer:</b>                 |               |
| <b>COMPANY:</b>  | _____                            | <b>Due Date:</b>                        |               |
| <b>PHONE #:</b>  | _____                            | <b>Total # Pages:</b>                   | <b>1</b>      |
| <b>FAX #:</b>    | _____                            | <b>Phone #:</b>                         | <b>Fax #:</b> |
| <b>EMAIL:</b>    | _____                            | <b>Bidder/Proposer E-Mail:</b>          |               |

|                                |                                                                                                                                                                     |                      |       |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------|
| <b>Section 2</b>               | Enter Bidder/Proposer Information, as applicable Similar Performed Project (Bidder/Proposer to enter details of a project performed for above reference respondent) |                      |       |
| <b>Bidder/Proposer Name:</b>   | _____                                                                                                                                                               |                      |       |
| <b>Reference Project Name:</b> | <b>Project Address:</b>                                                                                                                                             | <b>Project Cost:</b> |       |
| _____                          | _____                                                                                                                                                               | _____                |       |
| <b>Summarize Scope:</b>        | _____                                                                                                                                                               | _____                | _____ |
| _____                          |                                                                                                                                                                     |                      |       |

**You as an individual or your company has been given as a reference on the project identified above. Please provide your responses in section 3 below.**

|                                                                                                                                                                                                          |  |                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------|
| <b>Section 3</b>                                                                                                                                                                                         |  | Indicate: "Yes" or "No" |
| 1. Did this company have the proper resources and personnel by which to get the job done?                                                                                                                |  |                         |
| 2. Were any problems encountered with the company's work performance?                                                                                                                                    |  |                         |
| 3. Were any change orders or contract amendments issued, other than owner initiated?                                                                                                                     |  |                         |
| 4. Was the job completed on time?                                                                                                                                                                        |  |                         |
| 5. Was the job completed within budget?                                                                                                                                                                  |  |                         |
| 6. On a scale of one to ten, ten being best, how would you rate the overall work performance, considering professionalism; final product; personnel; resources.<br>Rate from 1 to 10. (10 being highest) |  |                         |
| 7. If the opportunity were to present itself, would you rehire this company?                                                                                                                             |  |                         |
| 8. Please provide any additional comments pertinent to this company and the work performed for you:                                                                                                      |  |                         |
| _____                                                                                                                                                                                                    |  |                         |

**Section 4**

Reference Name (Print Name)

**Please submit non-Lee County employees as references**

Reference Signature



## ALLEGED NEGLIGENCE OR BREACH OF CONTRACT DISCLOSURE FORM

Please fill in the form below. Provide each incident in regard to alleged negligence or breach of contract that has occurred over the past 10 years.

Please complete in chronological order with the most recent incident on starting on page 1.

**Company Name:** \_\_\_\_\_

| <b>Type of Incident</b><br><i>Alleged Negligence<br/>or<br/>Breach of Contract</i> | <b>Incident Date<br/>And<br/>Date Filed</b> | <b>Plaintiff</b><br><i>(Who took action<br/>against your company)</i> | <b>Case Number</b> | <b>Court</b><br><i>County/State</i> | <b>Project</b> | <b>Claim Reason</b><br><i>(initial circumstances)</i> | <b>Final Outcome</b><br><i>(who prevailed)</i> |
|------------------------------------------------------------------------------------|---------------------------------------------|-----------------------------------------------------------------------|--------------------|-------------------------------------|----------------|-------------------------------------------------------|------------------------------------------------|
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |
|                                                                                    |                                             |                                                                       |                    |                                     |                |                                                       |                                                |

Make as many copies of this sheet as necessary in order to **provide a 10 year history** of the requested information. If there is no action pending or action taken in the last 10 years, complete the **company name** and write **“NONE”** in the first **“Type of Incident”** box of this page and return with your submission package. This form should also include the primary partners listed in your submission. Do not include litigation with your company as the plaintiff. Final outcome should include who prevailed and what method of settlement was made. If a monetary settlement was made the amount may remain anonymous. **Please do not modify this form (expansion of spacing allowed) or submit your own variation.**

Page Number: \_\_\_\_\_ Of \_\_\_\_\_ Total pages

Update the page number to reflect the current page and the total number of pages. Example: Page 3, of 5 total submitted pages of this form.





# LEE COUNTY

## SOUTHWEST FLORIDA

### AFFIDAVIT PRINCIPAL PLACE OF BUSINESS

Local Vendor Preference (Non-CCNA)

(Lee County Ordinance No. 08-26)

Location Identification (CCNA)

Instructions: Please complete all information that is applicable to your firm

**Company Name:** \_\_\_\_\_

Printed name of authorized signer \_\_\_\_\_

Title \_\_\_\_\_

⇒  
Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

The signee of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. **LEE COUNTY RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME.**

Notary:

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_\_, \_\_\_\_\_ who has produced

\_\_\_\_\_ as identification (or personally known)

Type of ID and number

⇒  
Notary Public Signature \_\_\_\_\_

Notary Commission Number and expiration \_\_\_\_\_

1. Principal place of business is located within the boundaries of: \_\_\_\_\_ Lee County  
 \_\_\_\_\_ Collier County  
 \_\_\_\_\_ Non-Local

Local Business Tax License # \_\_\_\_\_

2. Address of Principal Place of Business: \_\_\_\_\_

3. Number of years at this location \_\_\_\_\_ years

4. Have you provided goods or services to Lee County on a regular basis within the past 3 consecutive years  
 \_\_\_\_\_ Yes\* \_\_\_\_\_ No \*If yes, attach contractual history for past 3 consecutive years

5. Number of available employees for this contract \_\_\_\_\_

6. Does your company have a Drug Free Workplace Policy \_\_\_\_\_ Yes \_\_\_\_\_ No

*Form 6-Sub-contractor List***SUB-CONTRACTOR LIST**

| Sub-contractor Name | Area Of Work | Point Of Contact Or Project Supervisor | Phone Number and Email | Qualified DBE Yes/No | Amount or Percentage of Total |
|---------------------|--------------|----------------------------------------|------------------------|----------------------|-------------------------------|
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |
|                     |              |                                        |                        |                      |                               |

Please include sub-contractors name, area of work (i.e. mechanical, electrical, etc.) and a **valid** phone number and email. Also include the dollar value or percentage that the sub-contractor will be performing. If sub-contractors qualify as Disadvantaged Business Enterprise (**DBE**) contractors, please attach a current certificate.

- (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: On the attached sheet.) Required as per IRS Form W-9.

2. I understand that a “public entity crime” as defined in Paragraph 287.133(1) (g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including but not limited to, and bid or contract for goods or services to be provided to any public entity or agency or political subdivision or any other state or of the United States, and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
  1. A predecessor or successor of a person convicted of a public entity crime:  
or:
  2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those offices, directors, executives, partners, shareholders, employees, members and agents who are active in the management of the affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not fair market value under an arm’s length Agreement/Contract, shall be a facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a “person” as defined in Paragraph 287.133(1) (c), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of the entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting those sworn statement. *(Please indicate which statement applies.)*

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



**Public Entity Crime Form**

Page 2 of 2

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearing and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OR ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME, the undersigned authority, \_\_\_\_\_

(Name of individual signing)

who, after first being sworn by me, affixed his/her signature in the space provided above on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
(NOTARY PUBLIC)

My Commission Expires: \_\_\_\_\_

**Form#8: Trench Safety (Required for Construction Projects Only)****TRENCH SAFETY**

Contractor/Vendor acknowledges that included in the appropriate solicitation items of the solicitation and in the Total solicitation price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The contractor/vendor further identifies the costs of such compliance to be summarized below:

| Trench Safety<br>Measure<br>(Description) | Units of<br>Measure<br>(LF, SF) | Unit<br>(Quantity) | Unit<br>Cost | Extended<br>Cost |
|-------------------------------------------|---------------------------------|--------------------|--------------|------------------|
| .....                                     |                                 |                    |              |                  |
| A. _____                                  | _____                           | _____              | _____        | _____            |
| B. _____                                  | _____                           | _____              | _____        | _____            |
| C. _____                                  | _____                           | _____              | _____        | _____            |
| D. _____                                  | _____                           | _____              | _____        | _____            |
| TOTAL \$ _____                            |                                 |                    |              |                  |

If applicable, the contractor/vendor certifies that all trench excavation done within his control in excess of five (5') feet in depth shall be in accordance with the Florida Department of Transportation's Special Provisions Article 125-1 and Sub-article 125-4.1 (TRENCH EXCAVATION SAFETY SYSTEM AND SHORING, SPECIAL-TRENCH EXCAVATION).

Failure to complete the above may result in the solicitation being declared non-responsive.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Company Name)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ by \_\_\_\_\_ (name and title of corporate officer) of \_\_\_\_\_ (name of corporation), a \_\_\_\_\_ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.

\_\_\_\_\_  
(signature line for notary public)

\_\_\_\_\_  
(name of notary typed, printed or stamped)

\_\_\_\_\_  
(title or rank)

My commission expires:

\_\_\_\_\_  
(serial number, if any)

BID BOND

Complete EITHER Lee County Paper Bid Bond OR provide cashier's check

KNOW ALL MEN BY THESE PRESENTS, that we

\_\_\_\_\_ as Principal, and  
(BIDDER'S Name)

\_\_\_\_\_ a Corporation licensed to do  
(Surety's Name)

business under the laws of the State of Florida as a Surety, are held and firmly bound unto LEE COUNTY BOARD OF COUNTY COMMISSIONERS, LEE COUNTY, FLORIDA, a Political Subdivision of the State of Florida,

in the SUM OF \_\_\_\_\_  
for the payment whereof, well and truly to be made, we bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, firmly, by these presents.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

WHEREAS, said Principal is herewith submitting a Bid/Proposal for the construction of:

NOW, THEREFORE, the condition of the above obligation is such that if said Principal shall be awarded the Contract upon said Bid/Proposal within the specified time and shall enter into a written Contract, satisfactory in form, provide an acceptable Public Payment & Performance Bond from a Surety acceptable to the COUNTY and provide other Insurance as may be required to the COUNTY within seven (7) calendar days after the written Notice of Award date, or within such extended period as the COUNTY may grant, then this obligation shall be null and void; otherwise said Principal and Surety shall pay to said COUNTY in money the difference between the amount of the Bid of said Principal and the amount for which said COUNTY may legally contract with another party to perform said work, if the latter amount be in excess of the former, together with any expenses and reasonable attorney's fees incurred by said COUNTY if suit be brought here on, but in no event shall said Surety's liability exceed the penal sum hereof plus such expenses and attorney's fees. For purposes of unsuccessful bid protests filed by the Principal herein, this obligation shall bind the Surety to pay costs and damages associated with the bid protest or delays to the project upon a finding from the Board of County Commissioners for Lee County that the bid protest was frivolous and/or lacked merit. The liability of the Surety shall not exceed the penal sum of the bid bond.

Witness as to Principal:

\_\_\_\_\_ (SEAL)  
(Principal)

(By) \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Witness as to Surety:

\_\_\_\_\_ (SEAL)  
(Surety's Name)

\_\_\_\_\_

\_\_\_\_\_  
(By-As Attorney-in-Fact, Surety)

Affix Corporate Seals and attach proper Power of Attorney for Surety.



**Cut along the outer border and affix this label to  
your sealed solicitation envelope to identify it as  
a “Sealed Bid”.**

|                                                                                              |                                                                                               |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| <b>SEALED BID DOCUMENTS • DO NOT OPEN</b>                                                    |                                                                                               |
| BID NO.:                                                                                     | B170265/ANB                                                                                   |
| BID TITLE:                                                                                   | <b>Alternative Paving Methods</b>                                                             |
| DATE DUE:                                                                                    | <b>Wednesday, May 10, 2017</b>                                                                |
| TIME DUE:                                                                                    | <b>Prior to: 2:30 PM</b>                                                                      |
| SUBMITTED BY:                                                                                | _____<br>(Name of Company)                                                                    |
| e-mail address                                                                               | Telephone                                                                                     |
| <b>DELIVER TO:</b>                                                                           | Lee County Procurement Management<br>1500 Monroe 4 <sup>th</sup> Floor<br>Fort Myers FL 33901 |
| <b><i>Note: submissions received after the time and date above will not be accepted.</i></b> |                                                                                               |



Lee County Procurement Management  
1500 Monroe Street, 4<sup>th</sup> Floor  
Fort Myers, FL 33901  
(239) 533-8881  
[www.leegov.com/procurement](http://www.leegov.com/procurement)

**PLEASE PRINT CLEARLY**

## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-109  
Agreement Approval - Swagit Productions, LLC

---

ITEM TYPE: Resolution (w/ fiscal impact)

---

REQUESTED ACTION: Consider Resolution 2019-109

---

SYNOPSIS: In response to Civil Action Juan Carlos Gil v. City of Fernandina Beach, the City Commission conducted a Workshop on March 20, 2019. Staff received Commission consensus to livestream close caption the City Commission Regular Meetings, Special Meetings and Workshops; and Advisory Board/Committee meetings will be post-production closed captioned. The increase associated with live streamed closed captioning and post production closed captioning was approved via Resolution 2019-63.

This Swagit Productions, LLC second amendment to the agreement for video streaming services is representative of the aforementioned Commission direction.

---

FISCAL IMPACT: None

---

CITY ATTORNEY COMMENTS: No additional comments.

---

CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission adopt proposed Resolution 2019-109.

---

|                                                |           |
|------------------------------------------------|-----------|
| Caroline Best, City Clerk                      | 6/20/2019 |
| Nicole Bednar, Administrative Services Manager | 6/20/2019 |
| Dale Martin, City Manager                      | 6/21/2019 |
| Tammi E. Bach, City Attorney                   | 6/24/2019 |
| Katie Newton, Legal Assistant                  | 6/24/2019 |

---

*Caroline Best*

Date: June 19, 2019

Submitted By: Caroline Best, City Clerk

---

COMMISSION ACTION: Adopt

---

RESOLUTION 2019-109

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING THE SECOND AMENDMENT TO THE AGREEMENT WITH SWAGIT PRODUCTIONS, LLC FOR VIDEO STREAMING SERVICES; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission, at its March 20, 2019 Workshop meeting, determined video recorded and live streamed City Commission Regular Meetings, City Commission Special Meetings, City Commission Workshops and certain Advisory Board/Committee meetings shall comply with the Americans with Disabilities Act (ADA); and

WHEREAS, Swagit Productions, LLC is the City's video streaming and broadcast solutions provider. This Resolution approves the second amendment to the agreement for video streaming services with Swagit Productions, LLC for video streaming necessary to meet ADA requirements for live streamed closed captioned and post-production closed captioned meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves the Swagit Productions, LLC Second Amendment to the Agreement for Video Streaming Services, attached hereto as Exhibit "A".

SECTION 2. The City Commission authorizes the City Manager and City Clerk to sign the appropriate documents related to this proposal upon review of the City Attorney.

SECTION 3. This Resolution shall become effective immediately.

ADOPTED this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
Tammi E. Bach  
City Attorney





## **SECOND AMENDMENT TO THE AGREEMENT FOR VIDEO STREAMING SERVICES**

This Second Amendment to the Agreement for Video Streaming Services ("2nd Amendment") is entered into by and between the City of Fernandina Beach, Florida ("CITY") and Swagit Productions, LLC ("SWAGIT"), is hereby entered into as of this \_\_\_\_\_ day of June, 2019.

WHEREAS, The City and Swagit entered into an Agreement for Video Streaming Services, dated February 21, 2014 (the "AGREEMENT"); and

WHEREAS, The City and Swagit executed a First Amendment for Video Streaming Services, dated April 23, 2014 (the "1st Amendment"); and

WHEREAS, The City has requested that the yearly meeting allotment be increased and closed captioning services be included as part of the broadcast and streaming services; and

WHEREAS, The City and Swagit desire to amend the Agreement to update the fee schedule and upgrade services, effective on August 1, 2019.

NOW THEREFORE, for and in consideration of the mutual promises exchanged herein, and other good and valuable consideration the parties hereto, do hereby covenant and agree to amend the Agreement as provided herein below.

1. Exhibit A, as described in Paragraph 2.1(b) of the Agreement and later revised in the 1st Amendment, sets forth the Provider's monthly compensation for services to be performed and expenses to be incurred.

Attached to this 2nd Amendment as Attachment A.2 is a Streaming Video Monthly Managed Services fee intended to replace the existing Streaming Video Monthly Managed Services fee identified in the 1st Amendment. Attachment A.2 is incorporated into this 2nd Amendment for all purposes allowed by law.

2. Amending the Agreement to upgrade the meeting allotment and include closed caption services will result in an increase of cost for streaming video solution services under the Agreement in an estimated annual amount of \$46,332.00.



3. Attached to this 2nd Amendment as Attachment B.2 is the additional one-time fee for Closed Caption Encoder Hardware and Streaming Appliance, intended to modify and supplement Exhibit A to the Agreement. Attachment B.2 is incorporated into this 2nd Amendment for all purposes allowed by law.
4. Amending the Agreement to include a one-time charge not to exceed **Twenty-Four Thousand Three Hundred Eighty and No/100 Dollars** (\$24,380.00) for Closed Caption Encoder systems' hardware/software and other related (including, without limitation, Installation) costs (as identified and detailed on Attachment "B.2", "Closed Caption Encoder Hardware").
5. Attached to this 2nd Amendment as Attachment C.2 is the additional one-time fee for Broadcast Camera System Hardware, intended to modify and supplement Exhibit A to the Agreement. Attachment C.2 is incorporated into this 2nd Amendment for all purposes allowed by law.
6. Amending the Agreement to include a one-time charge not to exceed **Thirty-Three Thousand Eight Hundred Ninety and No/100 Dollars** (\$33,890.00) for Broadcast Camera System hardware/software and other related (including, without limitation, setup, configuration and installation) costs (as identified and detailed on Attachment C.2, "Broadcast Camera System Hardware").
7. Attached to this 2nd Amendment as Attachment D.2 is the additional one-time fee for HD Playout System, intended to modify and supplement Exhibit A to the Agreement. Attachment D.2 is incorporated into this 2nd Amendment for all purposes allowed by law.
8. Amending the Agreement to include a one-time charge not to exceed **Six Thousand Eight Hundred Ninety and No/100 Dollars** (\$6,890.00) for HD Playout System hardware/software and other related (including, without limitation, setup and configuration) costs (as identified and detailed on Attachment D.2, "HD Playout System").
9. Amending the Agreement to include an optional annual fee not to exceed **Nine Hundred Ninety-Five and No/100 Dollars** (\$995.00) for HD Playout System Software Support and maintenance, following the initial twelve (12) months of playout services (as identified and detailed on the attached Attachment A.2, "Playback 365 Annual Software Support").
10. This 2nd Amendment shall be effective on the date of execution by the City.



11. All other provisions of the Agreement not amended by this 2nd Amendment shall remain in full force and effect as set forth in the Agreement. In the event of a conflict or an inconsistency between the Agreement, 1st Amendment and this 2nd Amendment or any prior or previous amendment, the terms of the 2nd Amendment shall control.

**IN WITNESS WHEREOF** the City of Fernandina Beach and Swagit Productions, LLC have executed this Second Amendment to the Agreement for Video Streaming Services on this \_\_\_\_ day of June, 2019.

**City of Fernandina Beach, FL**

**Swagit Productions, LLC**

\_\_\_\_\_  
Dale L. Martin, City Manager

\_\_\_\_\_  
Bryan Halley, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGALITY:**

  
\_\_\_\_\_  
**CITY ATTORNEY**



## Attachment A.2

### Streaming Video Monthly Managed Services

| Item Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Monthly Cost |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>Package 5:</b> Up To 125 Indexed Meetings per year (EASE) - Includes Media On-Demand, 24/7 LIVE Stream, social Media eXstream and up to 120 hours of additional specialty content per year (No staff involvement—Hands Free).<br><br><b>Includes:</b> Live and video on-demand closed captioning for 125 meetings per year, with a VOD captions turnaround time of 4-5 business days from the end of the meeting.<br><br><b>With Remote Switching Included</b> (Up To 125 Meetings per year) | \$5,310.00   |

### Optional Services/Overages/Individual Pricing

| Item Description                                   | Cost             |
|----------------------------------------------------|------------------|
| Each Additional Indexed On-Demand Meeting          | \$150.00         |
| Each Additional Remotely Switched Meeting or Event | \$175.00         |
| Programming, Development or Design Implementation  | \$120.00/hour    |
| Each Additional Closed Captioned Meeting           | \$250.00/meeting |
| Playback 365 Annual Software Support               | \$995.00         |

## Attachment B.2

### Closed Caption Encoder Hardware

| Item Description                                         | Cost               |
|----------------------------------------------------------|--------------------|
| CaptionPrime Streaming Appliance with SDI DA             | \$13,690.00        |
| Advanced Caption Encoder/Decoder (Voice over IP capable) | \$10,690.00        |
| <b>Total One-Time Cost:</b>                              | <b>\$24,380.00</b> |

## Attachment C.2

### Broadcast Camera System Hardware

| Item Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Type      | Cost        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|
| Hardware/Software/Provisioning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Broadcast | \$33,890.00 |
| <b>Avior™ HD – (3) Series 7 cameras:</b> 3 HD PTZ Cameras, 3 Camera Power Connectors, 3 Camera Mounts, 4 Visca DS-Cables, 2 EASE™ C Encoding Appliance, BM Studio HD Live Production Switcher with Multi-View Monitor, BM HyperDeck Studio Mini with SD cards, Mini Converter SDI Distribution and Bi-Directional HDMI, Avior™ Control Software, PDU Remote Power Switch and Management including Battery Backup, Control Monitor, Presentation Converter/Scaler, Cables, Connectors, Converters, 16U Rack, Rack Shelving and Hardware necessary for installation, CG for Video Graphics/Titles Overlay, Labor Required for On-site Install, Remote Network Setup and Configuration. |           |             |



## Attachment D.2

### HD Playout System

| Item Description                                                                                                                                                                                                                         | Type    | Cost       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------|
| Hardware/Software/Provisioning                                                                                                                                                                                                           | Playout | \$6,890.00 |
| <b>Playback 365</b> with Brightscript (1x1 HD/SD) includes Conversion Kit and first year of support. Configured for Images/Slides, Videos, Audio, HTML5, Text, Date, Time, RSS, MRSS, Twitter feeds. FTP account for content management. |         |            |

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE CIVIL DIVISION

FEB212019 AM 8:48

CITY CLERK'S OFFICE

CITY OF FERNANDINA BEACH

JUAN CARLOS GIL,

*Plaintiff,*

v.

CITY OF FERNANDINA BEACH,  
FLORIDA,

*Defendant.*

Civil Action No. **3:19-cv-181-J-32PDB**

*Handwritten:* JH/10  
2/11/19  
g: w am

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* City of Fernandina Beach, Florida  
c/o: John A. Miller, as City Mayor  
Fernandina Beach Offices  
204 Ash Street  
Fernandina Beach, FL 32034

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Scott R. Dinin, Esq.  
Law Offices of Scott R. Dinin, P.A.  
4200 NW 7<sup>th</sup> Avenue  
Miami, Florida 33127  
Telephone: (786) 431-1333  
E-mail: [inbox@dininlaw.com](mailto:inbox@dininlaw.com)

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: **Feb 12, 2019**

CLERK OF COURT



*Signature of Clerk or Deputy Clerk*

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE CIVIL DIVISION**

Civil Action Number:

JUAN CARLOS GIL,

Plaintiff,

v.

CITY OF FERNANDINA BEACH, FLORIDA,

Defendant.

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**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

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COMES NOW Plaintiff Juan Carlos Gil (“Plaintiff”), by and through his undersigned counsel, and hereby sues Defendant the City of Fernandina Beach, Florida (“Defendant”) for declaratory and injunctive relief, attorney’s fees and costs (including, but not limited to, court costs and expert fees) pursuant to Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12131 et. seq. (“ADA”) and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Section 504”) and alleges as follows:

**INTRODUCTION**

1. “Il n'y a que deux puissances au monde, le sabre et l'esprit : à la longue, le sabre est toujours vaincu par l'esprit<sup>1</sup>”, and one must be informed to understand their peril. Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes<sup>2</sup>. This statute requires that any records made or received by any public agency in

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<sup>1</sup> There are only two powers in the world, the sword and the spirit: in the long run, the sword is always defeated by the spirit. Napoleon Ier (1789-1821)

<sup>2</sup> Public Records Law



the course of its official business are available for inspection.

2. This is an action under Title II of the Americans with Disabilities Act of 1990 and under Section 505 of the Rehabilitation Act of 1973 through which Section 504 of the Rehabilitation Act of 1973 (“Rehabilitation Act”) is enforced to redress unlawful disability-based practices and to make Plaintiff Juan Carlos Gil whole.

3. City of Fernandina Beach (“Defendant”) is a public entity which has provided the website URL [www.fbfl.us](http://www.fbfl.us) as an information Website (“portal” or “website”) to the City of Fernandina Beach government for the general public (to anyone who accesses the Website). The general public can access City of Fernandina Beach government’s online content, which constitutes programs, services, and activities. Much of that content is provided in portable document format (“PDF”).

4. In order to meaningfully access PDF documents (also referenced as electronic documents), blind and visually impaired individuals require that electronic documents be saved in an accessible format. Much of the content provided in electronic (PDF) format within Defendant’s Website is not accessible by persons who are visually impaired and who utilize screen readers.

5. Because Defendant’s online electronic document content is not available for persons who are blind or low sighted, Defendant has denied Plaintiff Juan Carlos Gil access to that electronic (PDF) content. As such, Defendant has denied access to Plaintiff based on Plaintiff’s disability (being low sighted and/or blind). In so doing, Defendant has denied Plaintiff his fundamental right to observe and participate in the democratic process of self-government. A citizen’s right to meaningful participation in the political process and to access publicly available information needed to participate in the process is a fundamental right requiring heightened scrutiny. *Johnny Reininger, Jr. v. State of Oklahoma*, Case No.:

5:16-cv-012141 (November 9, 2017) and *Natl Association of the Deaf (NAD) v State of Florida*, 318 F. Supp. 3d 1338 (S.D. Fla. 2018).

6. Plaintiff brings this action against the Defendant to enforce the requirement of Section 504 of the Rehabilitation Act that a public entity receiving or distributing federal financial assistance (which Defendant receives and distributes each year) must not deny persons with disabilities the benefits of its programs, services and activities.

7. By failing to provide electronic documents in accessible format, Defendant has deprived blind and visually impaired individuals of the benefits of its online content, which benefit is afforded to sighted (non-disabled) individuals. As such, Defendant has increased the sense of isolation and stigma that the ADA and Section 504 were meant to redress for individuals with disabilities.

8. Defendant's denial of much of its publicly available online content to blind and visually impaired individuals violates Section 504 of the Rehabilitation Act and Title II of the ADA.

9. Accordingly, Plaintiff seeks injunctive and declaratory relief to ensure that blind and visually impaired individuals have equal, effective and timely access to Defendant's publicly available online content (consisting of electronic documents).

#### **JURISDICTION AND VENUE**

10. Plaintiff is expressly authorized to bring this action pursuant to Title II of the Americans With Disabilities Act, 42 U.S.C. §§ 12131-12133 ("ADA"), incorporating by reference the remedies, procedures and rights under Sections 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794, 794(a) ("Section 504"), incorporating the remedies, rights and procedures set forth in §717 of the Civil Rights Act of 1964, including the application of §§ 706(f) through 706(k), 42 U.S.C. § 2000e-5(f)-(k).

11. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12188. This Court's jurisdiction is proper under 28 U.S.C. Section 451, 1331, 1337, and 1343.

12. Plaintiff has met all conditions precedent to bring this action.

### **PARTIES**

#### **Juan Carlos Gil**

13. Plaintiff Juan Carlos Gil is a resident of the State of Florida, is disabled and a qualified individual as defined by the ADA

14. Plaintiff is legally blind and a member of a protected class under the ADA, 42 U.S.C. § 12102(1)-(2) and the regulations implementing the ADA and as set forth at 29 USC §705(20). Plaintiff suffers optic nerve damage and is legally blind. Plaintiff also suffers from cerebral palsy, is unable to walk, and is confined to a wheelchair. Plaintiff's disability is defined in 28 C.F.R. §35.108, as Plaintiff is substantially limited in the major life activity of seeing, specifically 28 C.F.R. § 35.108(c)(1).

15. Plaintiff is an athlete who travels for his athletic triathlon endeavors, and also is an advocate for the rights of blind and wheelchair bound disabled individuals.<sup>3</sup>

16. In the past years, Plaintiff traveled to Arizona, Orlando, and Boston to attend various conventions and meetings to advance disability rights. Such events include, but are not limited to, the National Federation for the Blind convention in Orlando<sup>4</sup>, the American

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<sup>3</sup> Juan Carlos Gil has traveled to speak on disabled rights, written letters, and mentored other disabled individuals as well as being the Plaintiff in the Landmark Historic federal trial over Web Accessibility (*Juan Carlos Gil v Winn Dixie Stores, Inc.* No. 16-cv-23020); See press release on case: [www.prweb.com/releases/2017scottrdinin/06civilrights/prweb14437034.htm](http://www.prweb.com/releases/2017scottrdinin/06civilrights/prweb14437034.htm)

<sup>4</sup> July 2017, 2018



Counsel for the Blind conferences<sup>5</sup> and various focus groups and meetings throughout the east coast (including New York and Boston).

17. Plaintiff is a qualified and/or otherwise qualified individual with a disability in that Plaintiff is qualified to access Defendant's electronic documents.

18. Due to his disability, the Plaintiff requires that document information be saved in an accessible format such as HTML or an accessible electronic (PDF) format so that he can comprehend (read) that document with screen reader software.

**City of Fernandina Beach, Florida**

19. Defendant City of Fernandina Beach, Florida is a local government entity, a body corporate and political subdivision of the State of Florida. Fernandina Beach is a city in Nassau County, Florida, United States, on Amelia Island. It is the northernmost city on Florida's Atlantic coast and is one of the principal municipalities comprising Greater Jacksonville.

20. City of Fernandina Beach Home Rule give the City Commission of Fernandina Beach the ability to create (through a local public hearing ordinance procedure) local laws<sup>6</sup>. This process is done without having to go to the Florida Legislature to request special legislation to create these laws. The form of government of the City of Fernandina Beach is known as the "Commission-Manager Plan." Under this plan, the Commission has powers to adopt ordinances, approve regulations and appoint the City Attorney, City Clerk and the City Manager. The City Commission of Fernandina Beach consists of five citizens who are elected at large, including the Mayor who presides at all meetings of the Commission, implements City of Fernandina Beach policies and laws and manages the governmental

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<sup>5</sup> In 2017 (Nevada) and in 2018 (Wisconsin)

<sup>6</sup> that are not in conflict with or specifically prohibited by state general law or the Florida Constitution

agencies and departments of City of Fernandina Beach. The City Commission distributes federal financial assistance through its budgetary and legislative process to City of Fernandina Beach agencies and departments. No person, agency or department is above the City Commission.

21. Since Defendant is a public entity it is subject to Title II of the ADA. 42 U.S.C. § 12131(1).

22. On information and belief, Defendant is also a recipient and distributor of federal funds and as such, is also subject to the requirements of Sections 504 of the Rehabilitation Act of 1973.

### **GENERAL ALLEGATIONS**

23. Defendant offers a service through [www.fbfl.us](http://www.fbfl.us) (“Website”) where interested persons can obtain pertinent information regarding the government of City of Fernandina Beach and living and visiting City of Fernandina Beach. Plaintiff is such an interested person.

24. Defendant’s Website provides pertinent information on living and visiting City of Fernandina Beach including but not limited to: a Fernandina Beach Municipal Airport Rules and Regulations<sup>7</sup>, a Building Permit and Impact Fees 2017<sup>8</sup>, a Pool Fitness Combo Passes 2018-2019<sup>9</sup>, and a Recycle Right<sup>10</sup>. These types of documents are made available by Defendant to generally inform the public of the services provided by Defendant; therefore, this type of electronic documents also referenced herein as “electronic service documents.”

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<sup>7</sup> [fbfl.us/DocumentCenter/View/5265/Approved-Rules-and-Regulations-December-2010?bidId=](http://fbfl.us/DocumentCenter/View/5265/Approved-Rules-and-Regulations-December-2010?bidId=)

<sup>8</sup> [fbfl.us/DocumentCenter/View/13176/Building-Permit-and-Impact-Fee-Schedule-2017-2018?bidId=](http://fbfl.us/DocumentCenter/View/13176/Building-Permit-and-Impact-Fee-Schedule-2017-2018?bidId=)

<sup>9</sup> [fbfl.us/DocumentCenter/View/18431/Pool-Fitness-Combo-Passes-2018-2019](http://fbfl.us/DocumentCenter/View/18431/Pool-Fitness-Combo-Passes-2018-2019)

<sup>10</sup> [fbfl.us/DocumentCenter/View/18494/Recycle-Right](http://fbfl.us/DocumentCenter/View/18494/Recycle-Right)

25. Defendant's Website also has publications which are embedded in PDF (electronic) format. These publications contain information on a variety of City of Fernandina Beach issues. A few of the publications provided to the public by Defendant include (but are not limited to): an Amelia Island Egans Creek Greenway brochure<sup>11</sup> and a Stories from Bosque Bello... The lives they led. Alice Youngblood handout<sup>12</sup> and a Spring 2019 Co-Ed Open Softball League<sup>13</sup>. These publications are made available by Defendant to generally inform the public of pertinent information when living and visiting City of Fernandina Beach and of the services provided by Defendant. Therefore, these types of electronic documents (being publications providing a service to the public) are referenced as "electronic service documents."

26. Defendant's Website also contains electronic documents which provide information on City of Fernandina Beach policies and positions which affect the public directly. A sampling of those links to electronic documents (which are also referenced as "electronic policy documents") is provided herein below:

- City of Fernandina Beach Public, Educational, Government (PEG) Channel Broadcasting Policy<sup>14</sup>, which links to an electronic document informing about City of Fernandina Beach PEG (Public Educational and Government Access) Channel which goal is to provide a means and opportunity for citizens to become informed about City and school services, events, regulations, and also about decisions being made by their representatives;
- Special Events Policies and Procedures<sup>15</sup>, which link to an electronic document with information about the definition, approval process, rules and guidelines and fees for special events in the City of Fernandina Beach;
- Appendix E City of Fernandina Beach – Recommended Comprehensive Plan Revisions<sup>16</sup>, is a link to an electronic document that contains information regarding to Section 163.3177(6) (g) 8, Florida Statutes, requires port related

<sup>11</sup> [fbfl.us/DocumentCenter/View/15814/Egans-Creek-Greenway-brochure?bidId=](http://fbfl.us/DocumentCenter/View/15814/Egans-Creek-Greenway-brochure?bidId=)

<sup>12</sup> [fbfl.us/DocumentCenter/View/17371/Stories-from-Bosque-Bello---Alice-Youngblood?bidId=](http://fbfl.us/DocumentCenter/View/17371/Stories-from-Bosque-Bello---Alice-Youngblood?bidId=)

<sup>13</sup> [fbfl.us/DocumentCenter/View/18277/Co-ed-Open-Softball-League---Spring-2019?bidId=](http://fbfl.us/DocumentCenter/View/18277/Co-ed-Open-Softball-League---Spring-2019?bidId=)

<sup>14</sup> [www.fbfl.us/DocumentCenter/View/7026/COFB-PEG-Channel-Policy-011608?bidId=](http://www.fbfl.us/DocumentCenter/View/7026/COFB-PEG-Channel-Policy-011608?bidId=)

<sup>15</sup> [www.fbfl.us/DocumentCenter/View/17955/Special-Event-Policies-and-Procedures?bidId=](http://www.fbfl.us/DocumentCenter/View/17955/Special-Event-Policies-and-Procedures?bidId=)

<sup>16</sup> [www.fbfl.us/DocumentCenter/View/14379/OHPA-Master-Plan-Update\\_Oct\\_AppendicesEF?bidId=](http://www.fbfl.us/DocumentCenter/View/14379/OHPA-Master-Plan-Update_Oct_AppendicesEF?bidId=)



policies to be included in the Conservation and Coastal Management Element of the local government's Comprehensive Plan.

27. The Fernandina Beach City Commission's meetings make up the bulk of Defendant's legislative history. The Fernandina Beach City Commission's meetings have a direct effect on the lives of citizens in the state. Interested persons can become informed about the effect of the Fernandina Beach City Commission's meetings and the resulting policies, budgets, and services online by viewing the electronic documents generated which reflect the decisions made by Fernandina Beach City Commission through this Website. Interested persons can view thousands of documents related to the government of City of Fernandina Beach (also referenced as "electronic agenda documents") through this Website. An example of such electronic agenda documents includes Fernandina Beach City Commission Resolution 2018-28<sup>17</sup>, Annual Budget 2016-17<sup>18</sup> and Ordinance 2018-37. Amended Classification Plan 2018-19<sup>19</sup>. Through reviewing the agenda documents, interested persons can ascertain what upcoming projects are being negotiated and voted upon, and can find out the direction that City of Fernandina Beach is moving related to issues such as elections, spending (budgets), and legislative policy.

28. Through perusing the archived agenda documents, interested persons can ascertain what past legislation and projects on which the Fernandina Beach City Commission have voted regarding important social, growth, and environmental issues which (while voted upon in the past) have a direct effect on current and future events in City of Fernandina Beach. Links to such kind of electronic documents are: Agenda Board

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<sup>17</sup> [www.fbfl.us/DocumentCenter/View/17711/Resolution-2018-28?bidId=](http://www.fbfl.us/DocumentCenter/View/17711/Resolution-2018-28?bidId=)

<sup>18</sup> [fl-fernandinabeach.civicplus.com/DocumentCenter/View/15558/2016\\_2017-Adopted-Budget?bidId=](http://fl-fernandinabeach.civicplus.com/DocumentCenter/View/15558/2016_2017-Adopted-Budget?bidId=)

<sup>19</sup> [www.fbfl.us/DocumentCenter/View/5892/Ordinance-2018-37-Amended-Classification-Plan-2018-2019?bidId=](http://www.fbfl.us/DocumentCenter/View/5892/Ordinance-2018-37-Amended-Classification-Plan-2018-2019?bidId=)

of Adjustment January 2012<sup>20</sup> and Airport Master Plan Update 2015<sup>21</sup>.

29. Defendant's electronic documents contain a plethora of information regarding matters which affect the public directly such as related to quality of drinking water, recycling and solid waste services, and conservation of natural reservoirs, parks and beaches. Examples of links to such electronic documents include: Important facts to know about the water we drank in 2017<sup>22</sup>, Goal 4 Public Facilities and Services Element<sup>23</sup> and Fernandina Beach Vision 2020<sup>24</sup>.

30. Through Defendant's Website, interested persons can read Defendant's electronic documents on demand.

31. However, blind and/or visually impaired persons require screen reader software to read/comprehend (Defendant's) electronic documents.

32. Online "on-demand" viewing of the Defendant's electronic documents is not an option available to persons with vision disabilities due to the fact that those documents are provided solely in a *PDF flat surface* format and do not interface with screen reader software as used by blind and visually impaired individuals. Plaintiff (who is legally blind) is such an interested person.

33. As an active and social Florida resident, Plaintiff is interested in the quality of life, economic growth, tourism, preservation of natural environment. Therefore, Plaintiff is interested in revising and investigating the quality of water, different means of protection and projects to preserve the natural environments, flora and fauna and the resources dedicated to informing the public on how to prepare for and deal with the natural disasters

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<sup>20</sup> [www.fbfl.us/ArchiveCenter/ViewFile/Item/152](http://www.fbfl.us/ArchiveCenter/ViewFile/Item/152)

<sup>21</sup> [fbfl.us/DocumentCenter/View/17399/2015-Final-Airport-Master-Plan---Copy?bidId=](http://fbfl.us/DocumentCenter/View/17399/2015-Final-Airport-Master-Plan---Copy?bidId=)

<sup>22</sup> [www.fbfl.us/Do2018,cumentCenter/View/17921/2017-Fernandina-Beach-CCR?bidId=](http://www.fbfl.us/Do2018,cumentCenter/View/17921/2017-Fernandina-Beach-CCR?bidId=)

<sup>23</sup> [www.fbfl.us/DocumentCenter/View/13132/GOAL-4--PUBLIC-FACILITIES-ELEMENT-2030?bidId=](http://www.fbfl.us/DocumentCenter/View/13132/GOAL-4--PUBLIC-FACILITIES-ELEMENT-2030?bidId=)

<sup>24</sup> [www.fbfl.us/DocumentCenter/View/5339/Fernandina-Beach-Vision-2020?bidId=](http://www.fbfl.us/DocumentCenter/View/5339/Fernandina-Beach-Vision-2020?bidId=)

in City of Fernandina Beach.

34. Therefore, in December 2018, Plaintiff visited Defendant's Website with the intent of educating himself about the environmental concern, quality of life, and governmental functioning in City of Fernandina Beach. Plaintiff also wanted to find out more about programs, services and activities available to visitors and residents of City of Fernandina Beach

35. Because Defendant's electronic documents are not in an accessible format for the blind and visually impaired and are not provided in accessible HTML or PDF format, Plaintiff was prevented from becoming informed about City of Fernandina Beach's governmental functioning, policies, programs, services and activities as Defendant offers to the public because of his vision disability. This exclusion resulted in Plaintiff suffering from feelings of segregation, rejection, and isolation as Plaintiff was left excluded from participating in the community services, programs and activities offered by City of Fernandina Beach in a manner equal to that afforded to others who are not similarly disabled.

36. Due to his inability to comprehend Defendant's electronic documents, on December 16, 2018, Plaintiff wrote a letter to Defendant and informed Defendant that he is legally blind and unable to fully access the electronic documents which Defendant provides to the public with his screen reader software. In that letter, Plaintiff requested Defendant's electronic documents be provided in an accessible format for blind and visually impaired individuals (such as himself). Plaintiff made this request via U.S. mail service. Plaintiff's letter request is attached hereto as Exhibit A.

37. As of the date of this Complaint filing, Defendant has not responded to Plaintiff's request for accommodation.



38. On January 17, 2019, Plaintiff again attempted to access Defendant's electronic documents, but those electronic documents remained inaccessible as he still could not comprehend them with his screen reader software. It is sufficiently obvious that Plaintiff and others who are blind or low sighted need Defendant to properly save its documents so that they are accessible on demand and permit such persons to benefit from the services, programs and activities.

39. By Defendant's failure to make the electronic documents on its Website accessible, Plaintiff has suffered injuries and shame, humiliation, isolation, segregation, experienced emotional suffering, pain and anguish and has been segregated and prohibited from enjoying the programs, services and activities offered by Defendant to the public.

40. Plaintiff continues to desire to participate in the governmental functioning of City of Fernandina Beach. However, Plaintiff is unable to do so, as he is unable to meaningfully access and comprehend the electronic documents provided by Defendant for the public.

41. Furthermore, Defendant has not provided any other auxiliary aid or service which would assist Plaintiff and/or similarly situated blind or visually impaired constituents to meaningfully access and fully comprehend Defendant's electronic documents in the same manner as Defendant has as made available to the non-disabled public.

42. Because Defendant has not provided its electronic documents in an accessible format for the blind and visually impaired, Plaintiff has been prevented from becoming informed of City of Fernandina Beach's governmental functioning, policies, programs, services and activities as offered to the public by Defendant because of his vision disability. As such, Plaintiff was left excluded from participating in City of Fernandina Beach government and the community services, programs and activities offered by City of

Fernandina Beach in a manner equal to that afforded to others who are not similarly disabled.

43. Plaintiff's inability to access Defendant's electronic documents has resulted in a *virtual barrier* which has impaired, obstructed, hindered, and impeded Plaintiff's ability to become an involved citizen in City of Fernandina Beach government and learn about the programs, services and activities available to residents to (and visitors of) City of Fernandina Beach.

44. On information and belief, since December 16, 2018 when Plaintiff first began to attempt to access and learn about City of Fernandina Beach programs, services, activities and government, Defendant has not made reasonable modifications to its policies and procedures to ensure future compliance with the ADA and/or the Rehabilitation Act. As of this filing, the electronic documents made available by Defendant remain inaccessible to Plaintiff as well as to other blind and visually disabled individuals.

45. Plaintiff continues to desire to become involved in and monitor the City of Fernandina Beach governmental process. However, Plaintiff is unable to do so, as he is unable to meaningfully access and comprehend the electronic documents provided by Defendant for the public.

46. Plaintiff has concrete plans to read and comprehend (on a weekly basis) the electronic documents supplied by Defendant as a service to the public. However, Plaintiff is prevented from enjoying the programs, services and activities for residents and visitors of City of Fernandina Beach due to the unlawful barrier created by Defendant's refusal to make its electronic documents accessible for screen reader software as used by the visually impaired.

47. Plaintiff (and others with vision impairments) will suffer continuous and

ongoing harm from the Defendant's omissions, policies, and practices regarding its electronic documents unless enjoined by this Court.

48. Defendant has engaged (and continues to engage) in unlawful practices in violation of Title II of the ADA (42 U.S.C. §12132 and Section 504).

49. Defendant's unlawful practices include (but are not limited to) denying Plaintiff (an individual with a disability) the ability to participate in City of Fernandina Beach government and to participate in the City of Fernandina Beach community programs, services and activities by failing to provide Plaintiff the ability to study and review City of Fernandina Beach's electronic documents in the same manner as provided to the sighted public.

50. Defendant is deliberately indifferent to the provisions of the Rehabilitation Act and Title II of the ADA in regard to the unlawful practices described herein because Defendant is aware of the availability of computer programs which allow Defendant to save electronic documents in an accessible format. Despite the ease of providing accessible electronic documents, Defendant has failed to reasonably modify its policies, processes and procedures for the same.

51. As a result of Defendant's actions, Plaintiff has been damaged and has suffered injuries and shame, humiliation, isolation, segregation, experienced emotional suffering, pain and anguish.

52. For all of the foregoing, Plaintiff has no adequate remedy at law.

53. Plaintiff has retained Scott Dinin P.A. and J. Courtney Cunningham PLLC as his legal counsel in this action and has agreed to pay a reasonable attorney fee.

**COUNT I – VIOLATIONS OF TITLE II OF THE ADA**



54. The broad mandate of the ADA is to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life and that mandate extends to public entities including Defendant and the documents that Defendant provides to the public (including those documents provided in electronic document format).

55. The Department of Justice guidelines on the application of Title II of the ADA state:

“[T]he Department has taken the position that title II covers Internet Web site access. Public entities that choose to provide services through web-based applications (e.g., renewing library books or driver's licenses) or that communicate with their constituents or provide information through the Internet must ensure that individuals with disabilities have equal access to such services or information, unless doing so would result in an undue financial and administrative burden or a fundamental alteration in the nature of the programs, services, or activities being offered.” 28 C.F.R. Pt. 35 app. A, page 126.

56. Title II of the ADA mandates that no qualified individual with a disability shall, by reason of such disability, be excluded from full and equal participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity, 42 U.S.C. §12132.

57. Defendant City of Fernandina Beach is a political subdivision of the State of Florida and a public entity under Title II of the ADA. A public entity includes any instrumentality of a state or local government therefore, Defendant is subject to Title II of the ADA. 42 U.S.C. §12131(1)(b).

58. As a public entity, Defendant must:

a) Provide full and equal enjoyment of its services, programs, and activities in the most integrated setting appropriate to people with disabilities. 42 U.S.C. §12131, *et. seq.*; 28 C.F.R. §35.130(a).

b) Ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals unless the public entity can demonstrate that taking those steps to modify policies, practices, or procedures would fundamentally alter the nature of the service, program, or activity; 28 C.F.R. §35.130(b)(7).

c) Ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals unless the public entity can demonstrate that legitimate safety requirements are necessary for safe operation. Any safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities; 28 C.F.R. §35.130(h).

59. Defendant is a recipient of federal financial assistance. As a condition precedent to receiving such assistance, Defendant must affirm that it is in compliance with federal anti-discrimination laws including the Rehabilitation Act of 1973 and the ADA. Defendant has consistently and repeatedly affirmed such compliance to the federal funding agencies when it knows that it is not complying with those laws based upon the Department of Justice Technical Guidance first issued in 2003 and updated in 2008.

60. Defendant's document creation and storage on [www.fbfl.us](http://www.fbfl.us) is a program, service, or activity within the definition of Title II of the ADA. Defendant makes information available in thousands of pages of documents available through its information Website through which the public can access electronic documents.

61. Defendant failed to provide its electronic documents in a format accessible to visually impaired individuals who require screen reader software to comprehend those electronic documents despite the sufficiently obvious need to do so. Therefore, Plaintiff has

been effectively denied access to those electronic documents by Defendant.

62. By denying Plaintiff the opportunity to comprehend and benefit from its electronic documents due to Plaintiff's disability (visual impairment), Defendant has denied Plaintiff the opportunity to participate in or benefit from the services, programs or activities afforded to non-disabled persons and persons who are not visually impaired.

63. Providing electronic documents in a format that can be recognized by screen reader software and therefore making those electronic documents accessible to the visually impaired would not result in any undue burden to Defendant.

64. Providing electronic documents in a format that can be recognized by screen reader software thereby making those electronic documents accessible to the visually impaired would not fundamentally change the nature of Defendant's services, programs, or activities.

65. Defendant is required to provide full and equal enjoyment of its services, programs, and activities in the most integrated setting appropriate to people with disabilities. 42 U.S.C. §12131, *et. seq.*; 28 C.F.R. Part 35.

66. As a result of the virtual barriers within the electronic documents provided by Defendant, visually impaired individuals are denied the full and equal access to the services, programs, and activities offered by City of Fernandina Beach and have been denied participation in the government of City of Fernandina Beach in a manner equal to that afforded to others; in derogation of Title II of the ADA and Section 504.

67. As a public entity, Defendant may not (directly or through contractual or other arrangements) utilize methods of administration that deny individuals with disabilities access to its services, programs, and activities or that perpetuate the discrimination of another public entity; 28 C.F.R. § 35.130(b)(3).



68. As a public entity and pursuant to Title II, Defendant is required to make reasonable modifications in its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity; 28 C.F.R. § 35.130(b)(7).

69. Defendant is required to present the electronic documents it provides to the public in an accessible format in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

70. Defendant's failure to make its electronic documents accessible has impeded Plaintiff from fully accessing the programs, services, and activities of City of Fernandina Beach as offered to residents and visitors so that they can participate in the services and programs of City of Fernandina Beach and equal access to City of Fernandina Beach government as afforded to the public by City of Fernandina Beach. By such failure, Defendant has discriminated against the visually impaired.

71. Defendant is blatantly discriminating by its failure to provide accessible electronic documents for blind and visually impaired citizens. Defendant has violated Title II of the ADA in numerous ways, including discriminatory action which occurred when the Defendant failed to maintain policies and procedures to ensure compliance with Title II of the ADA by creating barriers for individuals with disabilities who are visually impaired and who require the assistance of interface with screen reader software to comprehend and access Defendant's electronic documents provided within its Website. These violations are ongoing.

72. As a result of Defendant's inadequate creation, development, and administration of Defendant's electronic documents, Plaintiff is entitled to injunctive relief

pursuant to 42 U.S.C. §12133 to remedy the discrimination.

**COUNT II – VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**

73. Plaintiff is legally blind, which substantially limits him in his major life activity of seeing. Therefore, Plaintiff is an otherwise qualified individual with a disability under Section 504 of the Rehabilitation Act.

74. In *Nat'l Ass'n of Deaf v. State*, 318 F.Supp. 3d 1338, 1348 (SD Fla 2018) at \*5 (citing *Cash v. Smith*, 231 F.3d 1301, 1305 (11<sup>th</sup> Cir. 2000) the court found that “[t]he elements of a Title II claim and a section 504 Rehabilitation Act claim are the same,” and can be addressed together.

75. As an otherwise qualified individual, Plaintiff is expressly authorized under Section 505 of the Rehabilitation Act which enforces Section 504 of the Rehabilitation Act, 29 U.S.C. §§ 794 & 794(a), incorporating the remedies, rights and procedures set forth in Section 717 of the Civil Rights Act of 1964, including the application of §§ 706(f) - (k), 42 U.S.C. §§ 2000e (5)(f) - (k).

76. On information and belief, Defendant is a recipient of federal financial assistance. The City Commission of Fernandina Beach distributes that federal financial assistance to its agencies and departments through its budgetary and legislative activities. As the distributor of federal financial assistance, all the operations of City Commission of Fernandina Beach (including Defendant's online Website) are subject to the Rehabilitation Act as a covered program or activity. 29 U.S.C. §794(b)(1)(B).

77. Congress enacted the Rehabilitation Act in 1973 to enforce the policy of the United States that all programs, projects, and activities receiving federal assistance “. . . be carried out in a manner consistent with the principles of . . . inclusion, integration, and full participation of the individuals [with disabilities].” 29 U.S.C. §701(c)(3).

78. Section 504 of the Rehabilitation Act prohibits recipients of federal funding from discriminating against disabled persons and requires that programs or activities operated by a federally-funded entity be readily accessible to persons with disabilities; see 28 C.F.R. §42.520.

79. For the purposes of Rehabilitation Act claims, the term “program or activity” means all of the operations the entity of the State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended (29 U.S.C. Section 504, §794(b)(1)(B)).

80. Section 504 of the Rehabilitation Act, 29 U.S.C. §794 requires that no otherwise qualified individual with a disability, on the basis of that disability, be excluded from participation in or be denied the benefit of the services, programs, activities, or to otherwise be discriminated against.

81. The Rehabilitation Act defines “program or activity” to mean all of the operations of an entity of state or local government which distributes federal financial assistance. As the City Commission of Fernandina Beach is an entity of state or local government that distributes federal financial assistance, all the operations of City of Fernandina Beach are covered under the Rehabilitation Act including City of Fernandina Beach’s creation, storage and providing electronic documents to the public through its Website. For the purposes of this section, the term “program or activity” consists of all of the operations of a department, agency, special purpose district, or other instrumentality of a state or of a local government (29 U.S.C. §794(b)(1)(A)).

82. This denial of access to City of Fernandina Beach’s services, programs and/or activities has subjected Plaintiff to discrimination, excluded Plaintiff from participation in those services, programs and/or activities), and denied Plaintiff the benefits of Defendant’s



electronic documents.

83. As of this filing, Defendant's electronic documents within [www.fbfl.us](http://www.fbfl.us) are inaccessible to persons who are blind and/or low sighted and use screen readers to comprehend the internet but are accessible to persons without vision disabilities.

84. Specifically, as related to violations of Section 504, blind and visually impaired individuals need to comprehend and access the electronic documents which Defendant provides to the public. Yet, Defendant's electronic documents are not saved in an accessible format which properly interfaces with screen reader software so that blind and visually impaired individuals are able to comprehend those documents.

85. As a distributor of federal funds and pursuant to Section 504 the Defendant may not deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service; 45 CFR §84.4(b)(1)(i).

86. As a distributor of federal funds and pursuant to Section 504 the Defendant may not afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; 45 CFR §84.4(b)(1)(ii).

87. As a distributor of federal funds and pursuant to Section 504 the Defendant may not provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others; 45 CFR §84.4 (b)(1)(iii).

88. As a distributor of federal funds and pursuant to Section 504 the Defendant may not provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others; 45 CFR §84.4 (b)(1)(iv).

89. Plaintiff has been denied the ability to comprehend electronic documents provided by Defendant which would permit Plaintiff to access the programs, services and activities of City of Fernandina Beach and to participate in the City of Fernandina Beach government as offered to residents and visitors. As a distributor of federal funds and pursuant to Section 504, Defendant may not otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service; 45 CFR §84.4(b)(1)(vii).

90. As a distributor of federal funds and pursuant to Section 504, Defendant may not (directly or through contractual or other arrangements) utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State; 45 CFR §84.4(b)(4).

91. As a distributor of federal funds and pursuant to Section 504, Defendant is required to evaluate (with the assistance of interested persons including handicapped persons or organizations representing handicapped persons) its current policies and practices and the effects thereof that do not or may not meet the requirements of this part; 45 CFR §84.6(c)(1)(i).

92. As a distributor of federal funds and pursuant to Section 504, Defendant is required to modify, after consultation with interested persons (including handicapped persons or organizations representing handicapped persons), any policies and practices that fail to meet the requirements of this part; 45 CFR §84.6(c)(1)(ii).

93. As a distributor of federal funds and pursuant to Section 504, Defendant is required to take, after consultation with interested persons (including handicapped persons or organizations representing handicapped persons), appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices; 45 CFR §84.6(c)(1)(iii).

94. As a distributor of federal funds and pursuant to Section 504, Defendant is required to designate at least one person to coordinate its efforts to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part; 45 CFR §84.7(a) & (b).

95. Defendant has discriminated against Plaintiff (and other individuals with visual impairments) in the unequal provision of the electronic documents on [www.fbfl.us](http://www.fbfl.us) which Defendant provides to the public. As a result, Plaintiff has experienced exclusion, segregation, mental anguish, and humiliation in violation of his civil rights.

96. Defendant's policies, practices and procedures, particularly the actions and omissions described above have violated Plaintiff's rights under Section 504 by discriminating on the basis of a disability.

97. As a public entity, Defendant knows or should know of the 2003 guidelines provided by the Department of Justice related to providing information to the public in accessible format.

98. Defendant has failed to act on the likelihood of harm each time it has augmented or uploaded new documents on [www.fbfl.us](http://www.fbfl.us) without addressing the accessibility of those electronic documents for blind and visually impaired individuals. Thus, Defendant has demonstrated deliberate indifference to Plaintiff's federally protected rights in failing to



provide equal access to its services, programs and/or activities for blind and visually impaired individuals.

99. Deliberate indifference plainly requires more than gross negligence *Loeffler v Staten Island Univ. Hosp.*, 582 F.3d 268, 275 (2<sup>nd</sup> Cir. 2009) . Deliberate indifference is a deliberate choice *Bozeman v Orum*, 422 F.3d 1265, 1271 (11<sup>th</sup> Cir. 2005).

100. Defendant clearly has made a choice on a daily basis in failing to provide effective communication (vis-a-vie its electronic documents on [www.fbfl.us](http://www.fbfl.us)). Defendant's deliberate choice has demonstrated deliberate indifference (standard) thus showing intentional discrimination.

101. By Defendant's failure to make electronic documents on [www.fbfl.us](http://www.fbfl.us) accessible or to otherwise respond to Plaintiff's request for accommodation in a meaningful manner (as request was sent via U.S. mail to Defendant on December 16, 2018) Defendant's actions further reflect Defendant's deliberate indifference to the rights of the Plaintiff based on Plaintiff's disability.

102. While in this instance Plaintiff requested accommodation from Defendant, no request for an accommodation is necessary to plead a claim for failure to accommodate where the need for such an accommodation is obvious. See *Wilson v. Broward Cty.*, No. 04-61068, 2006 WL 8431515, at \*3 (S.D. Fla. Jan. 13, 2006)(denying a motion to dismiss in a Title II case where plaintiff claimed that his need for accommodation was obvious).

103. The ongoing and continuous act of failing to provide effective communication (related to the operation and maintenance of [www.fbfl.us](http://www.fbfl.us)) goes beyond gross negligence. Thus, Defendant is in violation of Section 504 of the Rehabilitation Act. See: *Liese v. Indian River County Hosp. Dist.*, 701 F.3d 334, (11<sup>th</sup> Cir. 2012).

104. The standard for deliberate indifference as set forth in *Liese v Indian River County Hospital District*, No. 10-15968 (11<sup>th</sup> Cir. Nov 13, 2012); See: “[D]eliberate indifference defined in the context as occurring when “the defendant knew that harm to a federally protected right was substantially likely and failed to act on that likelihood,” the *Liese* court, quoting from *T.W. ex.rel. Wilson v. Sch. Bd of Seminole Cnty., Fla.*, 610 F.3d at 604 (11<sup>th</sup> Cir.2010); accord *Loeffler v. Staten Island Univ. Hosp.*, 582 F.3d 268, 275 (2d Cir.2009); *Barber ex rel. Barber v. Colo. Dep’t of Revenue*, 562 F.3d 1222, 1228–29 (10th Cir.2009); *Duvall v. Cnty. Of Kitsap*, 260 F.3d 1124, 1139 (9<sup>th</sup> Cir.2001); see Fig. 1

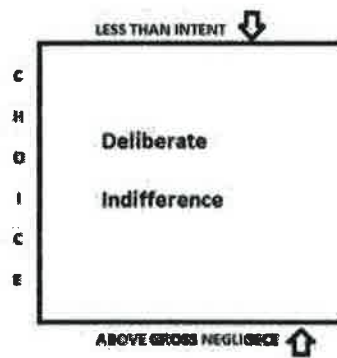


Fig. 1

105. Plaintiff has met the standard for deliberate indifference established in *McCollum v Orlando Reg’l Healthcare Sys., Inc.*, 768 F.3d 1135, 1147 (11th Cir 2014): “a plaintiff must show that the defendant ‘knew that harm to a federally protected right was substantially likely’ and ‘failed to act on that likelihood.’” (emphasis omitted) (quoting *Liese*, 701 F.3d at 344), which standard was instrumental in the 11<sup>th</sup> Circuit Court of Appeals decision in favor of the deaf defendant Harold Crane to find that Palmetto General Hospital had intentionally discriminated against the plaintiff, reversing summary judgment on plaintiff’s claim of ineffective communication during involuntary commitment proceeding under deliberate indifference standard (*Crane v. Lifemark Hosps., Inc.*, 898 F.3d 1130, 1135-36 (11<sup>th</sup> Cir. 2018).

106. As a result of Defendant's actions, Plaintiff has been damaged and has suffered injuries and shame, humiliation, isolation, segregation, experienced emotional suffering, pain and anguish and has been segregated and prohibited from enjoying the programs, services and activities offered by City of Fernandina Beach to residents and visitors (through the knowledge gained from its electronic service documents and through participating in the government of City of Fernandina Beach).

107. An award of monetary damages under Section 504 requires showing of intentional discrimination/deliberate indifference. *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138 (9<sup>th</sup> Cir. 2001). "Deliberate indifference requires both knowledge that a harm to a federally protected right is substantially likely [knowledge that an accommodation is required], and a failure to act upon that likelihood." *Id.* at 1139; *Lovell v. Chandler*, 303 F.3d 1039, 1056 (9<sup>th</sup> Cir. 2002).

108. Plaintiff is entitled to damages pursuant to Section 504 because of Defendant's deliberate indifference to the inaccessibility of the electronic documents it provides to the public, despite Plaintiff's request for accommodation.

109. Plaintiff has been obligated to retain the undersigned counsel for the filing and prosecution of this action. Plaintiff is entitled to have reasonable attorneys' fees, costs and expenses paid by Defendant City of Fernandina Beach.

110. For all of the foregoing, Plaintiff has no adequate remedy at law

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Juan Carlos Gil hereby demands judgment against Defendant City of Fernandina Beach, Florida including a declaratory judgment, pursuant to Rule 57 of the FRCP stating that the Defendant's practices, policies, and procedures have



subjected Plaintiff to discrimination in violation of Title II of the ADA and Section 504 of the Rehabilitation Act to permanently enjoin Defendant City of Fernandina Beach, Florida from any practice, policy and/or procedure which will deny Plaintiff equal access to the services, programs and activities offered by Defendant City of Fernandina Beach, Florida to residents and visitors and in participating in the government of City of Fernandina Beach, as well as:

- a) issue a declaratory judgment that Defendant has violated the Plaintiff's rights as guaranteed by Title II of the ADA and Section 504 of the Rehabilitation Act;
- b) The Court enter an Order requiring Defendant to update all electronic documents made available to the public to remove barriers in order that individuals with visual disabilities can access the electronic documents to the full extent required by Title II of the ADA and Section 504 of the Rehabilitation Act;
- c) enter an Order pursuant to 42 U.S.C. §12188(a)(2) for permanent injunction which directs Defendant to take all steps necessary to bring the electronic documents which it provides on its electronic media into full compliance with the requirements set forth in the ADA, and its implementing regulations, so that all electronic documents are fully accessible to, and independently usable by, blind and low sighted individuals, and which further directs that the Court shall retain jurisdiction for a period to be determined to ensure that Defendant has adopted and is following an institutional policy that will in fact cause Defendant to remain fully in compliance with the law;
- d) Order Defendant to retain a qualified consultant acceptable to Plaintiff

(“Mutually Agreed Upon Consultant”) who shall assist it in improving the accessibility of its electronic documents, so they are accessible to individuals with visual disabilities who require those electronic documents to be in accessible format or provided in HTML format;

- e) Order Defendant to engage a (mutually agreed upon) Consultant to perform an automated accessibility audit on a periodic basis to evaluate whether Defendant’s electronic documents to be accessible to individuals with visual disabilities who require those documents to be in accessible format or provided in HTML format;
- f) award damages in an amount to be determined at trial;
- g) award Plaintiffs’ reasonable litigation expenses and attorneys’ fees; and
- h) award such other and further relief as it deems necessary, just and proper.

Dated this 11<sup>th</sup> day of February 2019.

Respectfully submitted,

s/ Scott R. Dinin

Scott R. Dinin, Esq. FBN: 0097780

Scott R. Dinin, P.A.

4200 NW 7<sup>th</sup> Avenue

Miami, Florida 33127

Telephone: (786) 431-1333

Email: [inbox@dininlaw.com](mailto:inbox@dininlaw.com)

s/ Juan Courtney Cunningham

Juan Courtney Cunningham, Esq. FBN: 628166

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Miami, Florida 33156

Telephone: (305) 351-2014

Email: [cc@cunninghampllc.com](mailto:cc@cunninghampllc.com)

*Counsel for Plaintiff*

MINUTES  
City Commission Workshop  
March 20, 2019  
Page 1 of 1

The City Commission of the City of Fernandina Beach, Florida, met in a Workshop Wednesday, March 20, 2019 at 3:00 pm in the City Commission Chambers. Present were Vice Mayor Kreger presiding, Commissioners Philip Chapman, Mike Lednovich and Chip Ross. Mayor John A. Miller was not in attendance. Also present were City Clerk Caroline Best, City Manager Dale L. Martin and City Attorney Tammi Bach.

Vice Mayor Kreger called the meeting to order and led the Pledge of Allegiance to the Flag.

4.1 CITY WEBSITE REQUIREMENTS: City Attorney Bach explained the City has been served a lawsuit from Juan Carlos Gil claiming documents on the City's website are not ADA compliant. Ms. Bach provided a presentation regarding the America's with Disabilities Act (ADA) and explained the City's website, live streamed City Commission meetings, live streamed Advisory Board meetings, and Laserfiche document center do not meet ADA requirements.

Information Technology Director Mr. Dana Whicker provided cost information related to closed captioning live streamed meetings and post production closed captioning.

Ms. Suanne Thamm, 404 Broome Street, asked how tables and charts will be made ADA accessible. City Attorney Bach explained special software is available which audibly describes webpage content. Ms. Thamm also noted citizens need to contact the Clerk's Office to request archived records now that the Laserfiche document center link has been removed.

City Attorney Bach will write disclaimer language to be placed on the City's website which explains how citizens with disabilities may request a previously recorded City Commission meeting or Advisory Board meeting with closed captioning. Additionally, City Attorney Bach will contact outside counsel to determine whether the Laserfiche document center link on the City's website which was removed some weeks ago, should be made available for public access. ***The consensus of the City Commission was to close caption live streamed City Commission meetings, the approximate cost of which is \$3.00 per minute and Advisory Board meetings shall be post production closed captioned the approximate cost of which is \$0.75 per minute.*** The April 16, 2019 City Commission Regular Meeting agenda will have items pertaining to contract amendments and budget amendments to cover these additional costs.

ADJOURNMENT: There being no further business to come before the City Commission, the meeting was adjourned at 4:08 pm.

ATTEST:



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CAROLINE BEST  
City Clerk



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JOHN A. MILLER  
Mayor-Commissioner



## RESOLUTION 2019-63

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING A PROPOSAL FROM SWAGIT PRODUCTIONS, LLC IN THE AMOUNT OF \$83,120 FOR CLOSED CAPTIONING SERVICES; APPROVING AN AMENDMENT TO THE BUDGET FOR FISCAL YEAR 2018/2019; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission, at its March 20, 2019 Workshop meeting, determined video recorded and live streamed City Commission Regular Meetings, City Commission Special Meetings, City Commission Workshops and certain Advisory Board/Committee meetings shall comply with the Americans with Disabilities Act (ADA); and

WHEREAS, Swagit Productions, LLC is the City's video streaming and broadcast solutions provider. This Resolution approves the purchase of equipment, products and services necessary to meet ADA requirements for live streamed closed captioned and post production closed captioned meetings; and

WHEREAS, according to Code Sec 2-412 and Charter section 74, the City Commission must approve any budget transfers over \$7,500; and

WHEREAS, an amendment to the budget is needed to allocate the expenses associated with closed captioning. Funds in the amount of \$83,120 are available for transfer from the General Fund contingency account, 0018200 59900, to the Information Technology Department contractual account, 0011310 53400.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves the Swagit Productions, LLC Live Captioning Solutions proposal, attached hereto as Exhibit "A", for equipment, products and services in the amount of \$83,120.

SECTION 2: The City Commission hereby approves a transfer in the amount of \$83,120 from the General Fund Contingency Account, 0018200 59900, to the Information Technology Department Contractual Account, 0011310 53400.

SECTION 3. The City Commission authorizes the City Manager and City Clerk to sign the appropriate documents related to this proposal upon review of the City Attorney.

SECTION 4. This Resolution shall become effective immediately.

ADOPTED this 16<sup>th</sup> day of April, 2019.

CITY OF FERNANDINA BEACH



---

John A. Miller  
Commissioner – Mayor

ATTEST:



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Caroline Best  
City Clerk

APPROVED AS TO FORM AND LEGALITY:



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Tammi E. Bach  
City Attorney



# Fernandina Beach, FL - Live Captioning Solutions

Prepared on March 21, 2019 - #20190321-151430732

## Fernandina Beach, FL

204 Ash Street  
Fernandina Beach, FL, USA  
32034

## Caroline Best

City Clerk  
cbest@fbfl.org  
904-310-3119

## Dana Whicker

Information Technology Dir...  
dwhicker@fbfl.org  
904-310-3100

## Products & Services

### CaptionPrime Streaming Appliance

1 x \$13,690.00

- Captioning Encoding Appliance, system burn-in, HD/SD Baseband or IP Encode/Transcode single-channel license
- Enables encoding/transcoding of 1 HD/SD channel.
- Web based Caption GUI, multi-encoder management and CC support
- Software Licenses
- Video Capture Card with Simulstream
- Remote Video Indexing Kit (Includes Scheduler)
- AT&T U-verse® Compatible Closed Caption Encoder/Decoder for VOIP
- SDI CC encoding unit to provide audio captions over IP
- Required for Real Time Captioning implementation

### Advanced Caption Encoder/Decoder (Voice over IP capable)

1 x \$10,690.00

Closed Caption Encoder/Decoder for VOIP

- SDI CC encoding unit to provide audio captions over IP
- Required for Real Time Captioning implementation

### Avior™ + EASE™ 125

1 x \$28,740.00 / year

*For 1 year*

- Up to 125 indexed and remotely switched meetings annually.
- Up to 120 hours of specialty video content per year
- 24/7 Live Stream (Mirrored U-verse live stream, if needed)
- No Staff Involvement

### CaptionLive - 25 (Meeting avg. of 2 hours)

1 x \$7,500.00 / year

*For 1 year*

- Up to 25 transcribed meetings annually
- Captions are created as an event takes place, utilizing a live transcriber.
- Sync captions for on-demand usage after the event has come to its completion.
- Captioning through Swagit can be distributed to both TV and the Web simultaneously, if needed.



- \$150 per additional hour. Captioning rates are calculated in full hours rounded up. Based on total length of meeting event, which includes breaks, closed sessions, and other non captioned-events during that length of time.

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**CaptionPM - 100 Post-Event (On Demand) Captioning**

1 x \$21,000.00 / year

For 1 year

- Up to 100 transcribed meetings post meeting for close captions each year
- Human assisted post-meeting captioning for video on demand, completed and aligned with event video within four business days of broadcast.
- 4 day turnaround time
- Based on 2 hour average meeting duration

---

**Social Media eXstream (Facebook and/or YouTube Live)**

1 x \$1,500.00 / year

For 1 year

- Connects government meetings and events with live social platforms such as Facebook Live and YouTube Live
- Users can watch and engage on any device, including desktops, tablets, and mobile devices.
- Analytics available

---

Recurring subtotal \$58,740.00 / year

One-time subtotal \$24,380.00

Total \$83,120.00

*This total doesn't include any applicable taxes.*

**This quote expires on June 19, 2019.**



Signature



Date



Printed name

ATTEST:

By: Caroline Best  
Printed Name: Caroline Best  
Title: City Clerk

APPROVED AS TO FORM AND LEGALITY:

  
CITY ATTORNEY

## Questions? Contact me



### **Vin Nguyen**

Account Manager

[vnguyen@swagit.com](mailto:vnguyen@swagit.com)

+1 (214) 432-5905



### **Swagit Productions, LLC**

12801 North Central Expy. #900

Dallas, TX, US

75243

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Information Technology Director Mr. Dana Whicker provided cost information related to closed captioning live streamed meetings and post production closed captioning.

Ms. Suanne Thamm, 404 Broome Street, asked how tables and charts will be made ADA accessible. City Attorney Bach explained special software is available which audibly describes webpage content. Ms. Thamm also noted citizens need to contact the Clerk's Office to request archived records now that the Laserfiche document center link has been removed.

City Attorney Bach will write disclaimer language to be placed on the City's website which explains how citizens with disabilities may request a previously recorded City Commission meeting or Advisory Board meeting with closed captioning. Additionally, City Attorney Bach will contact outside counsel to determine whether the Laserfiche document center link on the City's website which was removed some weeks ago, should be made available for public access. ***The consensus of the City Commission was to close caption live streamed City Commission meetings, the approximate cost of which is \$3.00 per minute and Advisory Board meetings shall be post production closed captioned the approximate cost of which is \$0.75 per minute.*** The April 16, 2019 City Commission Regular Meeting agenda will have items pertaining to contract amendments and budget amendments to cover these additional costs.

ADJOURNMENT: There being no further business to come before the City Commission, the meeting was adjourned at 4:08 pm.

ATTEST:

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CAROLINE BEST  
City Clerk

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JOHN A. MILLER  
Mayor-Commissioner



## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-110  
Code Enforcement Fine Reduction and Release of Lien - Mark O'Brien

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-110

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SYNOPSIS: Mark O'Brien owns property located at 400 South 8th Street and 421 South 9th Street where code violations such as unmaintained signage at a business, lack of maintenance of property and maintenance of vegetation were ongoing for years.

The Code Enforcement and Appeals Board (CEAB) found Mr. O'Brien's properties in violation of the Code of Ordinances and the Land Development Code and ordered fines and administrative fees to attach to Mr. O'Brien's properties as liens eventually totaling over \$300,000. Mr. O'Brien has brought all code violations into compliance and has requested a reduction of fines and fees from the CEAB in accordance with Section 162.09, Fla. Stats.

The CEAB voted 5-2 to reduce the fines and fees to a total of \$20,000 if Mr. O'Brien pays the reduced amount in full by August 1, 2019, (30 days after the City Commission meeting). Section 162.09, Fla. Stats. provides that the CEAB can reduce the fines, but the releases of liens must be approved by the City Commission since the liens are in favor of (owned by) the City of Fernandina Beach.

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FISCAL IMPACT: The payment amount of \$20,000 will be deposited into the General Fund Code Enforcement Fees & Fines account, 001 32900.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): No recommendation.

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Tammi E. Bach, City Attorney 6/14/2019

Dale Martin, City Manager 6/19/2019

Pauline Testagrose, Comptroller 6/20/2019

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Date: June 07, 2019

Submitted By: Katie Newton, Legal Assistant

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-110

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING A SETTLEMENT OF CODE ENFORCEMENT FINES AND FEES FOR MARK O'BRIEN CONTINGENT UPON FULL PAYMENT OF \$20,000 NO LATER THAN AUGUST 1, 2019, FOR CODE ENFORCEMENT VIOLATIONS AT 400 SOUTH 8TH STREET AND 421 SOUTH 9TH STREET; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mark O'Brien owns property located at 400 South 8<sup>th</sup> Street and 421 South 9<sup>th</sup> Street where code violations such as unmaintained signage at a business, lack of maintenance of property and maintenance of vegetation were ongoing for years; and

WHEREAS, the Code Enforcement and Appeals Board (CEAB) found Mr. O'Brien's properties in violation of the Code of Ordinances and the Land Development Code and ordered fines and administrative fees to attach to Mr. O'Brien's properties as liens eventually totaling over \$300,000; and

WHEREAS, Mr. O'Brien has brought all code violations into compliance and has requested a reduction of fines and fees from the CEAB in accordance with Section 162.09, Fla. Stats.; and

WHEREAS, the CEAB voted 5-2 to reduce the fines and fees to a total of \$20,000 if Mr. O'Brien paid the reduced amount in full by August 1, 2019 (30 days after the City Commission meeting); and

WHEREAS, Section 162.09, Fla. Stats. provides that the CEAB can reduce the fines, but the releases of liens must be approved by the City Commission since the liens are in favor of (owned by) the City of Fernandina Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby authorizes full releases/satisfactions of liens be executed based upon the CEAB's order that fines and fees be reduced to a total of \$20,000 for violations now in compliance at 400 South 8<sup>th</sup> Street and 421 South 9<sup>th</sup> Street in the name of Mark R. O'Brien, specifically conditioned upon Mr. O'Brien paying the entire \$20,000 to the City on or before August 1, 2019.

SECTION 2. The Mayor is authorized to execute such releases/satisfactions of liens upon the City's receipt of full payment of the \$20,000 from Mark R. O'Brien, and the City Clerk is authorized to record such executed releases/satisfactions of liens in the public records of Nassau County, Florida.

SECTION 3. This Resolution shall become effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

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JOHN A. MILLER  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



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CAROLINE BEST  
City Clerk

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TAMMI E. BACH  
City Attorney



MIRIAM R. HILL, ESQ., PLLC

Phone: 321.202.0636

1890 South 14th Street Suite 202  
Fernandina Beach, Florida 32034

miriam@miriamrhill.com

Miriam R. Hill, Attorney licensed in Florida and New York

**May 8, 2019**

**To:** City of Fernandina Beach Code Enforcement Board,  
Tammi Bach, City Attorney, and  
Michelle Forstrom, Code Enforcement Director

**From:** Miriam R. Hill, ESQ., attorney for Mark R. O'Brien, (the "Property Owner") owner of 400 S. 8th Street and 421 S. 9th Street Fernandina Beach, Florida 32034 (together, the "Property")

**Re:** Request for Reduction of Code Enforcement Fines for outstanding City of Fernandina Beach Code Enforcement cases against the Property, including case numbers 15-00058, 17-0007, and 17-00114

Members of the Board of Code Enforcement:

This letter serves as formal request for reduction of fines for the above-captioned code enforcement cases. The Property Owner acknowledges that violations have accrued prior to and during the pendency of the above cases and that such violations are the Property Owner's responsibility. As of \_\_\_\_\_, 2019 the Property Owner has resolved all outstanding violations to the satisfaction of the City Code Enforcement Director and the Code Enforcement Board, and the Code Enforcement Board has found the Property to be in Compliance. The Property Owner therefore requests the total fines, inclusive of administrative costs, be reduced to an amount not to exceed \$20,000, and payable by the Property Owner within 30 days of acceptance of this letter. If the above terms are satisfactory, please so indicate by signing below.

Kind regards,



Miriam R. Hill

Attorney for Property Owner

Board of Code Enforcement, City of  
Fernandina Beach

Approved on \_\_\_\_\_, 2019 as to  
form and legality:

Accepted by the Board of Code  
Enforcement on \_\_\_\_\_, 2019:

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

\_\_\_\_\_  
Tammi Bach, City Attorney  
City of Fernandina Beach



City of Fernandina Beach

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF ENFORCEMENT

Date: October 1, 2015  
Case Number: 15-00058  
IN THE MATTER OF: Respondent Name: Mark O'Brien  
Respondent Address: 400 South 8<sup>th</sup> Street, Fernandina Beach, FL 32034

This case having come before the Code Enforcement & Appeals Board of the City of Fernandina Beach on October 1, 2015, a violation hearing having been held, and the Board having heard testimony, does hereby make the following finding of facts, and conclusions of law therefore imposing the following order and penalty:

SECTION 1 - FINDINGS OF FACT

1. The Respondent was properly served notice of these proceedings as required by law on September 14, 2015 and the Respondent was not present at the hearing.
2. The real property on which the continued violations are occurring at 400 South 8<sup>th</sup> Street, Fernandina Beach, FL and a brief legal description being **Block 134 Lots 1 2 3 & 7 IN OR 411/427 City of Fernandina Beach, FL 32034.**
3. The Respondent is the owner of record of the aforementioned real property.
4. The Respondent violated sections of the Fernandina Beach Code of Ordinances: Section 42-116 (b) Cleaning of lots; Maintenance of Structures; and Chapters 5.03.04 (c), Inspection of signs, (d) Unsafe signs and sign violating the Land Development Code (LDC), and (f) Maintenance of signs.

SECTION 2 - CONCLUSION OF LAW & IMPOSITION OF FINE

1. Based on the foregoing findings of fact, the Board voted to find the respondent in violation of Violation(s) of the City of Fernandina Beach Code of Ordinances: Section 42-116 (b) Cleaning of lots; Maintenance of Structures; and Chapters 5.03.04 (c), Inspection of signs, (d) Unsafe signs and sign violating the Land Development Code (LDC), (f) Maintenance of signs; and to start assessing a fine of \$100.00 a day starting October 2, 2015 until the property is brought into compliance and to recover administrative fees incurred.
2. The City of Fernandina Beach shall record a certified copy of this order in the public records and this Order shall constitute a lien against the real property on which the violations exist and upon any other real or personal property owned by the Respondent if fines are not paid within thirty (30) days.
3. If the lien remains unpaid for a period of three (3) months from the date of the filing of the lien, the City of Fernandina Beach may foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

SECTION 3 - CERTIFICATION OF VOTE

Done and ordered October 1, 2015 at the City of Fernandina Beach, Nassau County, Florida Code Enforcement & Appeals Board Hearing.

By: \_\_\_\_\_  
Chair Adam Kaufman

ATTEST:  
By: Caroline Best  
Printed Name: Caroline Best  
Title: City Clerk  
Date: May 16, 2017

\*Florida Statute 162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.



## City of Fernandina Beach

### FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF ENFORCEMENT

Date: May 4, 2017  
Case Number: 17-0007

PARCEL ID#  
00-00-31-1800-0134-0010

IN THE MATTER OF: Respondent Name: Mark O'Brien, Taylor Rental Center  
Respondent Address: 400 S. 8<sup>th</sup> Street, Fernandina Beach, FL 32034

This case having come before the Code Enforcement & Appeals Board of the City of Fernandina Beach on May 3, 2017, a violation hearing having been held, and the Board having heard testimony, does hereby make the following finding of facts, and conclusions of law therefore imposing the following order and penalty.

#### SECTION 1 - FINDINGS OF FACT

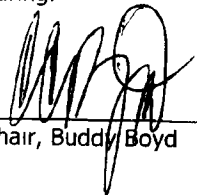
1. The Respondent was properly served notice of these proceedings as required by law on March 13, 2017 and the Respondent was not present at the hearing
2. The real property on which the violations occurred at 400 S. 8<sup>th</sup> Street, Fernandina Beach, FL and a brief legal description being **Block 134 LOTS 1 2 3 & 7 IN OR 411/427, City of Fernandina Beach, FL 32034.**
3. The Respondent is the owner of record of the aforementioned real property
4. The Respondent violated sections of the Fernandina Beach Code of Ordinances Section 42-116 (a & b), Cleaning of lots, Maintenance of Structures, of the City of Fernandina Beach Land Development Code.

#### SECTION 2 - CONCLUSION OF LAW & IMPOSITION OF FINE

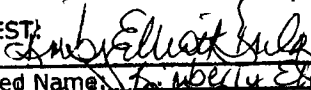
1. Based on the foregoing findings of fact, the Board voted to find the property in violation of 42-116 (a), cleaning of lots and 42-116 (b) maintenance of structures Fees to be assessed at \$250.00 per day per violation beginning May 4, 2017 continuing until such time as it is brought into compliance; and that the respondent pay the administrative fees incurred.
2. The City of Fernandina Beach shall record a certified copy of this order in the public records and this Order shall constitute a lien against the real property on which the violations exist and upon any other real or personal property owned by the Respondent if fines are not paid within thirty (30) days.
3. If the lien remains unpaid for a period of three (3) months from the date of the filing of the lien, the City of Fernandina Beach may foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

#### SECTION 3 - CERTIFICATION OF VOTE

Done and ordered May 3, 2017 at the City of Fernandina Beach, Nassau County, Florida Code Enforcement & Appeals Board Hearing.

By:   
Chair, Buddy Boyd

A Certified True Copy

ATTEST:  
By:   
Printed Name: Deputy City Clerk  
Title: Deputy City Clerk  
Date: 5/25/17

\*Florida Statute 162.11 Appeals -- An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.





# City of Fernandina Beach

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF ENFORCEMENT

Date: January 5, 2018  
Case Number: 17-00114

IN THE MATTER OF: Respondent Name: Mark R. O'Brien  
Respondent Address: 421 S. 9th Street, Fernandina Beach, FL 32034

This case having come before the Code Enforcement & Appeals Board of the City of Fernandina Beach on January 4, 2018, a violation hearing having been held, and the Board having heard testimony, does hereby make the following finding of facts, and conclusions of law therefore imposing the following order and penalty:

### SECTION 1 - FINDINGS OF FACT

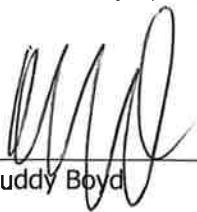
1. The Respondent was properly served notice of these proceedings as required by law on November 2, 2017 and the Respondent was not present at the hearing.
2. The real property on which the violations occurred at 421 S. 9th Street, Fernandina Beach, FL and a brief legal description being **BLOCK 134 N1/2 OF LOT 6 IN OR 1718/37 CITY OF FDNA BEACH, Fernandina Beach, FL 32034.**
3. The Respondent is the owner of record of the aforementioned real property.
4. The Respondent violated sections of the Fernandina Beach Code of Ordinances: **Section 42-116 (A), Cleaning of lots; maintenance of structures.**

### SECTION 2 - CONCLUSION OF LAW & IMPOSITION OF FINE

1. Based on the foregoing findings of fact, the Board voted to find the respondent in violation of Section 42-116 (A), Cleaning of lots; maintenance of structures; if not brought into compliance by January 15, then assess fines of \$100.00 per day until brought into compliance and collect administrative fees.
2. The City of Fernandina Beach shall record a certified copy of this order in the public records and this Order shall constitute a lien against the real property on which the violations exist and upon any other real or personal property owned by the Respondent if fines are not paid within thirty (30) days.
3. If the lien remains unpaid for a period of three (3) months from the date of the filing of the lien, the City of Fernandina Beach may foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

### SECTION 3 - CERTIFICATION OF VOTE

Done and ordered January 4, 2018 at the City of Fernandina Beach, Nassau County, Florida Code Enforcement & Appeals Board Hearing.

By:   
Chair, Buddy Boyd

\*Florida Statute 162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

**ADMINISTRATIVE FEES INCURRED FROM  
400 SOUTH 8TH STREET  
AS OF 10/02/18  
CODE CASE #15-00064**

| <b><u>STAFF PERSONNEL</u></b>                                                | <b><u># OF<br/>UNITS<br/>OR<br/>HOURS</u></b> | <b><u>RATE<br/>PER<br/>HOUR</u></b> | <b><u>TOTAL</u></b> |
|------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------|---------------------|
| Michelle Forstrom, Code Compliance Officer                                   | 4                                             | \$18.69                             | <b>\$74.76</b>      |
| Michelle Forstrom, Code Enforcement Manager                                  | 4                                             | \$21.17                             | <b>\$84.68</b>      |
| Michelle Forstrom, Code Enforcement Manager                                  | 3                                             | \$23.13                             | <b>\$69.39</b>      |
| Michelle Forstrom, Code Enforcement Director                                 | 2.1                                           | \$25.44                             | <b>\$53.42</b>      |
| Cathy Sabattini, Board Secretary & Staff Assistant                           | 2.2                                           | \$15.25                             | <b>\$33.55</b>      |
| Katie Newton, Board Secretary/Legal Assistant                                | 5.5                                           | \$21.63                             | <b>\$118.97</b>     |
| Katie Newton, Board Secretary/Legal Assistant                                | 2.5                                           | \$23.40                             | <b>\$58.50</b>      |
| Record Findings of Facts with the Clerk of Circuit Court<br>of Nassau County | 1                                             | \$10.00                             | <b>\$10.00</b>      |
| Certified letters mailed                                                     | 1                                             | \$6.48                              | <b>\$6.48</b>       |
| First Class letters mailed                                                   | 2                                             | \$0.48                              | <b>\$0.96</b>       |
| <b>TOTAL</b>                                                                 |                                               |                                     | <b>\$510.71</b>     |

**FINES AND FEES INCURRED FROM  
400 SOUTH 8TH STREET  
AS OF 02/07/19  
CODE CASE #15-00058**

| <b><u>DATES</u></b>        | <b><u># OF<br/>DAYS</u></b> | <b><u>FINE<br/>PER<br/>DAY</u></b> | <b><u>TOTAL</u></b> |
|----------------------------|-----------------------------|------------------------------------|---------------------|
| OCTOBER 2 THROUGH 31, 2015 | 29                          | \$100.00                           | \$2,900.00          |
| NOVEMBER 2015              | 30                          | \$100.00                           | \$3,000.00          |
| DECEMBER 2015              | 31                          | \$100.00                           | \$3,100.00          |
| JANUARY 2016               | 31                          | \$100.00                           | \$3,100.00          |
| FEBRUARY 2016              | 29                          | \$100.00                           | \$2,900.00          |
| MARCH 2016                 | 31                          | \$100.00                           | \$3,100.00          |
| APRIL 2016                 | 30                          | \$100.00                           | \$3,000.00          |
| MAY 2016                   | 31                          | \$100.00                           | \$3,100.00          |
| JUNE 2016                  | 30                          | \$100.00                           | \$3,000.00          |
| JULY 2016                  | 31                          | \$100.00                           | \$3,100.00          |
| AUGUST 2016                | 31                          | \$100.00                           | \$3,100.00          |
| SEPTEMBER 2016             | 30                          | \$100.00                           | \$3,000.00          |
| OCTOBER 2016               | 31                          | \$100.00                           | \$3,100.00          |
| NOVEMBER 2016              | 30                          | \$100.00                           | \$3,000.00          |
| DECEMBER 2016              | 31                          | \$100.00                           | \$3,100.00          |
| JANUARY 2017               | 31                          | \$100.00                           | \$3,100.00          |
| FEBRUARY 2017              | 28                          | \$100.00                           | \$2,800.00          |
| MARCH 2017                 | 31                          | \$100.00                           | \$3,100.00          |
| APRIL 2017                 | 30                          | \$100.00                           | \$3,000.00          |
| MAY 2017                   | 31                          | \$100.00                           | \$3,100.00          |
| JUNE 2017                  | 30                          | \$100.00                           | \$3,000.00          |
| JULY 2017                  | 31                          | \$100.00                           | \$3,100.00          |
| AUGUST 2017                | 31                          | \$100.00                           | \$3,100.00          |
| SEPTEMBER 2017             | 30                          | \$100.00                           | \$3,000.00          |
| OCTOBER 2017               | 31                          | \$100.00                           | \$3,100.00          |



**FINES AND FEES INCURRED FROM  
400 SOUTH 8TH STREET  
AS OF 02/07/19  
CODE CASE #15-00058**

|                |    |          |            |
|----------------|----|----------|------------|
| NOVEMBER 2017  | 30 | \$100.00 | \$3,000.00 |
| DECEMBER 2017  | 31 | \$100.00 | \$3,100.00 |
| JANUARY 2018   | 31 | \$100.00 | \$3,100.00 |
| FEBRUARY 2018  | 28 | \$100.00 | \$2,800.00 |
| MARCH 2018     | 31 | \$100.00 | \$3,100.00 |
| APRIL 2018     | 30 | \$100.00 | \$3,000.00 |
| MAY 2018       | 31 | \$100.00 | \$3,100.00 |
| JUNE 2018      | 30 | \$100.00 | \$3,000.00 |
| JULY 2018      | 31 | \$100.00 | \$3,100.00 |
| AUGUST 2018    | 31 | \$100.00 | \$3,100.00 |
| SEPTEMBER 2018 | 30 | \$100.00 | \$3,000.00 |
| OCTOBER 2018   | 31 | \$100.00 | \$3,100.00 |

|                    |                     |
|--------------------|---------------------|
| <b>TOTAL FINES</b> | <b>\$112,500.00</b> |
|--------------------|---------------------|

|                   |                 |
|-------------------|-----------------|
| <b>TOTAL FEES</b> | <b>\$510.71</b> |
|-------------------|-----------------|

|                                               |                     |
|-----------------------------------------------|---------------------|
| <b>GRAND TOTAL DUE AS OF FEBRUARY 7, 2019</b> | <b>\$113,010.71</b> |
|-----------------------------------------------|---------------------|

**ADMINISTRATIVE FEES INCURRED FROM  
421 S. 9TH STREET  
AS OF 02/07/19  
CODE CASE #17-00114**

| <b><u>STAFF PERSONNEL OR ITEMS</u></b>                                       | <b><u># OF<br/>UNITS<br/>OR<br/>HOURS</u></b> | <b><u>PRICE<br/>OR RATE<br/>PER<br/>HOUR</u></b> | <b><u>TOTAL</u></b> |
|------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|---------------------|
| Michelle Forstrom, Code Enforcement Manager                                  | 2                                             | \$23.13                                          | \$46.26             |
| Michelle Forstrom, Code Enforcement Director                                 | 1.5                                           | \$25.44                                          | \$38.16             |
| George Wells, Code Compliance Officer                                        | 5.5                                           | \$20.80                                          | \$114.40            |
| George Wells, Code Compliance Officer                                        | 3.2                                           | \$21.63                                          | \$69.22             |
| Katie Newton, Board Secretary/Legal Assistant                                | 3                                             | \$21.63                                          | \$64.89             |
| Katie Newton, Board Secretary/Legal Assistant                                | 2                                             | \$23.40                                          | \$46.80             |
| Record Findings of Facts with the Clerk of Circuit Court<br>of Nassau County | 1                                             | \$10.00                                          | \$10.00             |
| Certified letters mailed                                                     | 1                                             | \$6.48                                           | \$6.48              |
| First Class letters mailed                                                   | 1                                             | \$0.48                                           | \$0.48              |

**TOTAL ADMINISTRATIVE FEES DUE**

**\$396.69**

**\*\* TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS  
PROPERTY**

**FINES AND FEES INCURRED FROM  
421 S. 9TH STREET  
AS OF 02/07/19**

| <b><u>DATES</u></b>                   | <b><u># OF<br/>DAYS</u></b> | <b><u>FINE<br/>PER<br/>DAY</u></b> | <b><u>TOTAL</u></b> |
|---------------------------------------|-----------------------------|------------------------------------|---------------------|
| JANUARY 15 - JANUARY 31, 2018         | 17                          | \$100.00                           | \$1,700.00          |
| FEBRUARY 2018                         | 28                          | \$100.00                           | \$2,800.00          |
| MARCH 2018                            | 31                          | \$100.00                           | \$3,100.00          |
| APRIL 2018                            | 30                          | \$100.00                           | \$3,000.00          |
| MAY 2018                              | 31                          | \$100.00                           | \$3,100.00          |
| JUNE 2018                             | 30                          | \$100.00                           | \$3,000.00          |
| JULY 2018                             | 31                          | \$100.00                           | \$3,100.00          |
| AUGUST 2018                           | 31                          | \$100.00                           | \$3,100.00          |
| SEPTEMBER 2018                        | 30                          | \$100.00                           | \$3,000.00          |
| OCTOBER 2018                          | 31                          | \$100.00                           | \$3,100.00          |
| NOVEMBER 2018                         | 30                          | \$100.00                           | \$3,000.00          |
| DECEMBER 2018                         | 31                          | \$100.00                           | \$3,100.00          |
| JANUARY 1 - JANUARY 14, 2019          | 14                          | \$100.00                           | \$1,400.00          |
| <b>TOTAL FINES</b>                    |                             |                                    | <b>\$36,500.00</b>  |
| <b>TOTAL FEES</b>                     |                             |                                    | <b>\$396.69</b>     |
| <b>GRAND TOTAL DUE AS OF 02/07/19</b> |                             |                                    | <b>\$36,896.69</b>  |

**\*\* TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY \*\***



**ADMINISTRATIVE FEES INCURRED FROM  
400 SOUTH 8TH STREET  
AS OF 02/28/19**

**CODE CASE #17-00007**

| <b><u>STAFF PERSONNEL</u></b>                                                | <b><u># OF<br/>UNITS<br/>OR<br/>HOURS</u></b> | <b><u>RATE<br/>PER<br/>HOUR</u></b> | <b><u>TOTAL</u></b> |
|------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------|---------------------|
| Michelle Forstrom, Code Enforcement Manager                                  | 6                                             | \$21.17                             | <b>\$127.02</b>     |
| Michelle Forstrom, Code Enforcement Manager                                  | 2.5                                           | \$23.13                             | <b>\$57.83</b>      |
| Michelle Forstrom, Code Enforcement Director                                 | 8                                             | \$25.44                             | <b>\$203.52</b>     |
| Angela Lester, Board Secretary/Administrator Coordinato                      | 2                                             | \$19.28                             | <b>\$38.56</b>      |
| Katie Newton, Board Secretary/Legal Assistant                                | 3                                             | \$21.63                             | <b>\$64.89</b>      |
| Katie Newton, Board Secretary/Legal Assistant                                | 6                                             | \$23.40                             | <b>\$140.40</b>     |
| Tammi Bach, City Attorney                                                    | 4.5                                           | \$68.64                             | <b>\$308.88</b>     |
| Record Findings of Facts with the Clerk of Circuit Court<br>of Nassau County | 1                                             | \$10.00                             | <b>\$10.00</b>      |
| Certified letters mailed                                                     | 1                                             | \$6.48                              | <b>\$6.48</b>       |
| First Class letters mailed                                                   | 2                                             | \$0.48                              | <b>\$0.96</b>       |
| <b>TOTAL ADMINISTRATIVE FEES DUE</b>                                         |                                               |                                     | <b>\$958.54</b>     |

**FINES AND FEES INCURRED FROM  
400 SOUTH 8TH STREET  
AS OF 02/28/19  
CODE CASE #17-00007**

| <u>DATES</u>                   | <u># OF<br/>DAYS</u> | <u>FINE<br/>PER<br/>DAY</u> | <u>TOTAL</u> |
|--------------------------------|----------------------|-----------------------------|--------------|
| MAY 3 THROUGH 31 2017          | 28                   | \$250.00                    | \$7,000.00   |
| JUNE 2017                      | 30                   | \$250.00                    | \$7,500.00   |
| JULY 2017                      | 31                   | \$250.00                    | \$7,750.00   |
| AUGUST 2017                    | 31                   | \$250.00                    | \$7,750.00   |
| SEPTEMBER 2017                 | 30                   | \$250.00                    | \$7,500.00   |
| OCTOBER 2017                   | 31                   | \$250.00                    | \$7,750.00   |
| NOVEMBER 2017                  | 30                   | \$250.00                    | \$7,500.00   |
| DECEMBER 2017                  | 31                   | \$250.00                    | \$7,750.00   |
| JANUARY 2018                   | 31                   | \$250.00                    | \$7,750.00   |
| FEBRUARY 2018                  | 28                   | \$250.00                    | \$7,000.00   |
| MARCH 2018                     | 31                   | \$250.00                    | \$7,750.00   |
| APRIL 2018                     | 30                   | \$250.00                    | \$7,500.00   |
| MAY 2018                       | 31                   | \$250.00                    | \$7,750.00   |
| JUNE 2018                      | 30                   | \$250.00                    | \$7,500.00   |
| JULY 2018                      | 31                   | \$250.00                    | \$7,750.00   |
| AUGUST 2018                    | 31                   | \$250.00                    | \$7,750.00   |
| SEPTEMBER 2018                 | 30                   | \$250.00                    | \$7,500.00   |
| OCTOBER 2018                   | 31                   | \$250.00                    | \$7,750.00   |
| NOVEMBER 2018                  | 30                   | \$250.00                    | \$7,500.00   |
| DECEMBER 2018                  | 31                   | \$250.00                    | \$7,750.00   |
| JANUARY 2019                   | 31                   | \$250.00                    | \$7,750.00   |
| FEBRUARY 1 THROUGH FEBRUARY 28 | 28                   | \$250.00                    | \$7,000.00   |

**TOTAL FINES** **\$166,500.00**

**TOTAL FEES** **\$958.54**

**GRAND TOTAL DUE AS OF FEBRUARY 7, 2019** **\$167,458.54**

**1. Call to Order/ Roll Call/Determination of Quorum** – The meeting was called to order at 5:30 pm.

**Council Members Present**

Chair Buddy Boyd  
Marlene Chapman  
Gail Shults  
Cynthia Crow

Vice Chair Adam Kaufman  
Henry Byrd  
Nicole Kresse

**Others Present**

Tammi Bach, Board Attorney  
Katie Newton, Recording Secretary

George Wells, Code Enforcement Officer  
Michelle Forstrom, Code Enforcement Director

**2. Approval of Minutes** – According to the agenda support documents, the Minutes for the March 7, 2019, Regular Hearing were presented for approval. Member Crow made a correction as to who made a motion on one of the cases. **A motion was made by Vice Chair Kaufman, seconded by Member Chapman, to approve the Minutes as amended. Vote upon passage of the motion was taken by voice vote being all ayes, carried.**

Vice Chair Kaufman read a written statement regarding his comments at the April 30 meeting concerning the Taylor Rental property.

Chair Boyd asked for any changes to the agenda, and Item 4.1 was now in compliance. City Attorney Bach explained that there were no quasi-judicial hearings at tonight's meeting.

**3. Old Business**

**3.1 MARK R. O'BRIEN, 400 S. 8TH STREET & 421 S. 9TH STREET, CASES 15-0058, 17-00114 & 17-0007.**  
*Property owner requests reduction in fines.*

Chair Boyd read the case. City Attorney Bach addressed Vice Chair Kaufman's statement saying that all his statements were factual as she could recall.

Ms. Miriam Hill presented on behalf of the property owner. She referred to the letter requesting a reduction to a total of \$20,000 inclusive of administrative fees. In her conversations with City Bach, she understands that the City is not in the business of making money off fines, but that fines were used to ensure compliance. She stated that she did not have Mr. O'Brien sign a financial statement or she his financial statement. She stated that she cannot speak to anything prior to her involvement; she is doing this as a volunteer and within two weeks of their meeting the property was listed for sale and the issues began to be addressed. She listed the progress that has been made. City should feel good about progress, compliance is achieved, and the requested reduction is 10 times what the City direct costs would be.

Member Crow wanted to clarify whether the requested reduction was for \$20,000 plus administrative fees.

Member Kresse asked about precedent for ability to pay. City Attorney Bach stated the Board can make that determination and no formal work has been done to assess ability to pay. Ms. Hill stated she felt this would be an equitable resolution. The City could wait until property is sold and assess the lien at that time.

Chair Boyd asked about the procedure. City Attorney Bach stated the lien is valid for 20 years; the Board is making a recommendation and Commission will make the final decision. Chair Boyd asked about alternate amounts. Member Crow asked if they could make that recommendation to foreclose and City Attorney Bach stated that was an option. City Attorney Bach recommends they make a recommendation decision tonight. They can decide not to decide.

Vice Chair Kaufman wanted to discuss in terms of fairness and equity for all people who come before the Board. He believes that this will set precedent and the reduction request is essentially for the accrued interest of the fine. Member Crow stated



she tries to be consistent but facts are different in every case. City Attorney Bach clarified that she had filed a legal action to get corporate's attention in the Alvin's Island case. Ms. Forstrom wanted to correct a statement made by some Board members that the majority of property owners come and get a reduced fine; in fact, most pay their fines.

Vice Chair Kaufman asked for Ms. Forstrom's recommendation. She previously said \$50,000 with a buyer. Member Crow asked about closing the case and starting a new one if Mr. O'Brien comes out of compliance from the same provision. Ms. Forstrom stated it would come back as a repeat violation.

Member Kresse stated that the property is in compliance and the Board should not foreclose unless it is a public hazard.

Member Chapman did not agree with \$20,000. Member Byrd stated that the Board is not in the business of generating revenue. Member Shults is in favor of resolving the case.

**A motion was made by Member Crow, seconded by Member Shults, to reduce the amount of fines and fees owed to \$20,000 as full payment, which must be paid within 30 days of City Commission approval of the reduction, or foreclosure proceedings will begin. A vote was taken and passed, being 5-2 in favor, with Vice Chair Kaufman and Member Chapman voting nay.**

City Attorney Bach thanked Ms. Hill for her work in resolving this case, and the Board did as well.

**3.2 NEIL T. DOUGLAS & LISA A. MOHN, 1725 LISA AVE, CASE 18-00004.** *Violation(s) of the City of Fernandina Beach Code of Ordinances exist: 42-116(B) Cleaning of Lots, Maintenance of Structures; Section 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited. City staff to provide update.*

Chair Boyd read the case. Mr. Wells explained that at the last meeting the Board had withheld fines and fees while the property owner worked with the Building department to determine what was needed for a permit.

Mr. Douglas, property owner, presented his documentation of attempts to get help. He stated that several engineers declined the work. After many attempts, he finally thinks he has a commitment from engineer to send letter.

Mr. Wells stated that Mr. Douglas has not attempted to contact the City to update staff on any progress. Additionally, Mr. Wells believes more work has been done on stairwell in since stop work order was issued. Mr. Douglas stated that he had removed an addition that was added.

Member Crow asked about whether an engineer was needed – she thought that perhaps one was not needed and the building official could make that determination. Mr. Douglas stated did not call building official but was trying to follow what Mr. Kukla had said, because he thought that was the direction given by City staff previously. If he had talked to building official maybe he wouldn't need the engineer reports. Discussion centered around whether engineer report was needed.

Member Crow asked about the other things that needed to get resolved. It seems as though the only thing left was the steps and maybe some siding. Mr. Wells stated he should have talked to the building official. Ms. Forstrom explained that Mr. Cotter is the building official, and Mr. Kukla is a plans examiner.

Discussion on whether to impose fines and availability of the building department to assess the property because they will be attending conferences. Member Kresse stated that if the building department was very busy, the building official might not make it out to the property in time for the next hearing.

**A motion was made by Member Kaufman, seconded by Member Shults, to table this case to the next meeting. A vote was taken and passed, all being in favor.**

#### **4. New Business**

**4.1 HERIBERTO GONZALEZ, 412 S. 13TH TERRACE, CASE 2019-0181.** *Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-122-Swimming Pool (Maintenance) & 42-116 Duty to Maintain Property. Requesting Board determination of the case.*

This property came into compliance.

**5. Board Business**

5.1 Reminder: The next Code Enforcement and Appeals Board Hearing will be June 27, 2019, rescheduled from July 4, 2019.

Ms, Forstrom and Mr. Wells will both be out of town at conference next week.

**6. Adjournment** - There being no further business to come before the Code Enforcement and Appeals Board, the meeting was adjourned at 6:46 p.m.

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**Katie Newton, Recording Secretary**

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**Carlton "Buddy" Boyd, Chair**

Code Enforcement and Appeals Board  
June 6, 2019  
Taylor Rental/O'Brien

On April 30, I stated that I would not vote to approve a reduction in fines in the three (3) Code Enforcement proceedings involving Taylor Rental and Mr. O'Brien to an amount that was less than \$50,000.

At that amount, I would be doing so reluctantly.

The fines and fees that have been assessed and accrued since October 2015 in the three (3) proceedings before us, amount to \$317,365.94.

In addition, as the members of this Board are aware, pursuant to Florida Statute foreclosing on the liens resulting from the findings of the CEAB entitle the City to not only recover a money judgment for the amount of the liens but also accrued interest (Fla Stat 162.09) and all costs including attorney's fees (Fla Stat 162.10).

The statutory interest rate in Florida is now set quarterly, and has varied from 4.75% to 6% during the three and one-half years of the pendency of these proceedings. The rate was 5% in 2017.

The Taylor Rental property has been the subject of City and public concern at least since 2011. It has been the focus of discussions of the "blight" on 8<sup>th</sup> Street, the corridor to the City's Historic District.

In May 2017, a former City Manager responding to reports that Mr. O'Brien had at that time ignored the action of this Board stated that Mr. O'Brien's "lack of action to respond and ignore the violations for as long as two years does little to generate any sympathy, especially since some of the violations would appear to be resolved easily (and inexpensively)."

Understanding that the Taylor Rental/O'Brien matters were again to be considered by this Board on April 30, I met with the City attorney two weeks before that date to discuss the parameters of what might be a settlement without continuing to move to foreclose.

A settlement that would balance Mr. O'Brien's prolonged noncompliance together with the interests of the City in the evenhanded enforcement of



our Code while assessing a measured penalty that would be consistent with past practice.

Some have suggested that this Board has been complicit by tolerating Mr. O'Brien's defiance and the City should have foreclosed on the Taylor Rental property at a much earlier date. A date even before the "prospect" of a sale of the property was a consideration.

Further, for those who speculated that Mr. O'Brien's failure to adhere to and observe the law is the result of a "cognitive swoon," let me point out that his property taxes were paid, presumably he remitted sales tax to the State and that his business was open and running during the pendency of these proceedings.

The meeting with Ms. Bach was relatively brief. I indicated to Ms. Bach that I was seeking her assistance in finding a benchmark against which a settlement resolution could be measured.

Ms. Bach informed me that she had discussed the matter with Mr. O'Brien's attorney and indicated to her that a proposed \$20,000 settlement may not be acceptable given the facts and circumstances of these proceedings.

After a pause, Ms. Bach suggested \$50,000, reminding me that amount is what the City obtained in settlement when a similar amount of fines and fees were due and owing in the proceeding involving Alvin's Island on Sadler Road.

The Alvin's Island proceeding was otherwise different and involved negotiating with a corporate headquarters not in the City. Alvin's Island was not a continuing "eyesore" and did it not involve questions of ongoing blight affecting neighboring properties but was related to disputes about outdoor signs and business permits.

The Alvin's Island matter, however, at least provided some justification and a benchmark or precedent that could be pointed to with regard to fines and fees. I said "I could live with it."

I was prepared to suggest that the fines and fees be reduced by 2/3 to approximately \$100,000 as settlement or that in the alternative the City should foreclose.

The minutes of our April 30 meeting reflect that the City's Code Enforcement Officer has recommended "no less than \$50,000" in settlement.

Apparently, after that meeting, contact was initiated between Ms. Bach and members of this Board. Notwithstanding those conversations, a settlement decision can only occur after discussion and then a vote by this Board at a public meeting.

As we have been informed, Mr. O'Brien's attorney, Ms. Hill, asserts that Mr. O'Brien can pay no more than \$20,000. Ms. Hill's May 8, written request for reduction in fines provides no basis whatsoever for that claim or any rationale for the calculation of the settlement amount.

We know that Mr. O'Brien is not indigent. His property has value, he has the capacity to pay for cleaning and remediation and his business is operating.

Against what criteria should we judge this request?

The basis for settlement should not be, as an individual has advised, that "we just need to let this go."

If the \$20,000 proposal (inclusive of administrative costs) is agreed to, against what criteria are we to judge future fine and fee reduction requests by a property owner?<sup>1</sup>

Is this Board sanctioning 5% or 6% of the total of fines, fees and interest assessed after more than three years of non-compliance as the acceptable standard for settlement?

Is a settlement to be based upon the undocumented claim of inability to pay? How is that claim to be substantiated and confirmed? There are statutes that provide "means" tests for assessing penalties. Our Code does not.

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<sup>1</sup> The question in this proceeding is not one of facilitating a transfer of ownership.

Is the dollar cost of a settlement based upon percentage or claimed inability to pay or some combination of both?

Will we apply this settlement rubric to homestead as well as commercial properties?

If the standard upon which settlement and resolution is to be based is Ms. Hill's assertion "that is all he can pay" together with the representation that he ultimately resolved all outstanding violations; then there are fundamental questions of fairness that must be considered and applied to all pending and future cases.

What if there is a homestead, (the City cannot foreclose on homesteads) with an address that begins 300 South owned by a single parent with children on free or reduced price lunch whose backyard fence is in disrepair;

or married retirees on the Northside on a fixed income who are violation of the Code because their home does not meet paint requirements;

or a hourly worker at Rayonier who is told for the first time in memory that he has to move his boat and trailer out of his driveway and find a rental space;

each in violation for six (6) months at \$50 per day or \$9000 before they ultimately come into "compliance."

Six (6) months, not 3 years of delinquency, and let's assume, unlike Mr. O'Brien, a willingness but no capacity to comply.

If a lawyer, pastor, representative of the Council on Ageing or another community leader provides assurance that 5% or \$450 (inclusive of administrative costs) is all that the individual in violation can afford, and/or that it would impossible to recover a money judgment, should we not, based upon the proposed O'Brien accommodation, in fairness reduce the fines and fees to \$450.

In all likelihood there could be actual corroboration in the fact pattern of the hypothetical cases. Nationally, 40% of Americans do not have \$400 in



the bank for an emergency according to the Federal Reserve. 17% of adults are not able to fully pay off their current month's bills.

Approval of the application made on behalf of Mr. O'Brien will certainly be read as this Board sanctioning a standard that will result, upon request, in a reduced payment and a liability of no more than 5 or 6 cents on the dollar for Code Enforcement violations that are unresolved for three (3) years.

Any settlement of the Taylor Rental/O'Brien proceedings cannot and should not be viewed in isolation.

Respect for the law and its enforcement depends upon public confidence that the law is evenly applied and equitably enforced.

If the CEAB decides to accommodate Mr. O'Brien's request, it needs to consider the consequences and ramifications of that decision, and how it applies to Code Enforcement in future cases.



# City of Fernandina Beach

## OFFICE OF THE CITY ATTORNEY

### MEMORANDUM

TO: Mayor and City Commissioners

CC: Dale L. Martin, City Manager  
Caroline Best, City Clerk  
Michelle Forstrom, Code Enforcement Director  
Code Enforcement Board Members

FROM: Tammi E. Bach, City Attorney

DATE: June 25, 2019

RE: Mark R. O'Brien (Taylor Rental) Reduction of Fines / Release of Lien

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Mr. Mark O'Brien requested a reduction of fines from the Code Enforcement Board on June 6, 2019, pursuant to Section 162.09, Fla. Stats. The Code Enforcement Board voted 5-2 to approve a reduction of fines and fees = \$317,365.94 to a reduced total of \$20,000 if paid to the City within 30 days of the July 2, 2019 City Commission meeting. Mr. O'Brien's code violations included maintenance of property and sign violations that have been existing for several years. Mr. O'Brien came into compliance for all violations in February 2019. The Legal Department has been authorized to foreclose on Mr. O'Brien's property since 2017; however, Mr. O'Brien agreed to market the property for sale which delayed the foreclosure action. Mr. O'Brien failed to sell his property as of May 1, 2019 and instead asked for a reduction of fines to an amount that he could pay within 30 days.

Section 162.09(2)(b), Fla. Stats. provides that in determining the amount of a fine, if any, the enforcement board shall consider: 1) the gravity of the violation; 2) any actions taken by violator to correct violations; 3) and any previous violations committed by violator. Mr. O'Brien's failure to correct violations for more than 2 years caused the daily fines to add up. The Code Enforcement Board may reduce fines according to Section 162.09(2)(c), Fla. Stats. However, the liens recorded in the public records of Nassau County as a result of the running fines on Mr. O'Brien's property, may only be released or satisfied by the City Commission, see Section 162.09(3), Fla. Stats.

Sir/Madam

November 30, 2018

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So, does the City Commission have to honor the Code Enforcement Board's vote to reduce Mr. O'Brien's fines and fees to \$20,000? There are no cases on this issue that have made it to the appellate courts and been published in Florida. Attorney General Butterworth issued Opinion 2002-62 which says "no". Since the fines run in favor of the City Commission, only the City Commission can release the lien and the obligation or portion of the obligation (fines). However, in AGO 98-50, Mr. Butterworth opined that "yes" a Code Enforcement Board can reduce the fine because it is statutorily authorized to reduce the fine. Therefore, it is my opinion that Section 162.09, Fla. Stats. acknowledges the authority of the Code Enforcement Board to reduce a fine and provides that the local governing body (City Commission) must essentially affirm or deny the release or partial release of lien the violator's property. Based on what criteria? The only objective criteria to base your decision on in a code enforcement case which a violator is provided advance notice of are the criteria listed above and contained in Section 162.09(2)(b), Fla. Stats.: 1) the gravity of the violation; 2) any actions taken by violator to correct violations; 3) and any previous violations committed by violator. The decision is ultimately up to the City Commission who should weigh the criteria stated here but also provide some deference to the Code Enforcement Board that was appointed to make informed, deliberative decisions.



# Florida Attorney General Advisory Legal Opinion

Number: AGO 98-50

Date: August 12, 1998

Subject: Code Enforcement Board, reduction of fine

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Ms. Laura Ann McCall  
Okeechobee County Attorney  
Post Office Box 968  
Okeechobee, Florida 34972

RE: COUNTIES--CODE ENFORCEMENT BOARD--reduction of fine imposed. s.  
162.09, Fla. Stat.

Dear Ms. McCall:

On behalf of the Okeechobee Board of County Commissioners and the Okeechobee County Code Enforcement Board, you ask substantially the following question:

In light of the amendments to section 162.09, Florida Statutes, authorizing the local governing body of a county or municipality to execute a satisfaction or release of the lien imposed by the code enforcement board, does the code enforcement board still have the authority to reduce a fine imposed pursuant to section 162.09, Florida Statutes?

In sum:

A local code enforcement board retains the authority to reduce a fine imposed by the board pursuant to section 162.09, Florida Statutes, and this authority is unaffected by recent amendments to the law.

Part I of Chapter 162, Florida Statutes, the Local Government Code Enforcement Boards Act (act), seeks to provide an effective and expeditious method of enforcing local codes and ordinances by authorizing a county or municipality to create local code enforcement boards.[1] These code enforcement boards possess the authority to impose administrative fines and other noncriminal penalties.[2]

Section 162.09, Florida Statutes, authorizes the imposition of an administrative fine by a code enforcement board, upon notification by the code inspector that an order of the board has not been complied with by the set time or upon finding that a repeat violation has been committed. [3] The fine may not exceed \$250 per day for a first violation or \$500 per day for a repeat violation.[4] In determining the amount of the fine, section 162.09(2)(b), Florida Statutes, provides that the code enforcement board shall consider the following factors:

- "1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator."

Section 162.09(2)(c), Florida Statutes, expressly grants the code enforcement board the authority to reduce a fine.

You note that in Attorney General Opinion 93-91, this office concluded that a city council had no authority to reduce a fine imposed by a municipal code enforcement board. Rather, it was the code enforcement board that possessed authority to reduce such fine and execute a satisfaction or release of lien. This conclusion was based on the language of section 162.09, Florida Statutes (1993), relating to administrative fines and liens, which at that time provided in subsection (2)(c) that "[a]n enforcement board may reduce a fine imposed pursuant to this section."

During the 1994 legislative session, however, section 162.09, Florida Statutes, was amended.[5] Section 162.09(2), Florida Statutes, still provides that a code enforcement board may reduce a fine imposed pursuant to the section. Subsection (3) of the statute, however, now provides that a lien arising from a fine imposed pursuant to this section "runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien."

In light of the statutory changes, this office recently stated that a board of county commissioners, as the governing body of the county, has the authority to reduce or satisfy a fine imposed by a code enforcement board.[6] In light of the county commission's authority, you ask whether the code enforcement board may still reduce the fine it imposed.

As noted above, section 162.09(2)(c), Florida Statutes, expressly authorizes the code enforcement board to reduce the fine. While the statute now provides that the lien arising from the fine runs in favor of the local governing body, which may execute a satisfaction or release of the lien, the code enforcement board still is statutorily authorized to reduce the fine. This office has no authority to ignore or alter the plain language of the statute.

Accordingly, I am of the opinion that the code enforcement board retains the authority to reduce a fine imposed by the board pursuant to section 162.09, Florida Statutes.

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/tjw

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[1] See ss. 162.03 and 162.05, Fla. Stat. And see s. 162.02, Fla. Stat., setting forth the legislative intent.

[2] See generally Art. V, s. 1, Fla. Const. (administrative bodies established by law may be granted quasi-judicial powers in matters connected with the functions of their office), and Art. I, s. 18, Fla. Const. (no administrative agency shall impose a sentence of imprisonment or any other penalty except as provided by law).

[3] Section 162.09(1), Fla. Stat.

[4] Section 162.09(2)(a), Fla. Stat.

[5] Section 4, Ch. 94-291, Laws of Florida.

[6] Attorney General Opinion 98-40 (1998).



# Florida Attorney General Advisory Legal Opinion

Number: AGO 2002-62

Date: September 11, 2002

Subject: Code enforcement board, reduction of fine

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Mr. Bruce W. Jolly  
Legal Advisor  
City of Fort Lauderdale Code Enforcement Board  
1322 Southeast Third Avenue  
Fort Lauderdale, Florida 33316

RE: CODE ENFORCEMENT BOARDS-FINES-LIENS-authority of code enforcement board to reduce fine where order imposing fine recorded. s. 162.09, Fla. Stat.

Dear Mr. Jolly:

You have asked for my opinion on substantially the following question:

Is a code enforcement board authorized to reduce a fine for noncompliance with an order of the board after that order has been recorded pursuant to section 162.09(3), Florida Statutes?

In sum:

A code enforcement board is not authorized to reduce a fine for noncompliance with an order of the board after that order has been recorded pursuant to section 162.09(3), Florida Statutes. Rather, upon being recorded, such an order becomes a lien that may only be compromised, satisfied or released by the local governing body.

The purpose of Part I of Chapter 162, Florida Statutes, the Local Government Code Enforcement Boards Act (act), is "to provide an equitable, expeditious, effective, and inexpensive method of enforcing . . . codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist." [1] In order to accomplish this purpose, the act authorizes a county or municipality, at its option, to create local code enforcement boards as provided therein. [2] Such code enforcement boards possess the authority to impose administrative fines and other noncriminal penalties. [3]

Section 162.09, Florida Statutes, makes provision for the administrative fines that may be imposed by the code enforcement board, authorizes local governments to make repairs to property in violation of local codes and provides for the recording of liens against property upon which a violation exists or other property owned by the violator. With regard to imposing fines, pursuant to section 162.09(2)(a), Florida Statutes:

"A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation."

This subsection provides criteria that must be considered by a code enforcement board in determining the amount of the fine.[4] The statute also specifically empowers a code enforcement board to "reduce a fine imposed pursuant to this section." [5]

Section 162.09(3), Florida Statutes, states, in part:

"A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section."

Thus, the statute establishes that the lien that results from a fine imposed pursuant to section 162.09, Florida Statutes, is granted in favor of the local governing body. It is the governing body that has the power to determine whether the lien has been satisfied and that may execute the legal satisfaction or release from the lien.

In several previously issued Attorney General Opinions this office has discussed the authority of local code enforcement boards to reduce the fines imposed by the board pursuant to section 162.09, Florida Statutes. In Attorney General Opinion 98-40 it was noted that while section 162.09(2) provides that a code enforcement board may reduce a fine imposed pursuant to the statute, amendments made in 1994 provide that a lien arising from such a fine "runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section." Thus, the opinion concludes that, in addition to the code enforcement board itself, the board of county commissioners has the authority to reduce or satisfy a fine imposed by the county code enforcement board.[6] A subsequent opinion, Attorney General Opinion 98-50, reconfirmed the code enforcement board's authority to reduce fines in light of the 1994 statutory amendments to section 162.09, Florida Statutes.

Two later opinions considered the nature of the liens authorized by section 162.09(3), Florida Statutes. In Attorney General Opinion 99-03

this office discussed whether a city could enter into collection agreements with a private collection agency allowing the agency to compromise code enforcement board liens and to pursue collection through litigation. Focusing on the authority of local governments to compromise and settle litigation and the home rule powers of municipalities, the opinion concluded that a municipality was authorized to enter into an agreement with a collection agency to settle or compromise outstanding liens from code enforcement violations and to pursue collection through litigation.

In Attorney General Opinion 01-09, a city official asked whether it had the power to auction its code enforcement board liens arising under Part I, Chapter 162, Florida Statutes, to private parties. The city official had determined that foreclosing on the large number of liens it had imposed would be impractical and sought to determine whether the liens could be auctioned to private bidders who could then foreclose on the property. The money raised by these auctions was to be used for neighborhood improvements. Noting that the arrangement discussed in Attorney General Opinion 99-03 did not result in the complete divestiture of these liens by the local governing body to a private party, this office concluded that the statutory scheme did not contemplate the enforcement of liens, or the issuance of satisfaction or release of code enforcement board liens, by private third parties outside the control of the local governing body. Thus, while it was suggested that the city might contract with a collection agency to pursue collection of code enforcement board liens on the city's behalf, the opinion concluded that the city was not authorized to auction its code enforcement board liens to private parties for foreclosure.

Section 162.09(3), Florida Statutes, clearly provides that "[a] lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section." Because a lien under section 162.09(3), Florida Statutes, runs in favor of the local governing body, it is my opinion that only the governing body may compromise, satisfy or release such a lien. While section 162.09(2)(c), Florida Statutes, authorizes an enforcement board to reduce a *fine* imposed pursuant to this section, nothing in the statute appears to extend that authority to reducing the amount of a lien created when a certified copy of an order imposing a fine has been recorded in the public records. Statutorily-created agencies have only such power as is conferred by statute.[7]

In sum, it is my opinion that a code enforcement board is not authorized to reduce a fine for noncompliance with an order of the board after that order has been recorded pursuant to section 162.09(3), Florida Statutes.

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/tgh



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[1] Sections 162.01 and 162.02, Fla. Stat.

[2] Section 162.03(1), Fla. Stat.

[3] Section 162.09, Fla. Stat.

[4] Section 162.09(2)(b), Fla. Stat., states that

"In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator."

[5] Section 162.09(2)(c), Fla. Stat.

[6] The amendments made in 1994 addressed a problem pointed out in Op. Att'y Gen. Fla. 93-91 (1993). That opinion concluded, based on the language of section 162.09, Fla. Stat. (1993), that a city council had no authority to reduce a fine imposed by a municipal code enforcement board. Rather it was the code enforcement that possessed sole authority to reduce such a fine and execute a satisfaction or release of lien.

[7] See *City of Jacksonville v. Jacksonville Supervisor's Association, Inc.*, 791 So. 2d 508 (Fla. 1st DCA 2001), and see *State ex rel. Greenberg v. Florida State Board of Dentistry*, 297 So. 2d 628 (Fla. 1st DCA 1974), cert. dismissed, 300 So. 2d 900 (Fla. 1974) (administrative bodies have no common-law powers; they are creatures of the legislature and what powers they have are limited to the statutes that create them).

## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Resolution 2019-111  
Continue Discussions - Amelia River Waterfront Development

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ITEM TYPE: Resolution (w/ fiscal impact)

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REQUESTED ACTION: Consider Resolution 2019-111

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SYNOPSIS: Fernandina Beach Main Street solicited expressions of interest for 101 N. Front Street; interest was limited to one respondent, Acatects LLC.

The sole response was determined to be broader than the original request and therefore was considered an Unsolicited Proposal. The City subsequently solicited similar proposals from interested vendors.

This Resolution authorizes the City Manager to continue discussions related to Amelia River waterfront development, including, but not limited to, issues related to shoreline stabilization, sea level rise, and property associated with the waterfront.

Discussions have continued (at the direction of the City Commission) with two teams, hereafter referred to as Acatech and Passero Associates. Documents related to each team's concept, cost, and schedule are attached.

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FISCAL IMPACT: A portion of the costs associated with the study will be funded through a Florida Department of Environmental Protection grant (contract fully executed; see attached table). Supplemental funding (for the remainder of this fiscal year) may be necessary and will be presented to the City Commission as a budget amendment.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): The focus of the two team's is significantly different. While both address shoreline resiliency, one team emphasizes long-term planning and economic development for the broader waterfront area; the other, short-term engineering directly associated with the shoreline. The City Commission should provide appropriate direction on how to proceed. The City Commission decision will have an immediate effect on the waterfront concept scheduled to be presented on Aug 6.

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|                               |           |
|-------------------------------|-----------|
| Dale Martin, City Manager     | 6/25/2019 |
| Tammi E. Bach, City Attorney  | 6/25/2019 |
| Katie Newton, Legal Assistant | 6/25/2019 |

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Date: April 25, 2019

Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION: Adopt

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RESOLUTION 2019-111

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, TO CONTINUE DISCUSSIONS REGARDING AMELIA RIVER WATERFRONT DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Fernandina Beach Main Street solicited expressions of interest for 101 N. Front Street; and

WHEREAS, the sole response (Acatects LLC) was beyond the original request and therefore represented an Unsolicited Proposal; and

WHEREAS, in accordance with applicable State statutes, the City solicited additional responses reflecting the concepts of the original Unsolicited Proposal, receiving a revised response from Acatects and an additional response from Passero Associates, LLC; and

WHEREAS, the City Commission directed the City Manager to continue discussions with Acatects and Passero Associates, LLC and present the results of those discussions for City Commission consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby accepts the proposal offered by \_\_\_\_\_ to provide recommendations to the City Commission related to the resiliency of the City's Amelia River Waterfront.

SECTION 2. Funding, in part, to support the accepted proposal will be provided by the Florida Department of Environmental Quality, and, if necessary, supplemented by City funds. The supplemental funding will be presented as a budget amendment to the City Commission.

SECTION 3. This Resolution shall be effective immediately upon passage.

ADOPTED this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
JOHN A. MILLER  
Commissioner-Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



\_\_\_\_\_  
CAROLINE BEST  
City Clerk

\_\_\_\_\_  
TAMMI E. BACH  
City Attorney



Received

MAR 29 2019

City Manager's Office

**City Commission of Fernandina Beach Florida / Waterfront Partnership**

Through the City of Fernandina Beach's Main Street organization, Expressions of Interest related to the use/redevelopment of a City-owned Amelia River waterfront property were solicited several months ago. Only one response was received, and that response was more expansive than the single parcel originally presented (an "unsolicited proposal"). That response has generated interest in a **coordinated redevelopment effort for the City's Amelia River waterfront** (defined as all property from what is commonly referred to as Parking Lot D [inclusive] north to the Port of Fernandina [exclusive], from the Amelia River to 2<sup>nd</sup> Street). In accordance with applicable State statutes, City officials seek to determine the interest of other parties reflective of the initial unsolicited proposal.

Therefore, if interested, please answer the following questions (NOTE: it is not necessary to respond to all questions if interest is limited in scope). The response to each question should be limited to no more than a single-spaced, single-sided page (11-point font, one-inch margins). Responses (one original, six copies) are due to the City Manager, 204 Ash Street, Fernandina Beach, FL, 32034, no later than 4:00 PM, Friday, March 29, 2019.

**City Manager Dale Martin**  
**204 Ash Street**  
**Fernandina Beach Florida 32034**

Attached is a document that updates our original proposal submitted on 14 December 2018 in response to the **Request for Expression of Interest (REOI)** from Fernandina Main Street Inc., City of Fernandina Beach. We have placed at the beginning of the answer to each of the four questions text from the original submittal. An **Update** response to the new request for interest as stated above follows the original text.

In this update, we assume that we are operating under the same premise as in the original REOI: the concepts in the submittal remain the property of the authors.

Thank you.



Amy Christie Anderson Architect  
submitting for  
**Fletcher David**  
**acatects**  
**North Florida Land Trust**  
**Taylor Engineering**

### Question 1

Within the designated area, how do you envision the **redevelopment/establishment of the shoreline to enhance resiliency**, mitigate sea-level rise, minimize tidal flooding, and protect against storm surge?

### REOI Front Street submittal

(14.12.2018)

Under the **umbrella of resiliency**, a compelling term defined as the ability to bounce back quickly from adversity, we place economic stability, equitable social life and environmental regeneration to support the enduring health of a community. We use this term to underscore changing conditions and to focus redevelopment at the waterfront with the following directives:

- a provide conceptual basis and implementation plan for **resilient waterfront**, a living coastline to counter rising sea levels
- b establish **financially sustainable strategy** and **initiate development** for larger scope of waterfront improvement adjacent to the parcel
- c integrate the **strengths of prior proposals** including citizen surveys, waterfront park, replaced and expanded marina, view corridor and walkable connections of historic district to waterfront
- d trigger the **imagination of the City** to find new life at the water's edge

### Update

(29.03.2019)

**The environmental component of resiliency is clear.** Climate change is generating sea level rise. The Amelia River shoreline is exceptionally vulnerable to flooding and erosion. Yielding water in motion knows no boundaries. The City's edge must act as a sponge for advancing and rising tides. Absorb, deflect, collect, redistribute. **Shoreline adaptation**, including natural ecosystem restoration, is a multi-pronged effort **grounded in science**. This is not an hasty d.i.y operation but dependent on data collection and computer modeling to determine future scenarios specific to the City context.

**The economic issues of resilient city design are complex.** Repeated flooding triggers property value loss, decreased taxes, abandoned structures, higher insurance premiums, crippled commercial and recreational water activities. Bailouts by the Federal Emergency Management Agency (FEMA) will evaporate. **Political calm is needed** for a coordinated long term strategy to steward the City's finances in the face of sea level rise costs.

**Guidelines**, in particular developed by the Florida Department of Environmental Protection (FDEP) in collaboration with the Department of Economic Opportunity (FDEO), provide **adaptation strategies** for vulnerable coastal communities. As costs escalate, **guidelines will become requirements**. These guidelines stress that climate change impacts do not stop at the shoreline. Parallel to state rules evolution is the change in financial instruments that underwrite city redevelopment. One key indicator: the three major municipal bond agencies now have **mandated criteria for credit tied to a city's resiliency measures**.

The City of Fernandina Beach can be at the forefront of creating **a climate adaptation plan** for its historic waterfront city. Only a coordinated plan will attract investment to build a resilient future. Call this **wise governance**.

## Question 2

What opportunities do you see for publicly- and privately-owned properties (vacant or otherwise available for redevelopment) to enhance this **coordinated redevelopment, specifically regarding the historic context and scale of the area?**

### REOI Front Street submittal

(14 dec. 2018)

Two agendas can proceed concurrently. **Development and conservation** east and west of Front Street adjacent to the [parcel] will complement each other spatially and economically. This two pronged approach can include public and private properties within the CRA boundary:

- a **Collective phased development** on parcels east of Front Street. These properties will contribute to the vitality of Main Street and be a welcoming face for arrivals to the marina.
- b **Living coastline** as an open recreation space on parcels west of Front Street. This landscape band with adaptive structures can protect the hefty investment value of the historic downtown and incorporate many of the desired features of the Waterfront Park plans.

### Update

(29 mar 2019)

The potential for **economic synergy between public and private entities** is obvious in the waterfront district of Fernandina Beach. Coordinated redevelopment will depend on effective dialogue with private landowners. Based on preliminary discussions, a fresh start is possible that could leverage private engagement to the City's advantage, in particular **a shared investment in a resilient public waterfront park.**

**A public private partnership** could emerge for this redevelopment. Roles, legal structure and sources of funding will be vetted. Similar to the increased restrictions on public investments because of vulnerable coastal property, private development will expect an understanding with the City about future plans including resiliency measures.

**A first stage proof of concept investigation** of short duration can chart parameters for the longer term coordinated redevelopment based on a resiliency plan for the designated territory. This investigation can simultaneously detect a **strategic built stimulus** to launch both the shoreline adaptation and changes to Front Street property without precluding future development.

Forty years ago Main Street was a **place hauntingly quiet**. Concerted effort through the years has brought liveliness along with the well known tension of tourist overload with local daily life. Any redevelopment in the historic city will be a balance between ambition and endurance, between change and preservation. Although recipe books exist for the ideal city, extending the sense of place is most successful when done carefully attuned to one specific location.

The following elements can guide **place making** that is driven by human activity in space as well as the image of a city: limits to growth, clear circulation plan, selective infill, new job opportunities, a resilient building code and gardens, lots of gardens.



### Question 3

What role or use do you envision for **existing City-owned structures**? With its proximity to the waterfront, please also consider **the redevelopment of the existing City Hall** facility.

#### REOI Front Street submittal

(14.12. 2018)

What is a *working waterfront*? Is it a place simply of livelihood? Can it be a site that *works for the City*? *Works with nature*? Certainly this location needs liveliness, space for recreation and paying jobs. It could also be a productive and protective edge.

When the limited financial resources of the City are juxtaposed to recent extreme weather events, in particular the hurricanes of Matthew (2016) and Irma (2017), speculation about remaking the waterfront prompts a broader engagement strategy.

#### Update

(29.03.2019)

This question goes to the heart of the matter. What is the desire behind the patchwork of initiatives to make sense of the Amelia River Waterfront? Efforts in the recent past have centered on a pleasant park. That simple goal is now uprooted. The former lifeblood of the historic town - ruthless utilization of its waterfront - is no longer suitable nor feasible. Environmental degradation is apparent and seas are rising. A robust response is essential.

In a search for solutions and funds to restore the waterfront, the City has turned to its own assets. It has significant holdings but insufficient capital to enhance these properties for the public good. Furthermore since the City cannot increase the value of its own parcels and private development has been constrained because of insufficient infrastructure improvements, the mechanism of tax incremental revenue anticipated from the Community Redevelopment Area (CRA) is at a standstill. Bonds could be floated to raise money, but as stated earlier this avenue will be increasingly constricted by regulations tied to a city's plan for resiliency.

Any of the **opportunities** below could be undertaken with a **public-private alliance**:

- 1      **property west of front street**
  - a      marina expansion      marinas can be self-sustaining
  - b      bredds restaurant      transformation of oppressive building after lease renewal
  - c      atlantic seafood      transformation of derelict building after lease renewal
- 2      **property east of front street**
  - a      city hall      if functions are relocated then existing building has potential for adaptive reuse, expansion or replacement. site could be fabulous market within walking distance of many residents
  - b      parking lots      mixed use potential that includes existing parking
- 3      **port and mills interface**      jobs in emerging technologies
- 4      **local entrepreneurs**      far ranging visions if you ask

#### Question 4

Please describe your **funding capacity**, both in access to private funding as well as federal, state, or regional grant funding? What **City resources** (staff, financial, or in-kind) will be needed for this effort to be successful?

#### REOI Front Street submittal

(14.12.2018)

The experience of the team showcases an environmentally responsive approach to the waterfront. As Doug Davis points out, the development strength of Fletcher Davis rests on *building in partnership with the natural setting*. North Florida Land Trust has a longstanding commitment to land stewardship but not exclusive of human activity. Taylor Engineering has multiple skills at understanding ecosystems including the management of water systems to benefit and protect communities. acatects has diverse experience with ecology as counter weight to architectural inventions.

The challenging waterfront situation needs development savvy. Finding the right match of property to enterprise, knowing creative mechanisms for funding, structuring public/private partnerships, gaining access to capital are invaluable contributions.

**The resiliency agenda** is timely and compelling. Funding opportunities are expanding rapidly. These include existing but also new programs that target coastal resilience and pre-disaster mitigation within the following government agencies and charitable trust foundations:

|                    |                                                                                                                                                                                        |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Federal</b>     | Environmental Protection Agency (EPA)<br>Federal Emergency Management Agency (FEMA)<br>National Oceanic and Atmospheric Agency (NOAA)<br>United States Army Corps of Engineers (USACE) |
| <b>State</b>       | Florida Department of Environmental Protection (FDEP)<br>Florida Department of Economic Opportunity (FDOE)<br>Northeast Florida Regional Council (NEFRC)                               |
| <b>Foundations</b> | Kresge Foundation<br>Doris Duke Foundation<br>Pew Charitable Trust                                                                                                                     |

#### Update

(29.03.2019)

#### Where's the money?

The waterfront project is not just an engineering experiment but an economic puzzle. This team has the capacity to source grants and investment funds. As stated earlier, money and the process to capture it will be vetted thoroughly with the City Commissioners and City staff. But this fundamental mission is not possible unless there is a legitimate and competitive plan to secure funding.

The *proof of concept* investigation will need start up funds. Components in this investigation:

- 1 outline of climate adaptation plan aligned with State of Florida parameters
- 2 oversight plan for long term financial strategy
- 3 preliminary site plan and sections for shoreline resiliency
- 4 target first step redevelopment project(s) with funding sources identified

We welcome a collaboration with City Staff within the time constraints of what we perceive as very demanding workloads.

fletcherdavis.acatects.nflt.taylor / 4



City Manager Dale Martin  
City Hall 204 Ash Street  
City of Fernandina Beach, Florida 32034  
sent via email <dmartin@fbfl.org>

Dear City Manager Martin:

Please find our response to the questions posed in your 10 May 2019 email.

- **With the City now contracted with Wood to conduct a resiliency review of the waterfront, how do you envision working with Wood or making use of the information compiled/prepared by Wood?**

We genuinely welcome the opportunity to align with the Wood Environment and Infrastructure Group and build on the essential resiliency groundwork that is in progress this summer. We will also work in close collaboration with the City Staff of Fernandina Beach Florida.

- **Irrespective of the Wood effort, what would the initial phase of your waterfront concept entail and what would be the fee for that task? Please describe the subsequent phases of your waterfront/shoreline concept and estimated cost for each of those phases?**

Previous submittals from us have endorsed a long range vision for the waterfront. We still support a broad picture approach. However, we also see the need for a clear first phase with the goal of a resilient shoreline integrated with a waterfront park to be functional by mid to end of year 2022. **As in most preliminary proposals scope and fees are negotiable.**

|                  |        |                                                        |                  |
|------------------|--------|--------------------------------------------------------|------------------|
| <b>Phase I</b>   | part 1 | <b>resilient shoreline</b>                             | (see page two)   |
|                  | part 2 | <b>resilient park / marina / city edge</b>             | (see page three) |
|                  | n.b.   | part 1 and part 2 can run sequentially or concurrently |                  |
| <b>Phase II</b>  |        | <b>resilient economic model</b>                        |                  |
|                  | n.b.   | partially addressed in Phase I                         |                  |
| <b>Phase III</b> |        | <b>resilient community</b>                             |                  |
|                  | n.b.   | stakeholder interface <b>tbd</b>                       |                  |



## Fernandina Beach Florida

## Resilient Waterfront

page two of three

|          |                                                                            |                                                                                                   |                     |
|----------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|---------------------|
| <b>1</b> | <b>shoreline / infrastructure engineering</b>                              |                                                                                                   |                     |
|          | <b>target</b>                                                              | <b>design completion mar 2021</b>                                                                 | <b>[18 months]</b>  |
|          | <b>geographic scope</b>                                                    | s-n Rayonier to Port of Fernandina<br>w-e Amelia River Channel to Second Street                   |                     |
|          | <b>key goals</b>                                                           | 100 year flood risk reduction<br>FEMA certifiable project<br>FL <i>Adaptation Area</i> compliance |                     |
| <b>a</b> | <b>conceptual planning</b>                                                 | <b>[3 months]</b>                                                                                 | <b>\$75,000.00</b>  |
| i        | data expansion: natural resources, coastal conditions, city infrastructure |                                                                                                   |                     |
| ii       | vulnerability analysis for time horizons of 2030, 2070, 2100               |                                                                                                   |                     |
| iii      | cost + benefit analysis for levels of protection                           |                                                                                                   |                     |
| iv       | code + permitting parameters                                               |                                                                                                   |                     |
| v        | site plan to integrate coastal planning with marina/park/city edge design  |                                                                                                   |                     |
|          | <b>n.b.</b> scope + fee depends on Resiliency Master Plan results          |                                                                                                   |                     |
| <b>b</b> | <b>preliminary design</b>                                                  | <b>[6 months]</b>                                                                                 | <b>\$125,000.00</b> |
| i        | data expansion: topographic/bathymetric and geotechnical surveys           |                                                                                                   |                     |
| ii       | coastal conditions modeling (waves, currents, sediment transfer, etc.)     |                                                                                                   |                     |
| iii      | resiliency design for selected levels of protection                        |                                                                                                   |                     |
| iv       | preliminary engineering for stabilization/mitigation elements              |                                                                                                   |                     |
| v        | environmental permitting                                                   |                                                                                                   |                     |
| vi       | site plan to integrate coastal planning with marina/park/city edge design  |                                                                                                   |                     |
|          | <b>n.b.</b> scope + fee depends on decisions in Conceptual Planning        |                                                                                                   |                     |
| <b>c</b> | <b>final engineering</b>                                                   | <b>[9 months]</b>                                                                                 | <b>\$225,000.00</b> |
| i        | construction documents integrated with marina/park/city edge design        |                                                                                                   |                     |
| ii       | environmental permitting                                                   |                                                                                                   |                     |
|          | <b>n.b.</b> scope + fee depends on decisions in Preliminary Design         |                                                                                                   |                     |
| <b>d</b> | <b>procurement assistance</b>                                              |                                                                                                   | <b>tbd</b>          |
| <b>e</b> | <b>construction observation</b>                                            |                                                                                                   | <b>tbd</b>          |

## Fernandina Beach Florida

## Resilient Waterfront

page three of three

|          |                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                       |                               |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------|
| 2        | <b>marina / park / city edge interface design</b>                                                                                                                                                                                                                                                                                                                                                                  |                                                       |                               |
|          | <b>target</b>                                                                                                                                                                                                                                                                                                                                                                                                      | <b>design completion mar 2021</b>                     | <b>[8 months]</b>             |
|          | <b>geographic scope</b>                                                                                                                                                                                                                                                                                                                                                                                            |                                                       |                               |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                    | s-n Rayonier to Port of Fernandina                    |                               |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                    | w-e Amelia River Channel to Second Street             |                               |
|          | <b>key goals</b>                                                                                                                                                                                                                                                                                                                                                                                                   |                                                       |                               |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                    | create flood plain protection with secondary benefits |                               |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                    | provide waterfront park with improved access          |                               |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                    | FL <i>Adapatation Area</i> compliance                 |                               |
| <b>a</b> | <b>conceptual planning</b>                                                                                                                                                                                                                                                                                                                                                                                         |                                                       | <b>[2 months] \$25,000.00</b> |
|          | i data integration: traffic analysis, marina expansion, utility demands<br>ii cost + benefit analysis for resilient park / ecoservice benefits<br>iii cost + benefit analysis for marina expansion<br>iv cost + benefit analysis for CRA property redevelopment<br>v site plan to integrate marina/park/city edge design with coastal planning<br><b>n.b. scope + fee depends on Reiliency Master Plan results</b> |                                                       |                               |
| <b>b</b> | <b>preliminary design</b>                                                                                                                                                                                                                                                                                                                                                                                          |                                                       | <b>[4 months] \$75,000.00</b> |
|          | i data expansion: demographic growth + change projection<br>ii resiliency design for park<br>iii redevelopment scenarios on CRA properties<br>iv funding opportunities delineated<br>v code and permitting parameters analyzed for resilient function<br>vi site plan to integrate marina/park/city edge design with coastal planning<br><b>n.b. scope + fee depends on decisions in Conceptual Planning</b>       |                                                       |                               |
| <b>c</b> | <b>pilot project design</b>                                                                                                                                                                                                                                                                                                                                                                                        |                                                       | <b>[2 months] \$25,000.00</b> |
|          | i schematic documents as template for future resilient development<br>ii resiliency building code interface with existing code<br><b>n.b. scope + fee depends on decisions in Preliminary Design</b>                                                                                                                                                                                                               |                                                       |                               |
| <b>d</b> | <b>procurement assistance</b>                                                                                                                                                                                                                                                                                                                                                                                      |                                                       | <b>tbd</b>                    |
| <b>e</b> | <b>construction observation</b>                                                                                                                                                                                                                                                                                                                                                                                    |                                                       | <b>tbd</b>                    |



March 27, 2019

Dale Martin, City Manager  
City of Fernandina Beach  
201 Ash Street  
Fernandina Beach, FL 32034

**Re: Expression of Interest - Response to City's Amelia River Waterfront**

Dear Mr. Martin:

Passero Associates is pleased to submit this Expression of Interest, to support the City's Amelia River Waterfront development.

In response to the City's posting, Passero has assembled the following Team (four firms):

1. **Passero Associates, LLC (Passero):** Passero will lead the Team, based on a 20-year history of successful planning-design-construction projects with the City. Passero's efforts will be led by Andrew Holesko.
2. **Dewberry (Dewberry):** Is a national leader in coastal development, flood management and resiliency consulting. Dewberry's efforts will be led by Terry Hull, PE.
3. **OTAK Group, Inc. (OTAK):** OTAK's role on the team will be based on cost feasibility and realistic alternatives related to coastal construction. OTAK's efforts will be led by Aaron Kato, GC.
4. **Structures International, LLC (SI):** SI's role on the team will be related to marine-coastal-structural engineering and design. SSI's efforts will be led by Dan Charletta, PE.

Note: Passero staff have successful, longstanding / working relationships with both SI and OTAK. We have not worked with our national resiliency expert (highly regarded), Terry Hull prior to this assignment.

**Why Select the Passero Team (to support the City's Waterfront Development interests)?**

Quite simply - It is a fact that no other firm (in the history of development with the City), has stood side-by-side with City staff (like Passero) in the number of commission meetings, special meetings, public meetings and workshops to solicit valuable community input on the physical development of City resources (marine, airport, parks and recreation and other supporting facilities). Based on that dedication, honesty and integrity, we hope to support the City on this most-important project (the Amelia River Waterfront) and expect that it will be a challenging and rewarding assignment.

Thank you for your consideration, as always, please contact me directly with any questions.

Sincerely,

**Andrew M. Holesko**  
**Vice President, Program Manager**



### **Waterfront Partnership – Questions (1-4) from the City of Fernandina Beach**

- 1. Within the designated area, how do you envision the redevelopment/establishment of the shoreline to enhance resiliency, mitigate sea-level rise, minimize tidal flooding, and protect against storm surge?***

Within the designated (project) area, the Passero Team will provide the following, straight-forward, well-coordinated and communicated approach (and results):

- A. Assess existing conditions (facilities, structures, topography, drainage systems, etc.).
- B. Assign logical future development goals and resulting physical facilities and stabilized riverfront needs (at proper elevations).
- C. Review and present at least three (3) logical, comprehensive stabilization techniques, using both basic and contemporary methods of shoreline stabilization, including assignment of initial design-permitting-construction costs and life-cycle (maintenance) costs for 20-50-100-year durations.
- D. Optional: Assign a logical, feasible funding plan for the most feasible (single) option selected by the City.
- E. Communicate items A-C (or A-D) to the City and residents and provide accompanying graphic plans and technical reports for implementation.

**Passero Associates, LLC:** Founded in 1972 (Florida in 1999), Passero Associates, LLC has been successfully working for the City for 20 years, providing high-quality planning, engineering and architectural design, program management, design-bid-build, and construction administration / observation services. Notable projects include: Rehabilitation of riverfront bulkheads supporting Parking Lots A and B (City of Fernandina Beach); and 9,000 linear feet of riverfront stabilization (Tolomato River, St. Augustine, FL).

**Dewberry:** Dewberry is a national firm with deep subject-matter expertise, as well as deep national resources. Dewberry's market-facing professionals—many of whom are internationally recognized authorities—offer a proven track record of providing solutions to a wide variety of public- and private-sector clients. Terry Hull, who has more than 30 years of experience, was hired to lead Dewberry's coastal community practice, providing oversight for projects related to mapping, engineering, and disaster mitigation and supporting the firm's work with the U.S. Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA). Additionally, he works closely with those involved in sea level rise and coastal flood protection projects along the Gulf of Mexico and Atlantic Ocean coasts.

**Structures International, LLC (SI):** Structures International, LLC (SI) is a professional structural engineering firm located in Jacksonville, Florida. SSI provides complete structural engineering services for a variety of projects ranging from heavy marine to multi-story residential, commercial, institutional and heavy industrial construction. Notable projects and clients include: North Florida Shipyards (Jacksonville, FL), NAS Jax Bulkhead, Huguenot Park Bulkhead, Flagler Drive Seawall Restoration (West Palm Beach, FL) and Bulkhead at Vilano Beach Boat Ramp

**The OTAK Group, Inc.:** OTAK is an integrated firm distinguished by the diverse skills of urban designers, planners, engineers and construction professionals, located in Yulee, FL. OTAK staff are passionate, talented and dedicated to helping clients envision and create sustainable communities, delivering community-based projects with global perspectives. Notable projects and clients include: NAS Jacksonville, NAVFAC SE (Mayport), NAVFAC SE (Kings Bay SB) and the U.S. National Park Service.

***2. What opportunities do you see for publicly and privately-owned properties (vacant or otherwise available for redevelopment) to enhance this coordinated redevelopment, specifically regarding the historic context and scale of the area?***

The Passero Team expects extensive public and private-owner input on this topic, as evidenced by the volume and passion expressed to-date. It is clear that the designated project area needs critical planning attention and infrastructure, to meet both public and private development needs.

We expect that consensus can be reached, at some point, on a reasonable and logical development plan, including future development that reflects the historical context of the area. We expect that the development of this consensus will become a primary assignment of our work! (emphasis added)

Note: Passero Associates is actively involved in historic preservation projects, some of which have been recognized as award winning (that we share with our client-partners). Our active involvement in the Fernandina Beach, St. Augustine and Cedar Key communities requires us to be cognizant and respectful of the historical context of proposed development, including long-term sustainability.

**3. *What role or use do you envision for existing City-owned structures? With its proximity to the waterfront, please also consider the redevelopment of the existing City Hall facility.***

The main city facilities within the project area include:

- A. The marina (dock systems),
- B. Marine bulkheads,
- C. Marina fueling system,
- D. Marina support buildings, welcome center and adjacent parking lots (numerous),
- E. The Boat ramp,
- F. Recreational-uses of open land (in parking lot D),
- G. Bretts' Restaurant,
- H. Atlantic Seafood,
- I. Vacant riverfront land,
- J. City Hall and City Hall's adjacent parking lots, and
- K. Basic infrastructure (sewer, water service, electrical service and stormwater drainage systems) supporting the area.

Again, challenging decisions need to be made regarding the future use, and land use, associated with the City's facilities and the comprehensive riverfront. The facilities can remain and become a part of the long-term investment on the riverfront or be relocated (or replaced) with other community-related facilities (or private investment).

Special focus areas include:

- A. Should the marina dock system expand to the north? If so, what is the source of funding and benefit to the City? Is this truly feasible?
- B. Should automobile parking lots remain as primary riverfront assets? Is that the best use of that specific City land? If they area replaced, what is the impact to downtown parking capacity?
- C. Should additional public uses (i.e., recreational) be developed in the project area?
- D. Should City Hall remain it its' existing location, be rehabilitated (or replaced) and raised (in elevation) at its' existing location, relocated across 2nd street (and elevated), or relocated outside of the project area, perhaps elsewhere in the downtown (or other) area?

Again, we expect that consensus can be reached, at some point, on a reasonable and logical development plan related to the future of the City's facilities within the project area. We expect that the development of this consensus will become a primary assignment of our work! (emphasis added)



**4. Please describe your funding capacity, both in access to private funding as well as federal, state, or regional grant funding? What City resources (staff, financial, or in-kind) will be needed for this effort to be successful?**

The Passero Team provides expertise in accessing grant funding and employs numerous professionals in this area.

As a reminder, Passero staff (not others) drafted the grant documents (with the City) for the City's original BigP Grant (\$1,400,000), the largest BigP Grant awarded in the U.S. at that time. In addition, Passero staff are regularly involved with annual grant funding from the Florida Inland Navigation District (or FIND).

Finally, Passero also accessed in excess of \$800,000 from non-traditional grant sources (i.e., Non-FAA and Non-FDOT sources) for development at the City's municipal airport.

Terry Hull (at Newberry) offers extensive experience in national funding programs related to flood management, sea level rise and coastal floor protection.

# HISTORIC PRESERVATION SPECIALISTS

## PRESERVATION SERVICES

Passero Associates provides a full range of services to take your historic preservation, adaptive reuse, or renovation project from concept to completion. We have the knowledge and experience to guide projects through existing conditions evaluations and the design process to fully satisfy associated Rehabilitation Tax Credit applications and agency reviews.

### ARCHITECTURAL SERVICES

- Existing Conditions Evaluation
- Resource Surveys
- Architectural Design
  - Historic Preservation
  - Adaptive Reuse
  - Renovation
  - Building Additions
- Project Management

### APPLICATIONS AND AGENCY REVIEWS

- Historic Rehabilitation Tax Credit Applications
  - Part 1 – Evaluation of Significance
  - Part 2 – Description of Rehabilitation Work
  - Part 3 – Description of Completed Work
- Tax Credit Planning
- National Register Nominations
- Local Landmark Nominations
- State and Federal Section 106 Reviews
- State Environmental Quality Reviews (SEQR)

## DESIGN STAFF



**Peter Wehner, AIA**  
*Architectural  
Department  
Manager*  
pwehner@  
passero.com



**Justin Vollenweider,  
AIA**  
*Senior Project  
Architect*  
jvollenweider@  
passero.com



**Emily Connors**  
*Historic Preservation  
Specialist*  
econnors@  
passero.com

## TRANSFORMATION



Contact any of our knowledgeable design staff  
about your Historic project today.

(904) 757-6106 | 4730 Casa Cola Way, Suite 200 | St. Augustine, FL 32095

**From:** Andrew Holesko <aholesko@passero.com>  
**Sent:** Tuesday, June 25, 2019 6:05 AM  
**To:** Dale Martin <dmartin@fbfl.org>  
**Cc:** Andrew Holesko <aholesko@passero.com>  
**Subject:** FW: Waterfront - Letter of Interest

Based on the City (Andre Desilet's) presentation to the Commission, and our follow-up meeting with you last Friday, we propose to add three additional areas of technical analysis and recommendation to our proposal:

1. Subsidence: Subsurface testing, analysis, alternatives and recommended measures for implementation along the riverfront. Note: We conducted a similar assessment in Parking Lot A, when we designed the complete replacement of the bulkhead that supports Parking lot A.
2. Stormwater Backflow Prevention: Analysis, alternatives and recommended measures, consistent the riverfront stabilization measures originally included in our proposal.
3. Risk Analysis: When assigning a protected/stabilized waterfront elevation, differing risk levels, impacts, corresponding construction and infrastructure costs and related factors will be provided. This analysis would complement the work within Steps 2 and 3 of our proposal.
4. The corresponding cost for this additional work (items 1-3 above) is \$95,000. The total cost for all work listed within our proposal is \$223,000.
5. Note: All of this new / proposed work, and the previous scope submitted, will involve active and detailed review and input with City technical staff (primarily Andre Desilet) and presentation to the Commission. We propose to build upon, and be consistent with, the Resiliency analysis and planning concepts that have been completed.
6. The proposed schedule of completion for this work is 6-7 months, with project update meetings scheduled with the City every 45 days.
7. If the City proposes the Passero Team complete this work in conjunction (and some level of collaboration) with additional planning studies, that is acceptable. The project schedule would be modified (increased) to account for the sharing (and presentation) of information within multiple studies.

As always, contact me with questions.

Sincerely,  
**Andrew M. Holesko, CM, MBA**  
Vice President, Director





May 17, 2019

Dale Martin, City Manager  
City of Fernandina Beach  
201 Ash Street  
Fernandina Beach, FL 32034

Re: Continued Expression of Interest - Amelia River Waterfront (City of Fernandina Beach, FL)

Dear Mr. Martin:

Passero Associates is pleased to submit this continued Expression of Interest, to support the City's Amelia River Waterfront development. In response to your email of 5/10/2019, please consider the following

1. Regarding Coordination with Wood (Wood Environment & Infrastructure Solutions, Inc.): Passero staff will actively and openly work with Wood staff (and City staff), during the review, presentation and follow-on to the Resiliency Master Plan. In our opinion, our work (proposed below) should be considered a logical continuation and complementary analysis of the waterfront.

Passero's proposed work efforts will result in tangible, beneficial, engineering-based information that will support City waterfront development decisions for years to come.

2. Passero staff plan to attend the City Commission resiliency workshop on May 21<sup>st</sup>, and expect close coordination, and active sharing of information, with Andre Desilet during all work assignments.
3. Initial Phase of Work Proposed (Irrespective of the Wood effort): See technical and cost proposal on Page 2.
4. Subsequent phases of work proposed for waterfront/shoreline concept: See technical and const proposal on Page 3.

Thank you for your consideration, as always, please contact me directly with any questions.

Sincerely,

Andrew M. Holesko  
Vice President, Program Manager

## **Waterfront Stabilization – Initial Phase (Technical / Cost Proposal)**

Within the development area, the Passero Team will provide the following, straight-forward, well-coordinated and communicated approach (and results):

**Step 1 – Conditions and Base Mapping:** Passero staff will refer to existing documents and conditions (with information from others) and provide new mapping of visible facilities, structures, topography, drainage systems, etc. for all parcels of land between the Port of Fernandina and the Rayonier property (approximately 2.1 miles of riverfront). This task includes the sharing of information to/from Andrew Desilet and the staff at Wood within the scope of the Resiliency Plan.

Passero staff will deploy our in-house 3-dimensional modelling drone / camera / compiler to actively map and represent the riverfront's physical facilities for all parcels of land between the Port of Fernandina and the Rayonier property.

Cost: \$38,000.00

**Step 2 – Assign “Stabilization Goal” (elevation):** Passero staff will assign logical, basic future development goals and resulting physical, stabilized riverfront needs (and corresponding protected elevations). The most important step in this task is the assignment of a protected waterfront elevation, to which future bulkheads, shorelines and related upland improvements will reference. Passero (Team) staff will assign and communicate this “Stabilization Goal” (elevation) with input from the Wood study, and city staff.

Exclusions: Passero staff are not proposing to determine or assign the specific land uses beyond the edge of the riverfront. This task is focused on base mapping related to the existing and future protection of the shoreline, including the City's stormwater system that passes through the shoreline to the river.

Cost: \$35,000.00

**Step 3 – Prepare Stabilization Alternatives:** Passero staff will prepare and present at least three (3) logical, comprehensive riverfront stabilization techniques for all parcels of land between the Port of Fernandina and the Rayonier property. The analysis will include basic (historical) and contemporary methods of shoreline stabilization, including bulkheads and living shorelines, as well as the assignment of initial design-permitting-construction costs and lifecycle (maintenance) costs for 20-50-100-year durations.

Exclusions: Passero staff are not proposing to determine or affect specific land use decisions beyond the edge of the riverfront, especially on privately-owned land. This task is focused on presenting comprehensive alternatives to the City, and private landowners, at each's discretion and use.

Cost: \$55,000.00

**Step 4 – Continuous Communication / Presentation / Availability:** Passero staff will continuously meet and communicate the status and results of Steps 1-3 to the City and residents and provide accompanying graphic plans and technical reports for consideration.

Cost: \$0.00

Note: Passero staff will be compensated for technical analysis only. We will not request additional compensation for presentations, meetings (or related) costs. Based on our working knowledge with the City, and the importance of the project, Passero staff will be continuously available, as needed, to present information relevant to Passero work tasks.

## **Waterfront Stabilization – Subsequent Phase**

After Steps 1-4 (above) are complete, Passero proposes two additional work tasks.

**Step 5 – Implementation Schedule and Funding:** Passero staff will assign a logical, feasible funding plan for the most feasible (single) option selected and prioritized by the City.

Cost: Cannot be determined (yet), until steps 1-4 are complete.

**Step 6 – Grant Funding:** Passero staff will work with the City's grants administrator to research, locate and request grant funding for proposed waterfront / stabilization improvements, as selected and prioritized by the City.

Cost: Cannot be determined (yet), until steps 1-4 are complete.

## **Team Organization**

Passero Associates, LLC (Passero): Passero will lead the Team, based on a 20-year history of successful planning-design-construction projects with the City. Passero's efforts will be led by Andrew Holesko.

Dewberry (Dewberry): Is a national leader in coastal development, flood management and resiliency consulting. Dewberry's efforts will be led by Terry Hull, PE.

OTAK Group, Inc. (OTAK): OTAK's role on the team will be based on cost feasibility and realistic alternatives related to coastal construction. OTAK's efforts will be led by Aaron Kato, GC.

Structures International, LLC (SSI): SSI's role on the team will be related to marine-coastal-structural engineering and design. SSI's efforts will be led by Dan Charletta, PE.

## **Why Select the Passero Team (to support the City's Waterfront Development interests)?**

Quite simply - It is a fact that no other firm (in the history of development with the City), has stood side-by-side with City staff (like Passero) in the number of commission meetings, special meetings, public meetings and workshops to solicit valuable community input on the physical development of City resources (marine, airport, parks and recreation and other supporting facilities).

Based on that dedication, honesty and integrity, we hope to support the City on this, most-important project (the Amelia River Waterfront), and expect that it will be a challenging, rewarding assignment.



**PROJECT TIMELINE & BUDGET DETAIL:** The tasks must be completed by, and all deliverables received by, the corresponding task end date.

| <b>Task No.</b> | <b>Task Title</b>     | <b>Budget Category</b> | <b>Budget Amount</b> | <b>Task Start Date</b> | <b>Task End Date</b> |
|-----------------|-----------------------|------------------------|----------------------|------------------------|----------------------|
| 1               | Pre-Design Study      | Contractual Services   | \$25,000             | 7/1/2018               | 12/31/2022           |
| 2               | Design and Permitting | Contractual Services   | \$25,000             | 7/1/2018               | 12/31/2022           |
| 3               | Project Management    | Contractual Services   | \$50,000             | 7/1/2018               | 12/31/2022           |
| 4               | Construction          | Contractual Services   | \$350,000            | 7/1/2018               | 12/31/2022           |
| Total:          |                       |                        | \$450,000            |                        |                      |

## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Ordinance 2019-15  
Charter Amendment - Conservation Referendum

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ITEM TYPE: Ordinances (w/ fiscal impact)

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REQUESTED ACTION: Consider Ordinance 2019-15 at First Reading.

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SYNOPSIS: Commissioner Chip Ross requested at a City Commission meeting in May 2019, that an Ordinance be drafted to amend the Charter to provide that a referendum be required to sell or lease for 40+ years any City-owned conservation land.

This proposed Ordinance amends Section 10A of the City Charter to add a third subsection regarding referendum for sale or lease of City-owned conservation land. If the City Commission wishes to approve the proposed Ordinance, it will have to insert the election date for amending the City Charter, either a special election or the 2020 general election. Voters must approve an amendment to Section 10A of the City Charter before the new provision would be included in the Charter.

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FISCAL IMPACT: The City would be responsible for election costs for all resulting referendums. Funds will be budgeted accordingly.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission approve proposed Ordinance 2019-15 at First Reading.

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Tammi E. Bach, City Attorney 6/17/2019

Dale Martin, City Manager 6/19/2019

Pauline Testagrose, Comptroller 6/20/2019

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Date: June 10, 2019

Submitted By: Katie Newton, Legal Assistant

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COMMISSION ACTION: Approve

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ORDINANCE 2019-15

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, SUBMITTING TO THE CITY ELECTORS PROPOSED AMENDMENTS TO THE CHARTER WHICH AMEND SECTION 10A TO ADD PROVISIONS TO THE CITY CHARTER REQUIRING REFERENDUM ELECTION FOR SALE OR LEASE OF CITY-OWNED CONSERVATION LAND; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF FERNANDINA BEACH, FLORIDA, HEREBY ENACTS:

SECTION 1. It is hereby proposed that the amendments to the Charter of the City of Fernandina Beach be enacted.

SECTION 2. It is proposed that Section 10A of the City of Fernandina Beach's Charter be hereby amended to read as follows:

**Sec. 10A Referendum required for sale of city-owned recreational facilities and land.**

- (1) A referendum election shall be required prior to the sale, lease for a period of more than 40 years, or other transfer of City owned swimming pools, golf course or courses, any and all recreational facilities, or lands which are designated for recreational use in the City's comprehensive plan or any portion thereof, and all buildings, improvements and appurtenances pertaining thereto, whether presently built or hereafter built. The City Commission shall pass an ordinance by a majority vote to place the matter on the ballot for the voters to decide. The decision of the voters shall be binding. If approved by the voters, the City Commission shall have the authority to issue a deed for the property, or to issue such other documents as may be necessary to complete the transaction.
- (2) "Recreational facilities" as used in this section is hereby defined as any real property, including improvements thereon, owned by the City of Fernandina Beach and used or intended for use by the general public primarily for parks, playgrounds, amusements, resorts, pleasure, nature preserves; botanic, zoological or marine conservatories; sporting events, pleasure boating, swimming, fishing or any other recreational activity. Such recreational facilities shall be designated by a Resolution of the City Commission and which Resolution shall be updated from time to time.
- (3) A referendum election is required prior to sale, lease for a period of more than 40 years, or other transfer of City-owned conservation land which includes land burdened by a conservation easement and/or land that is in a conservation zoning district or has a future land use map designation of conservation. The City Commission must pass an ordinance by super-majority vote to place the matter on the ballot for voters to decide. The decision of the voters is binding on the City Commission. If approved by the voters, the City Commission has the authority to issue a deed for the property, or to issue such other documents as may be necessary to complete the transaction.

SECTION 3. A referendum election is hereby called and will be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at the \_\_\_\_\_ (regular or special) City Election to be held on said date, for the consideration by the voters of the City of Fernandina Beach of the proposed amendments to the City Charter. The questions to appear on the referendum ballot reflecting the proposed amendments to the City Charter at the election scheduled for \_\_\_\_\_, 20\_\_ shall be as follows:



Question No. 1

Should the Fernandina Beach City Charter be amended to provide that City-owned conservation land can only be sold or leased for more than 40 years if approved by voters at a referendum election?

Yes – for Approval

No – for Rejection

SECTION 4. The City Clerk is directed to notify the Nassau County Supervisor of Elections that the referendum items provided above shall be considered at the regular City election to be held on \_\_\_\_\_, 20\_\_ by the electors of the City of Fernandina Beach.

SECTION 5. This Ordinance shall be published in accordance with law.

SECTION 6. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 7. The provisions of this ordinance shall take effect immediately upon its passage and adoption. The amendments to the Charter shall take effect only upon approval of a majority of the City electors voting at the referendum election on each issue and upon the filing of the amended Charter with all amendments approved by the City electors with the Secretary of State.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:

\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
Tammi E. Bach  
City Attorney

## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Ordinance 2019-16  
Land Development Code Amendment - Airport Design Standards

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ITEM TYPE: Ordinance (w/o fiscal impact)

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REQUESTED ACTION: Consider Ordinance 2019-16 at First Reading.

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SYNOPSIS: The City's Airport Director, Nathan Coyle, has worked with the Airport Advisory Commission (AAC) and its consultants to provide revisions to the architectural and building standards for development of Airport property. In January 2019, Mr. Coyle identified the need to make revisions to the standards and requested that planning staff provide direction for making changes. These standards are specific to structures within the operational area of the airport itself and do not extend to airport leaseholds outside of the operational area (fence line).

The proposed revisions are adopted by reference into LDC Section 4.02.03 of the Land Development Code (LDC). As such, revisions to the document follow the same process as a standard LDC amendment. The AAC provided its final recommendation of approval for the proposed changes in March 2019. In April and May, Mr. Coyle appeared before the Planning Advisory Board (PAB) to discuss the revisions and to make any changes based on feedback. He has also been available to discuss changes and questions of the board in the two months leading up to the June 12, 2019, PAB Meeting.

Planning staff continues to issues a recommendation of approval for the proposed revisions.

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FISCAL IMPACT: None

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission approve proposed Ordinance 2019-16 at First Reading.

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|                                       |           |
|---------------------------------------|-----------|
| Kelly Gibson, AICP, Planning Director | 6/14/2019 |
| Dale Martin, City Manager             | 6/19/2019 |
| Tammi E. Bach, City Attorney          | 6/19/2019 |
| Nathan Coyle, Airport Director        | 6/20/2019 |

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*Kelly N. Gibson, AICP*

Date: June 14, 2019

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Submitted By: Kelly Gibson, AICP, Planning Director

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COMMISSION ACTION: Approve

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## ORDINANCE 2019-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE (LDC) TO INCORPORATE AMENDED AIRPORT DESIGN STANDARDS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fernandina Beach has applied for an LDC text amendment to incorporate revised Airport Development Standards, by reference; and

WHEREAS, the City Commission adopted a unified Land Development Code (LDC) on September 5, 2006 which became effective on October 1, 2006; and

WHEREAS, the City's adopted 2030 Comprehensive Plan directs changes to the Land Development Code for consistency with State Laws and current planning methods for growth and economic development; and

WHEREAS, the Airport Advisory Commission (AAC) considered the application at its Regular Meeting on Thursday, March 14, 2019, and issued a recommendation of approval; and

WHEREAS, the Planning Advisory Board (PAB), acting as the City's Local Planning Agency, considered the application at its Regular Meeting on Wednesday, June 12, 2019, and issued a recommendation of approval; and

WHEREAS, notice of public hearing on such Land Development Code amendments was published in the News Leader, a newspaper of general circulation in Fernandina Beach, Nassau County, Florida, on March 29, 2019.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT. The City Commission finds that the amendments, attached hereto as Exhibit "A," incorporating revisions to the Airport Development Standards

SECTION 2. SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, the holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective immediately upon enactment.

ENACTED this 6<sup>th</sup> day of August, 2019.



CITY OF FERNANDINA BEACH

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JOHN A. MILLER  
Mayor - Commissioner

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



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CAROLINE BEST  
City Clerk

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TAMMI E. BACH  
City Attorney

**ORDINANCE 2019-16**  
**EXHIBIT “A”**

Airport Development Standards

**OFFICE USE ONLY**

REC'D: \_\_\_\_\_ BY: \_\_\_\_\_

PAYMENT: \$ N/A TYPE: \_\_\_\_\_

APPLICATION #: \_\_\_\_\_

CASE #: 2019-05

BOARD MEETING DATE: APRIL 10, 2019



**PLANNING ADVISORY BOARD APPLICATION**

- |                                                                                                         |                                                                                                          |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> ZONING MAP AMENDMENT<br>(≤ 10 acres \$1,000 / > 10 acres \$2,000)              | <input type="checkbox"/> SUBDIVISION PLAT – PRELIMINARY<br>(≤ 20 units \$1,000 / > 20 units \$1,600)     |
| <input checked="" type="checkbox"/> LAND USE MAP AMENDMENT<br>(≤ 10 acres \$1,000 / > 10 acres \$2,000) | <input type="checkbox"/> SUBDIVISION PLAT – FINAL (\$850)                                                |
| <input type="checkbox"/> LDC TEXT AMENDMENT (\$1,000)                                                   | <input type="checkbox"/> VACATION OF R.O.W. (\$1,700)                                                    |
| <input type="checkbox"/> COMP PLAN AMENDMENT (\$1,700)                                                  | <input type="checkbox"/> VOLUNTARY ANNEXATION (\$1,500)                                                  |
|                                                                                                         | <input type="checkbox"/> Revision to each PAB Application<br>To offset additional display ad fee (\$400) |

**APPLICANT INFORMATION**

**Owner Name:** CITY OF FERNANDINA BEACH, FLORIDA

**Mailing Address:** 204 ASH STREET FERNANDINA BEACH, FLORIDA 32034

**Telephone:** 904-310-3100

**Fax:** \_\_\_\_\_

**Email:** DMARTIN@FBFL.ORG

**Agent Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**PROPERTY INFORMATION**

**Street Address:** N/A

**Parcel Identification Number(s):** \_\_\_\_\_

**Lot Number:** \_\_\_\_\_

**Block Number:** \_\_\_\_\_

**Subdivision:** \_\_\_\_\_

**Section:** \_\_\_\_\_

**Township:** \_\_\_\_\_

**Range:** \_\_\_\_\_



**PROJECT INFORMATION**

Total Number of Lots/Parcels: \_\_\_\_\_

Less than One (1) acre Sq. Footage: \_\_\_\_\_ One (1) Acre or Greater: \_\_\_\_\_

Existing Zoning Classification: \_\_\_\_\_

Existing Future Land Use Classification: \_\_\_\_\_

Previous Planning/Zoning Approvals: \_\_\_\_\_

**Description of Request:**

LAND DEVELOPMENT CODE TEXT AMENDMENTS (PAB CASE #: 2019-05): CITY OF FERNANDINA BEACH, FLORIDA REQUESTS LAND DEVELOPMENT CODE TEXT AMENDMENTS TO MODIFY THE REFERENCE DOCUMENT SPECIFIC TO AIRPORT DESIGN STANDARDS AS CONTAINED SECTION 4.02.03 AIRPORT ARCHITECTURE AND BUILDING DESIGN STANDARDS FOR DEVELOPMENT ON THE AIRPORT.

**SIGNATURE/NOTARY**

The undersigned states the above information is true and correct as (s)he is informed and believes.

4/2/19  
Date

[Signature]  
Signature of Applicant



STATE OF FLORIDA }  
COUNTY OF NASSAU } ss

Subscribed and sworn to before me this 3rd day of April, 2019.

[Signature]  
Notary Public: Signature

Nicole Bednar  
Printed Name

Feb. 2, 2020  
My Commission Expires

Personally Known X OR Produced Identification \_\_\_\_\_ ID Produced: \_\_\_\_\_

# Architecture and Building

## Design Standards for Development on the Airport

(Included within Land Development Code by Reference)

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For purposes of this document the City shall be the City of Fernandina Beach and the airport shall be Fernandina Beach Municipal Airport.

These architecture and building design standards shall be applied to airport construction or improvement on or within Fernandina Beach Municipal Airport boundaries. These design standards have been incorporated by reference into the Airport Overlay section of the City of Fernandina Beach Land Development Code. The City of Fernandina Beach Land Development Code applies to all tenant and lessee construction on the Airport. These design standards are used by the City's Technical Review Committee (TRC) as its basis for beginning the approval process for any construction on the Airport. All construction must meet current adopted Florida Building Codes, City Building Ordinances, and National Fire Prevention Association (NFPA) requirements. In cases of conflict with other City codes or regulations, the more stringent provisions shall apply ~~unless specifically addressed within the terms of any written agreement with the City.~~

### **Approvals and Submittals Required:**

1. No building nor any improvement shall be erected, placed, or altered on any building site at the Airport until the plans for such building or improvement, including site plan, landscape plan, building plans and specifications have been approved by the City.
2. Approval or disapproval of such plans shall be with respect to conformity with these restrictions and other applicable ordinances and requirements of the City and with respect to harmony of external design and land use as it effects property within and adjacent to the Airport.
3. Building plans shall be in conformance with all Federal, State, County and City laws and ordinances, and shall conform to the most recent FAA approved Airport Layout Plan.
4. An FAA Form 7460, Notice of Proposed Construction, shall be submitted to FAA for review and shall be approved by the FAA prior to start of construction.
5. No construction, including site improvements, shall be undertaken without first receiving all applicable City Land Development Orders.
6. Submittal requirements for review include a site plan, landscaping plan, and building plan and shall also include the following components listed below and/or any other submittals referenced within these design standards:
  - a. Drainage plan indicating predevelopment flow and contours/elevations of proposed development parcel as well as adjacent parcel(s).
  - b. Roof drainage and a soil erosion control plan shall be indicated on plan submittal.
  - c. For hangar development, a proposed thickness and weight bearing of the hangar floor shall be indicated on the site plan, and shall be of sufficient thickness/weight bearing for the largest aircraft that could use the hangar.
  - d. All antennas, satellite dishes, and similar equipment shall be indicated on the site plan to include proposed location and height.
  - e. Proposed signage shall be indicated on the site plan and shall specify sign placement, height, and design.
  - f. All plan submittals shall include sufficient detailed information on all utility designs and design loads.

Comment [NC1]: New Section

- g. The location of any proposed outside storage areas shall be indicated on a site plan with proposed screening materials.
- h. Plan submittals shall include proposed exterior lighting location and light intensity.
- i. A vehicle parking plan shall be identified on the site plan in compliance with requirements outlined further within these design standards.

**Variances:**

The City, through the Board of Adjustments, shall consider and may grant a variance to these covenants, conditions and restrictions. Request for variance must include a full explanation as to why these codes or requirements cannot be fully met.

**Comment [NC2]:** New Section

**Occupancy:**

No occupancy of any building shall be permitted before the building is completed and a certificate of occupancy is issued.

**Comment [NC3]:** New Section

**Setbacks:**

1. The City will determine setback distances for construction based on FAA advisory circulars and/or regulations, the most recent FAA approved Airport Layout Plan and other City regulations that may be enacted from time to time.
2. No part or portion of any building shall be erected, constructed, or extended into any setback area.
3. No building construction equipment or materials shall be staged, placed, or operated in a manner that impedes the movement of aircraft along taxilanes or taxiways or encroaches into a safety or object free areas without the prior permission of the City.
4. The minimum building setback shall be 25 feet from any adjacent ground lease boundary.
5. Minimum building separation requirements shall be complied with as set forth by the current-State of Florida-adopted version of the National Fire Protection Agency (NFPA) 409, *Standard on Aircraft Hangars*, irrespective of ground lease boundary line location.
6. Adjoining hangars sharing a common center wall shall be built by the same lessee. Such hangars shall have a minimum 25 foot side building setback on all unattached sides from the ground lease boundary line.

**Comment [NC4]:** New Section

**Drainage:**

1. A drainage plan shall be submitted indicating pre-development stormwater flow, contours/elevations of the proposed development site, and elevations of adjacent property or parcels.
2. Drainage shall not negatively impact adjacent properties or leaseholds and shall flow into the airport's natural or developed drainage.
3. The elevation of the lot shall not be changed so as to materially affect the drainage pattern of the surrounding lots.
4. Drainage from roofs shall not create erosion or affect adjacent properties or leaseholds. Perimeter roof drainage with gutter and downspouts shall be required.
5. Roof drainage and a soil erosion control plan shall be indicated on plan submittal.

**Comment [NC5]:** New Section

**Hangar/Building on any Area of the Airport**~~Hangars/Buildings:~~

- ~~1. A primary building is an aircraft hangar with use as addressed in the lease.~~
- ~~1. Stand alone non hangar buildings are not permitted within the airport perimeter fence unless for aeronautical use and/or approved by City.~~
1. Aircraft hangars constructed under these standards shall only be for use or uses authorized under a ground lease from the City. Stand-alone non-hangar buildings within the area of the airport designated as aeronautical use on the most recent FAA approved Airport Layout Plan shall only be used for an aeronautical use approved under a ground lease from the City.
2. Outbuildings may be permitted as an ancillary to the primary building. An outbuilding must be attached or in near proximity to the primary building. Such outbuildings must be directly related to the operation of the primary building and limited to office(s), storage area, or related work area.



3. For multiple nested hangars with no direct road access, such as T-Hangars, the location of the hangar door designates the front of the building. For stand-alone hangars constructed on a named access road, the front of building shall be the side facing the nearest access road upon which the address is affixed
4. ~~The location of the hangar door designates the front of the building.~~
4. The minimum bulk hangar size allowed shall be 1,600 square feet, unless otherwise approved by the City Manager or designee subject to grant assurances provided to the FAA and FAA regulations, and may be private or City construction.
5. T-hangars shall only be constructed by the City.
6. ~~Minimum bulk hangar size is 40 x 40 feet (1,600 square feet) and may be private or City construction; t-hangar construction permitted only by City.~~
6. All hangars must have a concrete finished and sealed floor. The proposed thickness and weight bearing of the floor must be indicated on the site plan and be sufficient for the largest aircraft that could use the hangar.
7. ~~Any hangar must have a concrete floor; any building must have finished flooring.~~
7. Any hangar constructed, unless an individual hangar or separated hangar units within a structural building and built for non-commercial use only and not exceeding 2,000 square feet per unit or individual hangar, requires an oil/water separator to discharge water and oil by-products, as appropriate, into either a sanitary sewer or into a holding tank.
8. Hangars/buildings shall meet all appropriate fire codes for the proposed use of building.
9. No residential occupancy is permitted.
10. Maximum building height is 45 feet or an elevation lower than imaginary surfaces outlined in Federal Regulation Title 14 Part 77, *Safe, Efficient Use and Preservation of Navigable Airspace*, at the development site location, whichever is lower.
11. ~~Maximum building height is 45 feet. New construction may require a Form 7460 be submitted to FAA for review.~~
11. ~~Since roofs are highly visible from aircraft using the Airport, roofs shall be attractively designed and constructed. Signs, lettering, designs, or other graphics shall not be placed, painted or otherwise located on roofs.~~
11. Roof materials shall be non-reflective, not create glare, and be of a type, style and color approved by the City.
12. Open sided structures may be authorized if approved by the City Manager or designee based upon type, style, structural integrity, and proposed location.
13. No alterations or additions to the exterior or interior of a building shall be accomplished without first obtaining all required City permits.
14. All antennas, satellite dishes, and similar equipment, shall be indicated on the site plan and shall include the proposed installation location and height.

~~Roof materials shall be non-reflective, not create glare, and be of a neutral color.~~

#### Signage:

Comment [NC6]: New Section

1. All signs must adhere to the requirements specified in the City's Sign Code. All hangar sign plans and sign proposals shall be submitted to the City for review and approval prior to construction or installation.
2. Additional address signage may be required to be displayed if required by City emergency service providers.
3. Signs, lettering, designs, or other graphics shall not be placed, painted or otherwise located on roofs.

#### Aprons/Pavement:

1. Taxi lanes within hangar areas provided by the City are generally designed to accommodate an aircraft with a wing span no greater than 49 feet. Facilities designed for larger wingspan aircraft shall have direct access to taxiways, unless otherwise approved by the City Manager or designee subject to grant assurances provided to the FAA and FAA regulations.
2. Entrance pavement is required from the hangar door to the taxilane or taxiway, shall be at least 20 feet wide.
3. Pavement, at a minimum, is required from the hangar door to the taxi lane or taxiway and shall be at least 20 feet wide.
3. All required apron/ramp areas shall be constructed to remain outside the taxilane or taxiway object free area except for the entrance pavement required in 2 above.
4. Under no circumstances shall required apron/ramp areas encroach into the taxi lane or taxiway objective free area (TOFA) except for the entrance pavement.
4. Apron space between the hangar and the adjacent taxilane or taxiway shall be sufficient to support the proposed use and potential future use of the hangar. The design of the apron is subject to review and approval by the City.
5. Any individual hangar having less than 3,000 square feet shall have an area available for an apron between the hangar door and the taxi lane or taxiway object free area (TOFA), at a minimum, equal to the distance of the depth of its hangar floor area.
5. Any hangar having 3,000 square feet or greater but not more than 7,999 square feet of hangar floor space shall have an area available for an apron between the hangar door and the taxi lane or taxiway object free area (TOFA), at a minimum, of a size at least 50% of its hangar floor area.
5. Any hangar with 8,000 square feet or greater of hangar floor space shall have an area available for an apron between the hangar door and the taxi lane or taxiway object free area (TOFA), at a minimum, of a size at least 75% of its hangar floor area.
5. Sidewalks are permitted only to provide for internal circulation on leasehold property.
5. All airside leasehold pavements must be of sufficient quality and weight bearing capacity for the largest aircraft that could be hangared on the leasehold and shall be designed for a minimum 20 year life using any applicable current FAA standards.
6. Landside pavements shall be designed per the City's Local Development Orders.
7. Airside pavement shall have a compatible look and performance as to any airport taxi lanes/taxiways/apron to which it may abut. All leasehold pavement must be of sufficient quality and weight bearing capacity for the aircraft to be parked on the leasehold.
7. Landside pavement shall have a compatible look and performance as to any street/driveway pavement it shall abut.
7. All pavements shall be designed for a minimum 20 year life using the following guidelines
  - 7.—airside to meet FAA standards for the aircraft to be parked and landside to meet

~~equivalent axle load projections.~~

7. Any permitted airside access routes are to be a minimum of 12 feet wide.

**Utilities:**

1. Extension of Utilities to the proposed facilities shall be the financial responsibility of the Lessee.
2. All plan submittals shall include sufficient detailed information on all utility designs and design loads.
3. Work shall not commence until approval has been received by the City and all permits have been received.
4. Plan submittals shall indicate above ground utilities such as, but not limited to, condensers and transformers.
5. Sewer, gas, water, electric, and communication utilities shall be located underground.
6. The Lessee shall be responsible to restore all areas disturbed during the utility installation including pavement and grass areas.
7. All electrical wiring shall be in conduit and placed underground from the electrical power source to the hangar/building.
8. Septic tanks are not authorized for use on the airport.

**Comment [NC7]:** New Section

**Hangar Doors:**

1. Types (Bi-fold, Hydraulic single swing, Track Mounted/rolling, accordion).
2. Hangar door clear opening shall be:
  - a. Horizontal – equal to or greater than 80% of the width of the side of the hangar where the door is located (I.E. building width of 100 feet, hangar door clear opening shall be a minimum of 80 feet), or equal to or greater than 80% the total width of individual T-Hangar or shared wall hangar units.
  - b. Vertical – For a hangar door width of:
    - i. Less than 40 feet, minimum door height shall be 14 feet
    - ii. 40 feet up to 50 feet, minimum door height shall be 16 feet
    - iii. 50 feet up to 60 feet, minimum door height shall be 20 feet
    - iv. 60 feet up to 70 feet, minimum door height shall be 24 feet
    - v. 70 feet up to 80 feet, minimum door height shall be 26 feet
    - vi. greater than 80 feet, minimum door height shall be 26 feet
3. All hangar doors shall be installed in such a manner as to not obstruct the movement of any aircraft on an adjacent taxiway or taxilane or of another airport tenant outside the leased premises.

**Comment [NC8]:** New Section.

**Leasehold Size:**

~~Parcel length is determined from edge of taxi lane or taxiway object free area (TOFA) to edge of roadway or established property line unless parcel already plotted.~~

~~Minimum parcel width is determined by width of hangar/out buildings coupled with required setbacks unless parcel already plotted.~~

~~Should a hangar back up to another hangar or building there are minimum separation requirements set forth by NFPA 409 standards irrespective of lease line location from back of hangar or outbuilding (from whichever structure may extend out furthest).~~

~~Individually built hangars shall have a minimum 25 foot setback on each side or side of outbuilding (from whichever structure may extend out furthest) to establish the side yard and minimum leasehold area unless one side abuts the runway restriction line.~~

~~Adjoining hangars sharing a common center wall shall be built by the same lessee. Such hangars shall have a minimum 25 foot side setback on the unattached opposite side from parcel property line. Adjoining hangar aprons may or may not abut to each other.~~

**Comment [NC9]:** Section deleted. Parcel setback requirements moved to new setback section.



#### Hangar/Building Characteristics:

1. ~~At least one bathroom facility is required for any stand-alone commercial use hangar or building. The bathroom facility must be constructed to be American Disabilities Act (ADA) compliant as required by local building code.~~
2. ~~At least one toilet is required for any stand-alone hangar/outbuilding development whether personal or commercial use. Any commercial use of building will require the toilet to be American Disabilities Act (ADA) compliant as required by local building code.~~
2. For non-commercial use hangars, bathroom facilities are required when:
  - There is no public use restroom within 400 feet of the proposed hangar development as measured by linear feet distance from the closest exterior wall of the proposed hangar development to the closest exterior or interior wall of any existing public restroom, or
  - The proposed development consists of, or will result in, more than 24 t-hangars in a specific location without access to a public use restroom, or
  - The proposed development will be a single hangar larger than 12,000 SF, or
  - The proposed development will be a divided hangar with more than 25,000 SF of total space.
3. Hangar/building materials shall be a metal building or concrete block or related material. ~~No wood or aluminum. Wood buildings are prohibited.~~ The roof may be aluminum if coated with a non-glare substance.
4. Hangar/building materials that produce glare or other effects that are hazardous to aircraft operation shall not be permitted.
5. Hangar/building colors shall be neutral tones.
6. The location of outside storage areas and materials used for screening shall be a part of the site plan submitted by lessee. All materials used for screening shall be opaque and ~~be~~ the same as or similar to the main or primary building, or by installation of berms and landscaping acceptable to the City.
5. ~~(All electrical wiring shall be in conduit and placed underground from the electrical power source to the hangar/building.)~~
5. Hangars shall have a fire suppression system, if required, as prescribed in the current current-State of Florida-adopted version of the National Fire Protection Agency (NFPA) 409, *Standard on Aircraft Hangars*.
6. ~~Any hangar over 10,000 square feet will require an approved NFPA sprinkler system.~~
6. All mechanical equipment shall be housed within the building when possible or screened as defined in section 6 above. When roof mounted equipment is required, it must be concealed by parapet walls sufficient to screen the equipment but no more than 42". Such parapet does not count against building height restriction as long as there is no penetration/violation of imaginary surfaces described in Federal Regulation Title 14 Part 77, *Safe, Efficient Use and Preservation of Navigable Airspace*. Plumbing vents are the only non-screened roof penetrations allowed.
7. Any exterior equipment shall be enclosed or screened so as to be an integral part of the architectural design and not in public view. Large pieces of equipment shall be located at ground level.
8. Any hangar or building abutting or a part of the Airport Operation Area (AOA) is also considered part of the security fence system. Such hangar or building shall provide the only

**Comment [NC10]:** Moved under utility section.

entrance ~~through the security fencing to the airside operations area~~ unless approved by the City ~~Manager or designee subject to grant assurances provided to the FAA and FAA regulations~~. In addition lessee shall provide a chain link fence without gates separating the airside and the landside with not less than 6 feet chain link ~~with 3 strand barbed wire on top vinyl encased black~~ between buildings to the property line to establish a security perimeter. If landscaping screening is provided, it shall be located on the landside and no closer than 6 feet from the fence and maintained in a manner to preclude overgrowth of the security fence.

9. The outside storage of hazardous materials or hazardous waste shall be prohibited as identified in the Airport Rules and Regulations.
10. Adequate lighting ~~sufficient for safety and security is required and shall be installed on the building for both airside and landside areas and in general shall be uniform in style as determined by the City. Light fixtures that face a taxilane or taxiway shall not exceed 0.5 foot-candles at the edge of the taxilane or taxiway. Plan submittal shall include exterior lighting information including location. All lighting shall conform to the current City ordinance and the City's specifications and standards for off-street parking areas.~~ required for both airside and landside and in general shall be uniform style as determined by the City.

#### Landscaping:

1. Landscaping within the Air Operations Area for non-building and non-pavement areas shall have as a minimum natural ground covering and is limited to grass or very low lying vegetation for unpaved areas. ~~For safety reasons no~~ No trees or shrubbery shall be permitted within the air operations area (within the airport security or perimeter fence.)
2. At least 20% of the total gross land area of a development site shall be landscaped and can include grass or ground cover for the calculation. ~~The landscaped areas outside the AOA (outside the airport perimeter fence) shall be located on the site in such a manner as to maximize preservation of existing trees with priority given to specimen trees. Such landscaping should not be on the airfield side of any hangar or building construction that is not accessible by the public.~~ The landscaped areas shall be located—on
2. the site in such manner as to maximize preservation of existing trees with priority given to specimen trees. Such landscaping should not be on the airfield side of any hangar or building construction that is not accessible by the public.
2. Landscaping shall not block sight distance or pose a traffic hazard.
3. ~~All grass, trees, and shrubbery must be kept in good appearance at all times. If the Lessee fails to maintain these areas the City reserves the right to maintain or remove them at an additional cost to the Lessee.~~

~~(Any free standing signage shall not exceed a height of 5 feet from the ground, shall be monument style, and constructed per city code.)~~

**Comment [NC11]:** Signage requirements moved under signage section.

#### ParkingAutomobile Parking:

1. Parking shall not be established or designated along the front of building ~~if the front of the building is on the airside of the airport.g.~~
2. All parking must be identified in site plan.
1. Spaces shall be sized ~~and marked in accordance with requirements outlined within the current Fernandina Beach Land Development Code.~~

3. ~~by city code (currently 10 x 20 feet) and may be marked.~~
3. Commercial use of hangar must comply with the quantity, sizing, and marking of ADA parking spaces outlined within the current Fernandina Beach Land Development Code.~~meet city code as to number and shall meet the dimensions and the number required under ADA requirements and to be located in areas convenient to building entrances.~~
4. ~~Stand alone private non-commercial use hangar parking requires a minimum of two spaces for any total gross floor area (including any outbuilding floor area) not exceeding 2,000 square feet and a minimum of four spaces for a building exceeding 2,000 square feet up to 3,500 square feet. One additional parking space shall be required for each additional 1,500 square feet of gross floor area above 3,500 square feet. Such number of spaces shall be rounded up or down to the nearest 1,000 square feet.~~
4. Parking Spaces Required By Facility Type:

|                                                                                              |            |
|----------------------------------------------------------------------------------------------|------------|
| <b>Box Hangar (Aircraft Storage Only)</b>                                                    | -          |
| 1 Space per 1,500 square feet of hangar floor space (5 minimum) rounded up to the next space | -          |
| Sample: 8,000 sq/ft hangar would require 6 parking spaces                                    |            |
| <b>Box Hangar W/Office or Maintenance Space</b>                                              | -          |
| 1 Space per 1,500 sq/ft of hangar floor space (5 minimum)                                    | <u>and</u> |
| 1 Space per 200 sq/ft of office space (5 minimum)                                            | <u>and</u> |
| 1 space per 750 sq/ft of maintenance/shop space (5 minimum)                                  | <u>and</u> |
| Sample: 8,000 sq/ft hangar (6) and 2,000 sq/ft of office (10) would need 16 spaces           |            |
| <b>T-Hangar or Shared Wall Box Hangars w/individual unit size not exceeding 40'x40'</b>      | -          |
| 1 space for 50% of units rounded up to the next space                                        |            |
| <b>GA Terminal/FBO Building</b>                                                              | -          |
| 1 Space per 300 sq/ft of office space (5 minimum)                                            | -          |
| <b>Airport Administrative Building</b>                                                       | -          |
| 1 Space per 300 sq/ft of office space (5 minimum)                                            | -          |
| <b>MES Building</b>                                                                          | -          |
| 1 Space per vehicle bay                                                                      | <u>and</u> |
| 1 space per 750 sq/ft of maintenance/shop space (5 minimum)                                  | <u>and</u> |
| Example: a MES building with four bays (4) and 810 sq/ft of shop space would need 9 spaces   |            |

- 5.
6. ~~Non-commercial use of hangar exempt from ADA requirements.~~
6. Any parking area next to a hangar or building shall have car stops or curbs placed at least five feet from ~~the hangar or building.~~ the closest sidewalk, hangar or building.
7. All parking areas shall be setback at least 10 feet from other lessee lease lines.
1. East Area:
1. ~~Stand alone non-hangar buildings are permitted on the non-airfield side of Jamestown Road and must be an approved commercial only use.~~
1. ~~A commercial building not attached to a hangar shall provide its parking behind the building. Such a building may not be located on the airfield side of Jamestown Road unless as part of a hangar development and then parking may be between the building and Jamestown Road.~~



1. ~~For non hangar buildings the front yard is considered Jamestown Road.~~
1. ~~Non hangar buildings or hangars fronting Jamestown Road must have set back of at least 25 feet from the street.~~
1. ~~Internal driveways off Jamestown Road shall be 20 feet wide.~~
1. ~~Minimum curb cuts off Jamestown Road—in general use of joint-use driveway to serve several buildings will be required to provide access to a public street. Only in exceptional circumstances is more than one (1) curb cut permitted.~~
1. ~~No parking permitted along Jamestown Road.~~
1. ~~Common use driveways along Jamestown Road shall be used as much as possible.~~

#### **Compliance with Building Codes**

2. ~~-~~
3. The building codes and restrictions for buildings and structures at the Airport shall run with the land and be binding to all parties and all persons on Airport property.
4. ~~-~~
5. All buildings constructed, erected, or placed upon any lot within the borders of the Airport shall conform to all government zoning and use requirements.
6. ~~-~~
7. All Building and structures shall comply with all current federal, state and local requirements.

#### **Refuse**

8. ~~-~~
9. Where necessary, dumpster enclosures shall be constructed at the rear of a structure/site and should be enclosed with an opaque wall constructed of a material that is the same as, or similar to, the primary building structure and have gates made of metal.
10. ~~-~~

**Architecture and Building**  
**Design Standards for Development on the Airport**  
**(Included within Land Development Code by Reference)**

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**2/4/2019 Clean Draft**

(A table of contents will be developed after final formatting. \*Editor's Note)

For purposes of this document the City shall be the City of Fernandina Beach and the airport shall be Fernandina Beach Municipal Airport.

These architecture and building design standards shall be applied to airport construction or improvement on or within Fernandina Beach Municipal Airport property boundary as shown on Figure 2-18 of the Airport Master Plan dated September 2015. These design standards have been incorporated by reference into the Airport Overlay section of the City of Fernandina Beach Land Development Code. The City of Fernandina Beach Land Development Code applies to all tenant and lessee construction on the Airport. These design standards are used by the City's Technical Review Committee (TRC) as its basis for beginning the approval process for any construction on the Airport. All construction must meet current adopted Florida Building Codes, City Building Ordinances, and National Fire Prevention Association (NFPA) requirements. In cases of conflict with other City codes or regulations, the more stringent provisions shall apply.

**Approvals and Submittals Required:**

1. No building nor any improvement shall be erected, placed, or altered on any building site at the Airport until the plans for such building or improvement, including site plan, landscape plan, building plans and specifications have been approved by the City.
2. Approval or disapproval of such plans shall be with respect to conformity with these restrictions and other applicable ordinances and requirements of the City and with respect to harmony of external design and land use as it effects property within and adjacent to the Airport.
3. Building plans shall be in conformance with all Federal, State, County and City laws and ordinances, and shall conform to the most recent FAA approved Airport Layout Plan.
4. An FAA Form 7460, *Notice of Proposed Construction*, shall be submitted to FAA for review and shall be approved by the FAA prior to start of construction.
5. No construction, including site improvements, shall be undertaken without first receiving all applicable City Land Development Orders.
6. Submittal requirements for review include a site plan, landscaping plan, and building plan and shall also include the following components listed below and/or any other submittals referenced within these design standards:
  - a. Drainage plan indicating predevelopment flow and contours/elevations of proposed development parcel as well as adjacent parcel(s).
  - b. Roof drainage and a soil erosion control plan shall be indicated on plan submittal.
  - c. For hangar development, a proposed thickness and weight bearing of the hangar floor shall be indicated on the site plan, and shall be of sufficient thickness/weight bearing for the largest aircraft that could use the hangar.
  - d. All antennas, satellite dishes, and similar equipment shall be indicated on the site plan to include proposed location and height.

- e. Proposed signage shall be indicated on the site plan and shall specify sign placement, height, and design.
- f. All plan submittals shall include sufficient detailed information on all utility designs and design loads.
- g. The location of any proposed outside storage areas shall be indicated on a site plan with proposed screening materials.
- h. Plan submittals shall include proposed exterior lighting location and light intensity.
- i. A vehicle parking plan shall be identified on the site plan in compliance with requirements outlined further within these design standards.

**Variances:**

The City, through the Board of Adjustments, shall consider and may grant a variance to these covenants, conditions and restrictions. Request for variance must include a full explanation as to why these codes or requirements cannot be fully met.

**Occupancy:**

No occupancy of any building shall be permitted before the building is completed and a certificate of occupancy is issued.

**Setbacks:**

- 1. The City will determine setback distances for construction based on FAA advisory circulars and/or regulations, the most recent FAA approved Airport Layout Plan and other City regulations that may be enacted from time to time.
- 2. No part or portion of any building shall be erected, constructed, or extended into any setback area.
- 3. No building construction equipment or materials shall be staged, placed, or operated in a manner that impedes the movement of aircraft along taxilanes or taxiways or encroaches into a safety or object free areas without the prior permission of the City.
- 4. The minimum building setback shall be 25 feet from any adjacent ground lease boundary.
- 5. Minimum building separation requirements shall be complied with as set forth by the current-State of Florida-adopted version of the National Fire Protection Agency (NFPA) 409, *Standard on Aircraft Hangars*, irrespective of ground lease boundary line location.
- 6. Adjoining hangars sharing a common center wall shall be built by the same lessee. Such hangars shall have a minimum 25 foot side building setback on all unattached sides from the ground lease boundary line.

**Drainage:**

- 1. A drainage plan shall be submitted indicating pre-development stormwater flow, contours/elevations of the proposed development site, and elevations of adjacent property or parcels.
- 2. Drainage shall not negatively impact adjacent properties or leaseholds and shall flow into the airport's natural or developed drainage.
- 3. The elevation of the lot shall not be changed so as to materially affect the drainage pattern of the surrounding lots.
- 4. Drainage from roofs shall not create erosion or affect adjacent properties or leaseholds. Perimeter roof drainage with gutter and downspouts shall be required.
- 5. Roof drainage and a soil erosion control plan shall be indicated on plan submittal.

**Hangars/Buildings:**

- 1. Aircraft hangars constructed under these standards shall only be for use or uses authorized under a ground lease from the City. Stand-alone non-hangar buildings within the area of the airport designated as aeronautical use on the most recent FAA approved Airport Layout Plan shall only be used for an aeronautical use approved under a ground lease from the City.



2. Outbuildings may be permitted as an ancillary to the primary building. An outbuilding must be attached or in near proximity to the primary building. Such outbuildings must be directly related to the operation of the primary building and limited to office(s), storage area, or related work area.
3. For multiple nested hangars with no direct road access, such as T-Hangars, the location of the hangar door designates the front of the building. For stand-alone hangars constructed on a named access road, the front of building shall be the side facing the nearest access road upon which the address is affixed
4. The minimum bulk hangar size allowed shall be 1,600 square feet, unless otherwise approved by the City Manager or designee subject to grant assurances provided to the FAA and FAA regulations, and may be private or City construction.
5. T-hangars shall only be constructed by the City.
6. All hangars must have a concrete finished and sealed floor. The proposed thickness and weight bearing of the floor must be indicated on the site plan and be sufficient for the largest aircraft that could use the hangar.
7. Any hangar constructed, unless an individual hangar or separated hangar units within a structural building and built for non-commercial use only and not exceeding 2,000 square feet per unit or individual hangar, requires an oil/water separator to discharge water and oil by-products, as appropriate, into either a sanitary sewer or into a holding tank.
8. Hangars/buildings shall meet all appropriate fire codes for the proposed use of the building.
9. No residential occupancy is permitted within any building constructed on airport property.
10. Maximum building height is 45 feet or an elevation lower than imaginary surfaces outlined in Federal Regulation Title 14 Part 77, *Safe, Efficient Use and Preservation of Navigable Airspace*, at the development site location, whichever is lower.
11. Roof materials shall be non-reflective, not create glare, and be of a type, style and color approved by the City.
12. Open sided structures may be authorized if approved by the City Manager or designee based upon type, style, structural integrity, and proposed location.
13. No alterations or additions to the exterior or interior of a building shall be accomplished without first obtaining all required City permits.
14. All antennas, satellite dishes, and similar equipment, shall be indicated on the site plan and shall include the proposed installation location and height.

**Signage:**

1. All signs must adhere to the requirements specified in the City's Sign Code. All hangar sign plans and sign proposals shall be submitted to the City for review and approval prior to construction or installation.
2. Additional address signage may be required to be displayed if required by City emergency service providers.
3. Signs, lettering, designs, or other graphics shall not be placed, painted or otherwise located on roofs.

**Aprons/Pavement:**

1. Taxilanes within hangar areas provided by the City are generally designed to accommodate an aircraft with a wing span no greater than 49 feet. Facilities designed for larger wingspan aircraft shall provide direct access to taxiways, unless otherwise approved by the City Manager or designee subject to grant assurances provided to the FAA and FAA regulations.
2. Entrance pavement is required from the hangar door to the taxilane or taxiway, shall be at least 20 feet wide.

3. All required apron/ramp areas shall be constructed to remain outside the taxilane or taxiway object free area except for the entrance pavement required in 2 above.
4. Apron space between the hangar and the adjacent taxilane or taxiway shall be sufficient to support the proposed use and potential future use of the hangar. The design of the apron is subject to review and approval by the City.
5. All airside leasehold pavements must be of sufficient quality and weight bearing capacity for the largest aircraft that could be hangared on the leasehold and shall be designed for a minimum 20 year life using any applicable current FAA standards.
6. Landside pavements shall be designed per the City's Local Development Orders.
7. Any permitted airside vehicle access routes are to be a minimum of 12 feet wide.

#### **Utilities:**

1. Extension of Utilities to the proposed facilities shall be the financial responsibility of the Lessee.
2. All plan submittals shall include sufficient detailed information on all utility designs and design loads.
3. Work shall not commence until approval has been received by the City and all permits have been received.
4. Plan submittals shall indicate above ground utilities such as, but not limited to, condensers and transformers.
5. Sewer, gas, water, electric, and communication utilities shall be located underground.
6. The Lessee shall be responsible to restore all areas disturbed during the utility installation including pavement and grass areas.
7. All electrical wiring shall be in conduit and placed underground from the electrical power source to the hangar/building.
8. Septic tanks are not authorized for use on the airport.

#### **Hangar Doors:**

1. Types (Bi-fold, Hydraulic single swing, Track Mounted/rolling, accordion).
2. Hangar door clear opening shall be:
  - a. Horizontal – equal to or greater than 80% of the width of the side of the hangar where the door is located (I.E. building width of 100 feet, hangar door clear opening shall be a minimum of 80 feet), or equal to or greater than 80% the total width of individual T-Hangar or shared wall hangar units.
  - b. Vertical – For a hangar door width of:
    - i. Less than 40 feet, minimum door height shall be 14 feet
    - ii. 40 feet up to 50 feet, minimum door height shall be 16 feet
    - iii. 50 feet up to 60 feet, minimum door height shall be 20 feet
    - iv. 60 feet up to 70 feet, minimum door height shall be 24 feet
    - v. 70 feet up to 80 feet, minimum door height shall be 26 feet
    - vi. greater than 80 feet, minimum door height shall be 26 feet
3. All hangar doors shall be installed in such a manner as to not obstruct the movement of any aircraft on an adjacent taxiway or taxilane or of another airport tenant outside the leased premises.

#### **Hangar/Building Characteristics:**

1. At least one bathroom facility is required for any stand-alone commercial use hangar or building. The bathroom facility must be constructed to be American Disabilities Act (ADA) compliant as required by local building code.
2. For non-commercial use hangars, bathroom facilities are required when:
  - There is no public use restroom within 400 feet of the proposed hangar development as measured by linear feet distance from the closest exterior wall of the proposed hangar

- development to the closest exterior or interior wall of any existing public restroom, or
  - The proposed development consists of, or will result in, more than 24 t-hangars in a specific location without access to a public use restroom, or
  - The proposed development will be a single hangar larger than 12,000 SF, or
  - The proposed development will be a divided hangar with more than 25,000 SF of total space.
- 3. Hangar/building materials shall be a metal building or concrete block or related material. Wood buildings are prohibited. The roof may be aluminum if coated with a non-glare substance.
- 4. Hangar/buildings that produce glare or other effects that are hazardous to aircraft operation shall not be permitted.
- 5. Hangar/building colors shall be neutral tones.
- 6. The location of outside storage areas and the materials required for screening shall be included on the site plan submitted by lessee. All materials used for screening shall be opaque and the same as or similar to the main or primary building, or by installation of berms and landscaping acceptable to the City.
- 7. Hangars shall have a fire suppression system, if required, as prescribed in the current current-State of Florida-adopted version of the National Fire Protection Agency (NFPA) 409, *Standard on Aircraft Hangars*.
- 8. All mechanical equipment shall be housed within the building when possible or screened as defined in 6 above. When roof mounted equipment is required, it must be concealed by parapet walls sufficient to screen the equipment but no more than 42". Such parapet does not count against building height restriction as long as there is no violation of imaginary surfaces described in Federal Regulation Title 14 Part 77, *Safe, Efficient Use and Preservation of Navigable Airspace*. Plumbing vents are the only non-screened roof penetrations allowed.
- 9. Any exterior equipment shall be enclosed or screened so as to be an integral part of the architectural design and not in public view.
- 10. Any hangar or building abutting a part of the Airport Operation Area (AOA) is also considered part of the security fence system. Such hangar or building shall provide the only entrance to the airside operations area unless approved by the City Manager or designee subject to grant assurances provided to the FAA and FAA regulations.. In addition lessee shall provide a chain link fence without gates separating the airside and the landside with not less than 6 feet chain link with 3 strand barbed wire on top between buildings to the property line to establish a security perimeter. If landscape screening is provided, it shall be located on the landside and no closer than 6 feet from the fence and maintained in a manner to preclude overgrowth onto the security fence.
- 11. The outside storage of hazardous materials or hazardous waste shall be prohibited as identified in the Airport Rules and Regulations.
- 12. Adequate lighting sufficient for safety and security is required and shall be installed on the building for both airside and landside areas and in general shall be uniform in style as determined by the City. Light fixtures that face a taxilane or taxiway shall not exceed 0.5 foot-candles at the edge of the taxilane or taxiway. Plan submittal shall include exterior lighting information including location. All lighting shall conform to the current City ordinance and the City's specifications and standards for off-street parking areas.

**Landscaping:**



1. Landscaping within the Airport Operation Area for non-building and non-pavement areas shall have as a minimum natural ground covering and is limited to grass or very low lying vegetation for unpaved areas. No trees or shrubbery shall be permitted within the Airport Operation Area (within the airport security or perimeter fence.)
2. All gross land area of a development site that is not paved or building shall be landscaped and can include grass or ground cover. The landscaped areas outside the AOA (outside the airport perimeter fence) shall be located on the site in such a manner as to maximize preservation of existing trees with priority given to specimen trees. Such landscaping should not be on the airfield side of any hangar or building construction that is not accessible by the public.
3. Landscaping shall not block sight distance or pose a traffic hazard.
4. All grass, trees, and shrubbery must be kept in good appearance at all times. If the Lessee fails to maintain these areas the City reserves the right to maintain or remove them at an additional cost to the Lessee.

**Automobile Parking:**

1. All parking shall be identified in the site plan.
1. Parking shall not be established or designated along the front of a building if the front of the building is on the airside of the airport.
2. Vehicle parking spaces shall be sized and marked in accordance with requirements outlined within the current Fernandina Beach Land Development Code.
3. Commercial use of a hangar must comply with the quantity, sizing, and marking of ADA parking spaces outlined within the current Fernandina Beach Land Development Code.
4. Parking Spaces Required By Facility Type:

|                                                                                              |     |
|----------------------------------------------------------------------------------------------|-----|
| <b>Box Hangar (Aircraft Storage Only)</b>                                                    |     |
| 1 Space per 1,500 square feet of hangar floor space (5 minimum) rounded up to the next space |     |
| Sample: 8,000 sq/ft hangar would require 6 parking spaces                                    |     |
| <b>Box Hangar W/Office or Maintenance Space</b>                                              |     |
| 1 Space per 1,500 sq/ft of hangar floor space (5 minimum)                                    | and |
| 1 Space per 200 sq/ft of office space (5 minimum)                                            | and |
| 1 space per 750 sq/ft of maintenance/shop space (5 minimum)                                  | and |
| Sample: 8,000 sq/ft hangar (6) and 2,000 sq/ft of office (10) would need 16 spaces           |     |
| <b>T-Hangar or Shared Wall Box Hangars w/individual unit size not exceeding 40'x40'</b>      |     |
| 1 space for 50% of units rounded up to the next space                                        |     |
| <b>GA Terminal/FBO Building</b>                                                              |     |
| 1 Space per 300 sq/ft of office space (5 minimum)                                            |     |
| <b>Airport Administrative Building</b>                                                       |     |
| 1 Space per 300 sq/ft of office space (5 minimum)                                            |     |
| <b>MES Building</b>                                                                          |     |
| 1 Space per vehicle bay                                                                      | and |
| 1 space per 750 sq/ft of maintenance/shop space (5 minimum)                                  | and |
| Example: a MES building with four bays (4) and 810 sq/ft of shop space would need 9 spaces   |     |

5. All parking areas shall have car stops or curbs placed at least five feet from the closest sidewalk, hangar or building.
6. All parking areas shall be setback at least 10 feet from the lessee's lease lines.

#### **Compliance with Building Codes**

The building codes and restrictions for buildings and structures at the Airport shall run with the land and be binding to all parties and all persons on Airport property.

All buildings constructed, erected, or placed upon any lot within the borders of the Airport shall conform to all government zoning and use requirements.

All Building and structures shall comply with all current federal, state and local requirements.

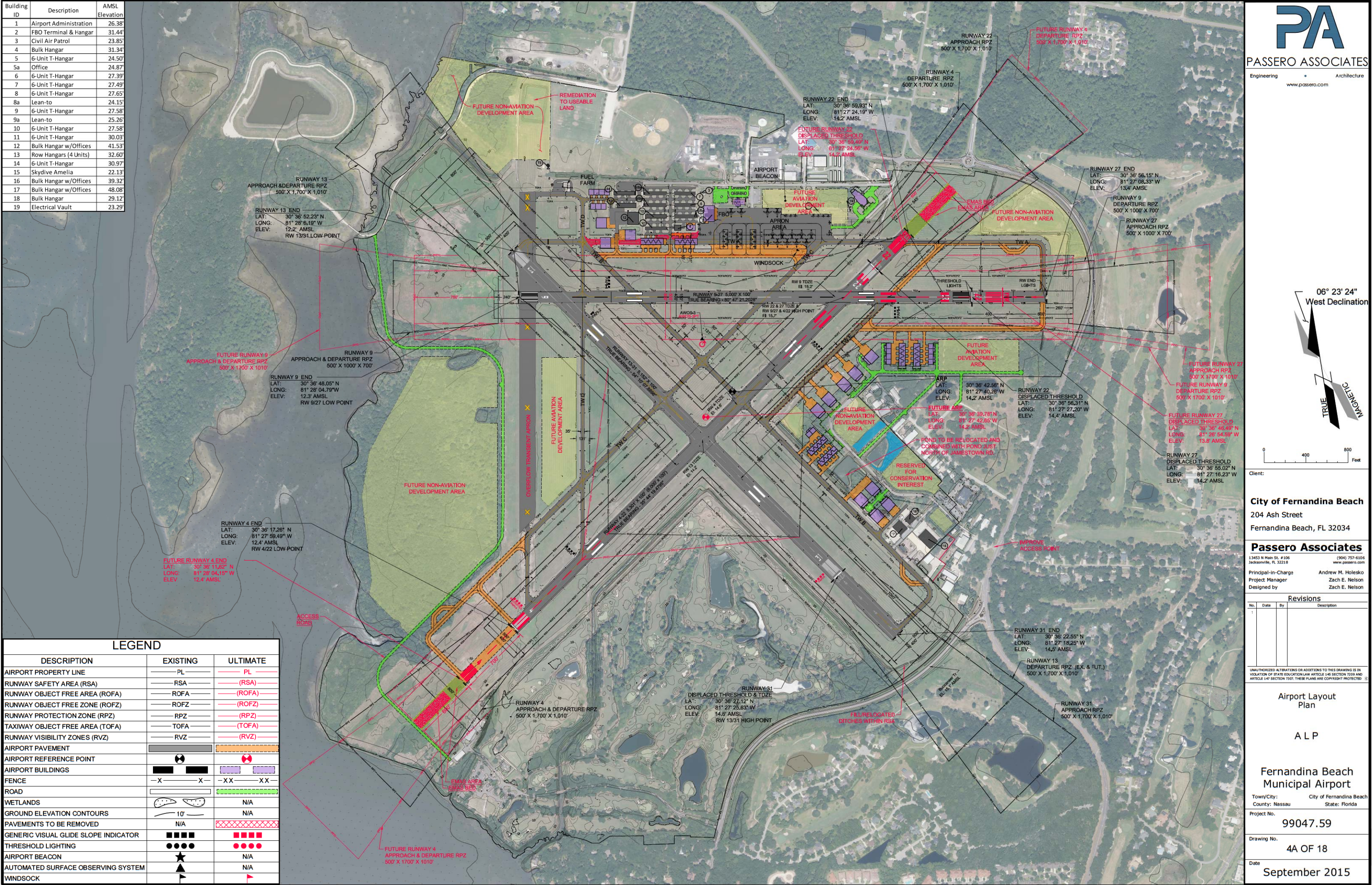
#### **Refuse**

Where necessary, dumpster enclosures shall be constructed at the rear of a structure/site and should be enclosed with an opaque wall constructed of a material that is the same as, or similar to, the primary building structure and have gates made of metal.



| Building ID | Description            | AMSL Elevation |
|-------------|------------------------|----------------|
| 1           | Airport Administration | 26.38'         |
| 2           | FBO Terminal & Hangar  | 31.44'         |
| 3           | Civil Air Patrol       | 23.85'         |
| 4           | Bulk Hangar            | 31.34'         |
| 5           | 6-Unit T-Hangar        | 24.50'         |
| 5a          | Office                 | 24.87'         |
| 6           | 6-Unit T-Hangar        | 27.39'         |
| 7           | 6-Unit T-Hangar        | 27.49'         |
| 8           | 6-Unit T-Hangar        | 27.65'         |
| 8a          | Lean-to                | 24.15'         |
| 9           | 6-Unit T-Hangar        | 27.58'         |
| 9a          | Lean-to                | 25.26'         |
| 10          | 6-Unit T-Hangar        | 27.58'         |
| 11          | 6-Unit T-Hangar        | 30.03'         |
| 12          | Bulk Hangar w/Offices  | 41.53'         |
| 13          | Row Hangars (4 Units)  | 32.60'         |
| 14          | 6-Unit T-Hangar        | 30.97'         |
| 15          | Skydive Amelia         | 22.13'         |
| 16          | Bulk Hangar w/Offices  | 39.32'         |
| 17          | Bulk Hangar w/Offices  | 48.08'         |
| 18          | Bulk Hangar            | 29.12'         |
| 19          | Electrical Vault       | 23.29'         |

| LEGEND                               |           |             |
|--------------------------------------|-----------|-------------|
| DESCRIPTION                          | EXISTING  | ULTIMATE    |
| AIRPORT PROPERTY LINE                | — PL —    | — PL —      |
| RUNWAY SAFETY AREA (RSA)             | — RSA —   | — (RSA) —   |
| RUNWAY OBJECT FREE AREA (ROFA)       | — ROFA —  | — (ROFA) —  |
| RUNWAY OBJECT FREE ZONE (ROFZ)       | — ROFZ —  | — (ROFZ) —  |
| RUNWAY PROTECTION ZONE (RPZ)         | — RPZ —   | — (RPZ) —   |
| TAXIWAY OBJECT FREE AREA (TOFA)      | — TOFA —  | — (TOFA) —  |
| RUNWAY VISIBILITY ZONES (RVZ)        | — RVZ —   | — (RVZ) —   |
| AIRPORT PAVEMENT                     |           |             |
| AIRPORT REFERENCE POINT              |           |             |
| AIRPORT BUILDINGS                    |           |             |
| FENCE                                | - X - X - | - XX - XX - |
| ROAD                                 |           |             |
| WETLANDS                             |           | N/A         |
| GROUND ELEVATION CONTOURS            |           | N/A         |
| PAVEMENTS TO BE REMOVED              | N/A       |             |
| GENERIC VISUAL GLIDE SLOPE INDICATOR |           |             |
| THRESHOLD LIGHTING                   |           |             |
| AIRPORT BEACON                       |           | N/A         |
| AUTOMATED SURFACE OBSERVING SYSTEM   |           | N/A         |
| WINDSOCK                             |           |             |



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06° 23' 24"  
West Declination

0 400 800 Feet

Client:  
**City of Fernandina Beach**  
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Designed by: Zach E. Nelson

| No. | Date | By | Description |
|-----|------|----|-------------|
| 1   |      |    |             |

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**Airport Layout Plan**  
**A L P**  
**Fernandina Beach Municipal Airport**  
Town/City: City of Fernandina Beach  
County: Nassau State: Florida  
Project No. **99047.59**  
Drawing No. **4A OF 18**  
Date **September 2015**



# **FERNANDINA BEACH MUNICIPAL AIRPORT**

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## **AIRPORT RULES AND REGULATIONS**

Initial Adoption October 1, 1987

Amended July 17, 2007

Amended August 21, 2007

Amended September 2, 2008

Amended December 7, 2010

Prepared By:

City of Fernandina Beach

700 Airport Road

Fernandina Beach, Florida 32034

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## **Introduction**

Fernandina Beach Municipal Airport (FBMA-FHB) is municipally owned and operated by the City of Fernandina Beach, Florida as a General Aviation Reliever Airport. These Airport Rules and Regulations (R&R) are intended to promote the health, safety, interest, and welfare of the public in general and in particular the operators, lessees, tenants, consumers, and users of FBMA, and to promote the safe, orderly, and efficient use of the Airport.

These R&R apply to all users, aeronautical and otherwise, of FBMA property, are not all-inclusive, and reinforce and emphasize federal, state, and local statutes, laws, ordinances, and regulations as well as leases and agreements that may apply (see Appendix A - References). In addition the content of Appendixes A and B attached hereto and made a part hereof shall be adhered to by all users of FBMA. In the event of a conflict between these R&R and a lease or other agreement, the lease or other agreement shall govern. Individual Airport users must adhere to the applicable provisions of these R&R and its attached Appendices, as well as any applicable leases and agreements, and all pertinent federal, state, and local statutes, laws, ordinances, and regulations that may be applicable to their operations.

Violations of the R&R may result in revocation of Airport access privileges, denial of use of the Airport, termination of leases or other agreements, and/or prosecution under applicable laws. Perpetration of violation(s) shall be considered as a factor in renewing or not renewing a violator's application or permit/lease renewal. Use of Airport property without approval or in conflict with these R&R is considered a trespass. Nothing in these R&R is intended to preclude any authorized City personnel from taking other action authorized by law. Section 6 of these R&R provides an appeal process to be followed in the event a user of the Airport is aggrieved by the interpretation and application of the R&R.

These R&R may be amended as required, however, every three years an updated revision should be published.

## **Section 1 – General**

### **1.01 COMPLIANCE AND RESPONSIBILITIES:**

- a. By publication of these R&R, all persons based at FBMA will be deemed to have knowledge of the contents herein. Copies of these R&R will be distributed to all tenants and leaseholders, posted at the Airport, and available through the Airport Manager's office.
- b. Entry upon/into the Airport by any person shall be deemed to constitute an agreement by such person to comply with and be governed by these R&R. All persons employed on or using the Airport shall cooperate with the Airport Manager or his designated representatives to enforce these R&R.
- c. Airport tenants/leaseholders shall be responsible for compliance with all requirements of these R&R applicable to them for their exclusive areas and they shall be held liable for any fines, penalties, or other monetary assessments imposed upon the City by any agency having jurisdiction with respect to any violations involving these areas. Any user, who by their intentional or unintentional action or activity, cause the City to be fined, cited, sued, or charged unnecessary fees/fines, will be responsible for reimbursement of said fines/fees upon demand to the City.
- d. Any permission granted by the Airport Manager or the City under these R&R is conditioned upon the payment of any and all applicable fees and charges established by the City.
- e. Voiding of any particular rule or regulation contained herein shall not affect the validity of the remainder of these regulations.



**1.02 EMERGENCY PROCEDURES AND DIRECTIVES:**

- a. Under emergency conditions, e.g., a natural disaster, the Airport Manager, or designated representative, is empowered to suspend these R&R, or any part thereof, including ordering persons to leave the Airport or portions of the Airport and prevent access to such areas for such time as may be necessary, and to issue such directives and take such actions as is necessary to protect life and property and ensure the safe operation of the Airport. Such directives and actions have the full power of regulation as long as the emergency exists.
- b. In the event of an extreme threat, condition, or event the Airport Manager shall have, in his discretion, the authority to close the Airport in its entirety or any portion thereof to air traffic, to prohibit aircraft landing and/or taking off, and may delay or restrict any flight or other aircraft operation.
- c. The Airport Manager may also, in his discretion, temporarily close the Airport due to periods of adverse climatic conditions when such action is considered necessary and desirable to avoid endangering persons or property.
- d. Under no circumstance shall an authorized Airport closure or restriction constitute grounds for reimbursement of any expense, loss of revenue, or damage incurred by any operator, lessee, or any other entity.

**1.03 LIABILITY:**

- a. The City shall not be responsible for loss, injury, or damage to persons or property by reason of fire, theft, vandalism, wind, flood, earthquake, collision, strikes, war, acts of terrorism, or act of God, nor shall the City be liable for injury to persons while on the Airport.
- b. The City, City Commission, Airport, and the Airport Manager, individually and collectively, and their representatives, officers, employees, agents, and volunteers shall be held harmless and shall not be liable for loss, loss of use, damage, or injury to persons or property arising out of any accident, incident, or mishap of any nature whatsoever, or from any cause whatsoever to any individual, aircraft or property occurring on or from the Airport or in the use of any facility situated on Airport property.

**1.04 FACILITIES AND PROPERTY:**

- a. Operational deficiencies regarding buildings, structures, equipment, utilities, or other property owned by the City shall be reported to the Airport Manager so that repairs, as necessary, may be made in a timely manner.
- b. No person shall alter, add to, or erect any building or sign on the Airport or make any excavation on the Airport without prior written approval of the City.
- c. Any person causing, or responsible for damage to or destruction of Airport property of any kind, including facilities, equipment, real property, fixtures or appurtenances, shall be required to pay the City for the full amount of said damage. Any such damage shall be immediately reported to the Airport Manager.

**1.05 OTHER LAWS:**

All applicable provisions of Federal Aviation Regulations (FAR), federal, state, and local regulations, laws, statutes, and/or ordinances now in existence or hereafter promulgated are hereby adopted as part of the R&R for FBMA.

**1.06 USE AND ENJOYMENT OF AIRPORT PREMISES:**

- a. All FBMA users are required to abide by applicable federal, state, and local statutes and ordinances regarding personal conduct on Airport property.
- b. Any person who causes injury to any person or damages equipment or property on the Airport shall be liable for such injuries and/or damages.
- c. All commercial activities shall be conducted in accordance with the FBMA Minimum Standards for Commercial Activities (Minimum Standards).

- d. No person may throw, shoot, or propel any object nor shine a light or laser in such a manner as to interfere with or endanger the safe operation of any aircraft taking off from, landing at, or operating on the Airport or any vehicle operating on the Airport.

**1.07 ENTRY UPON AND USE OF AIRPORT:**

- a. Entry into FBMA property shall be through designated gates.
- b. All FBMA users shall observe and obey all posted signs, fences, and barricades regarding activities and demeanor while on the Airport.
- c. Use of any FBMA facility for other than authorized purposes is prohibited.
- d. Nothing herein contained shall be construed to limit the use of any area of the Airport by its employees, approved contractors, or to prevent law enforcement or fire department personnel from acting in their official capacity.
- e. No person, except representatives of the press on duty or during official announcements, shall take still, motion, or sound pictures for commercial purposes on non-leasehold Airport property without first obtaining written permission of the Airport Manager.
- f. No camping is permitted on FBMA without written permission of the Airport Manager.

**1.08 ACCESS TO THE AIRPORT OPERATIONS AREA:**

- a. No person may, without authorization of the Airport Manager, enter the FBMA Airport Operations Area (AOA) except:
  - 1. Persons under the direct supervision of a tenant or leaseholder
  - 2. Persons or entities and their employees performing aeronautical activities
  - 3. Passengers, under appropriate supervision, who enter for the purpose of enplaning or deplaning an aircraft
  - 4. Visitors to Fixed Base Operations (FBO)
  - 5. Emergency vehicles
- b. Except for entry/exit, all ground vehicle gates will be secured. Vehicle operators using an Airport perimeter gate shall ensure the gate closes prior to leaving the vicinity; additionally, should a vehicle operator observe any suspicious vehicles or persons gain (or attempt to gain) access to the airside, they shall notify law enforcement immediately.
- c. Persons who have been provided an Airport access device or access code for the purpose of obtaining access to the AOA shall use only Airport issued devices and shall not duplicate or otherwise distribute or disseminate the same to any other person unless the Airport Manager provides written permission.
- d. No person shall walk or drive on taxiways or runways without written authorization from the Airport Manager.
- e. It shall be the responsibility of a tenant, lessee, or contractor to restrict persons or vehicles to their exclusive use area or leasehold and to establish operating procedures for them, reviewed by the Airport Manager for appropriateness.
- f. No one under 16 years of age will be allowed to enter the AOA except under the direct supervision of an adult or unless visiting an FBO.
- g. No person shall assist an unauthorized individual in accessing the AOA.

**1.09 ANIMALS:**

- a. Animals, including service animals, are permitted on Airport property only when under the control of their owners/handlers; any waste must be properly collected and removed by the animal's owner/handler
- b. No person shall commit any act to encourage the congregation of birds or other animals on the Airport.

**1.10 CARGO, MATERIAL STORAGE, AND ABANDONED PROPERTY:**

- a. Unless otherwise provided for by lease or other contractual agreement, no person, firm, partnership, or corporation, shall use any area of the Airport, including buildings, either

- privately owned or publicly owned, for the storage of non-aeronautical related cargo, equipment, or any other property without written permission of the Airport Manager.
- b. Any property, aircraft, or vehicle, determined by the Airport Manager to be abandoned, disabled, or which creates an operations problem, nuisance, security or safety hazard, or which otherwise is placed in an illegal, improper, or unauthorized manner, will be removed, stored, and/or disposed of at the owner's expense. The City shall not be liable for any damage to the property or loss or diminution of value that may be caused by the act of removal.

**1.11 FIREARMS AND WEAPONS:**

Firearms are allowed on FBMA only as permitted by state and federal statutes.

**1.12 ADVERTISING, COMMERCIAL SPEECH, AND SIGNAGE:**

- a. No person shall post, circulate, distribute, or display written or printed materials or signs on Airport property or facilities or on motor vehicles and aircraft without prior written permission from the Airport Manager. However persons approved to be on Airport property may use vehicles on Airport property that display advertising, pictures, or written material.
- b. Airport entry signage or signage in public areas of the Airport must meet specifications of City codes and be approved by the Airport Manager.

## **Section 2 – Aeronautical Operations**

**2.01 COMPLIANCE WITH ORDERS:**

All aeronautical activities at FBMA shall be conducted in compliance with applicable FARs, federal and Florida statutes, and local ordinances, these Rules and Regulations, Minimum Standards, and directives/resolutions, as currently written or as may be amended from time to time.

**2.02 HOLD HARMLESS:**

The aircraft owner, pilot, agent, or his or her duly authorized representative agrees to release, discharge and hold harmless the City, its City Commission, the Airport, and its employees of and from liability for any damage which may be suffered by any aircraft and its equipment, and for personal injury or death. The use of the AOA and related facilities shall constitute acceptance of the terms of this provision, these R&R and other Airport procedures and operating directives.

**2.03 NEGLIGENT OPERATIONS PROHIBITED:**

- a. Aircraft operators shall not land; take off; taxi; or park an aircraft on any area that has been restricted to a maximum weight bearing capacity of less than the weight of the aircraft. It shall be the aircraft owner's responsibility to repair any damage to the Airport's runways, taxiways, or aprons caused by excessive aircraft weight loading.
- b. No person shall operate any equipment or device on the Airport that will interfere with any aircraft radio communication frequency or any aircraft navigational aid.

**2.04 AIRCRAFT ACCIDENTS/INCIDENTS, AIRWORTHY, DISABLED, AND DERELICT AIRCRAFT:**

- a. The owner or operator of any aircraft involved in an accident or incident on the Airport, resulting in any injury or death or damage to property shall immediately notify the appropriate emergency response agencies, the Airport Manager, and other governmental agencies as applicable.
- b. The pilot or owner of an aircraft involved in an accident or incident shall be responsible for all costs associated with the accident or incident, including but not limited to, wreckage removal/disposal, environmental clean up, and repair or replacement of property.
- c. Disabled aircraft shall be removed from runways and/or taxiways as quickly as practicable.



- d. Disabled and derelict aircraft shall not be permitted on the tie-down or ramp areas unless in response to an emergency and with written approval of the Airport Manager.
- e. If the owner of an aircraft fails for any reason to remove a disabled or derelict aircraft from the Airport property as may be requested, the Airport Manager may cause the removal and storage or disposal of such disabled or derelict aircraft at the sole expense of the owner.

**2.05 AIRPORT OPERATIONAL AREA RESTRICTIONS:**

- a. Unless contrary to federal regulations and/or grant assurances, the City shall have the authority to designate or restrict the use of runways or other operational areas at the Airport with respect to, but not limited to, the following:
  - 1. Experimental Flights (Advance notification to Airport Manager of first flight);
  - 2. Equipment Demonstration;
  - 3. Air Shows;
  - 4. Parachute Operations;
  - 5. Banner Towing Operations (Permit required);
  - 6. Aircraft Type.
- b. No kites, model airplanes, rockets, tethered unmanned balloons, or other objects constituting a hazard to aircraft operations shall be operated on the Airport.

**2.06 AIRCRAFT PARKING:**

- a. No person shall use any area of the Airport for parking and/or storage of aircraft unless otherwise provided for in a lease or other agreement without the written permission of the Airport Manager. If any person uses unauthorized areas for aircraft parking, the aircraft may be removed by or at the direction of City, at the risk and expense of the owner, without liability for damage that may arise from or out of such removal or storage.
- b. No person shall leave an aircraft parked and unattended on the Airport unless it is in a hangar or properly locked and secured with either wheel chocks and/or tie-down ropes. Owners of such aircraft shall be held responsible for any damage resulting from failure to properly comply with this provision.
- c. Articles left in aircraft are the sole responsibility of the aircraft owner/operator. The City is not responsible for theft or vandalism of said articles.

**2.07 STARTING AND RUNNING AIRCRAFT ENGINES:**

- a. No aircraft engine will be started or operated inside or taxied from/into any hangar or under the roofline of a hangar, whether said hangar is enclosed or not. This shall not be construed as prohibiting the use of tractors, with National Fire Protection Association (NFPA) approved exhaust systems, when moving aircraft within any hangar.
- b. Starting an aircraft when there is any flammable liquid on the ground in the immediate vicinity is prohibited.
- c. No person may run an engine of an aircraft parked on the Airport in a manner that propeller or jet blast could cause injury to persons, damage to any other property, or in any way hinder the safe operation of the Airport. In no case will the operator of an aircraft block any runway, taxiway, or taxi lane while conducting any maintenance/repair run-up.
- d. No full power aircraft engine run-ups are authorized between 2200 and 0700 hours local for maintenance purposes without written approval of the Airport Manager.

**2.08 AIRCRAFT OPERATIONS:**

- a. All aircraft operations shall be conducted in accordance with published FARs.
- b. Aircraft operators will familiarize themselves with published local noise abatement guidelines.

**2.09 REPAIRING AND MAINTAINING AIRCRAFT:**

- a. Aircraft owners, under self-maintenance operations, are permitted to fuel, wash, repair, or otherwise service their owned based aircraft utilizing their own equipment and their own employees, as outlined in FAR Part 43 “Maintenance, Preventative Maintenance, Rebuilding and Alteration” and/or as identified in provisions of written agreement.
- b. Aircraft maintenance or repair is permitted only on paved areas of the Airport.
- c. No aircraft or aircraft component shall be suspended or lifted utilizing the building or any component of the building.

## **Section 3 – Fire, Safety and Environment**

**3.01 GENERAL:**

- a. All persons using the Airport shall exercise the utmost care to guard against fire and injury to persons and property.
- b. All activities at FBMA shall comply with applicable state, local, and National Fire Protection Association (NFPA) codes and standards now in existence or hereafter promulgated and not in conflict with FARs. All applicable codes, standards, and recommended practices are hereby adopted by reference as part of the R&R of the Airport. In the event of conflict, Florida Statute 633 and NFPA codes and/or FARs shall prevail.
- c. Any fire causing damage, regardless of the size of the fire or whether or not the fire has been extinguished, shall be reported immediately to the Fernandina Beach Fire Department as well as the Airport Manager.

**3.02 SMOKING:**

Smoking or carrying lighted smoking materials or striking matches or other incendiary devices, such as lighters, are not permitted:

- a. Within 50 feet of parked aircraft and fuel carriers not in motion; within 100 feet of aircraft being fueled or de-fueled, a fuel storage facility, or a flammable liquid spill;
- b. In any area on the Airport where smoking is prohibited by the City or leaseholder by means of posted signs;
- c. In any hangar, shop, or other building in which flammable liquids are stored or used, except in cases where specifically approved smoking areas have been designated for that purpose.

**3.03 FIRE EXTINGUISHERS:**

- a. All tenants or lessees of hangars, aircraft maintenance buildings or shop facilities shall maintain a minimum of one readily accessible, operable fire extinguisher that shall conform to applicable NFPA standards. Current inspection tags shall be left attached to each unit.
- b. No person shall tamper with any fire extinguisher equipment at the Airport or use the same for any purpose other than fire fighting or fire prevention.

**3.04 OPEN FLAME OPERATIONS:**

- a. The use of any equipment employing open flames or sparks within any aircraft storage area is prohibited. This excludes open flames utilized by lessees and tenants in the performance of aircraft maintenance approved by agreement.
- b. Lead and carbon burning, fusion gas and electric welding, blow-torch work, engine testing, and all operations involving open flames shall be restricted to the repair shops. During such operations, the shop shall be separated from the storage section by closing all doors and openings to the storage section.

**3.05 STORAGE OF MATERIALS:**

- a. No operator, tenant, or lessee on the Airport shall keep, store, stack, box, bag, or stock material or equipment in such a manner as to constitute a hazard to persons or property, obstructing any operation, littering, or in such a manner as to create any unsightly appearance.
- b. Storage of materials or equipment except for hoses attached to water spigots shall not be permitted outside buildings or hangars unless under approved sheds, within designated storage areas, or in designated parking areas.

**3.06 HAZARDOUS WASTE AND MATERIALS:**

- a. No person shall store, keep, handle, use, disperse, discharge, or transport at, in, or upon the Airport any hazardous materials in contravention of any regulatory measures.
- b. No more than five gallons of fuel in a container shall be stored in any building or structure on the Airport at any time. An approved fuel container shall be used at all times.
- c. All empty oil, paint, and varnish cans, bottles, or other containers shall be removed from the Airport in a timely manner and shall not remain on the floor, wall stringers, or overhead storage areas of the hangars, offices, shops, or other buildings and only those hazardous materials used in the maintenance of aircraft, engines, and components may be stored and utilized on the Airport.
- d. No person shall use volatile or flammable substances for cleaning hangar floors, hangars or other buildings on the Airport. Cleaning agents shall meet all federal, state, and local codes, regulations, and permit requirements.
- e. All persons on the Airport shall keep all premises, including floors, leased, or used by them, clean and clear of accumulation of oil, grease, and other flammable material and free of rags, waste materials, or other trash or rubbish or accumulated debris.
- f. Gasoline, oil, and solvent drums or receptacles shall not be stored within aircraft and/or vehicle operating areas nor be in excess of that required as current stock. Such materials shall be kept enclosed and covered in clearly marked and labeled housing.
- g. No person shall use, keep, or permit to be used or kept, any foul or noxious gas or substance at the Airport, or permit or suffer the Airport to be occupied or used in a manner offensive or objectionable to other users by reason of noise, odors, and/or vibrations, or interfere in any way with other occupants or those having business therein.
- h. No volatile substances such as fuels, grease, oil, dopes, acid, flammable liquids, solvents and other cleaning fluids, paints and contaminants of any kind, may be stored inside t-hangars, bulk hangar facilities, or other leased property from the City used for storage of aircraft unless included as part of a rental agreement or lease.
- i. All petroleum products, dopes, paints, solvents, acids, or any other hazardous waste shall be disposed of off the Airport and in compliance with all applicable regulatory measures and shall not be dumped or run into drains, on ramp aprons, catch basins, ditches, sewer systems, storm drains, or elsewhere on the Airport.
- j. No person shall store, keep, handle, use, dispose of, or transport at, in, or upon the Airport any Class A, Class B, or Class C explosives or Class A poison, as defined in the Federal Motor Carrier Safety Administration regulation for transportation of explosives and other dangerous articles, and other poisonous substances, solid, liquid, or gas, compressed gas, and/or radioactive article, substance, or material at such time or place or in such manner or condition that may, or may be likely, to unreasonably endanger persons or property.
- k. Cleaning of aircraft parts and other equipment shall preferably be done with non-flammable cleaning agents or solvents. When the use of flammable solvents cannot be avoided, only liquids having flash points in excess of 100<sup>0</sup> F shall be used and special precautions shall be taken to eliminate ignition sources in compliance with good practice recommendations of the NFPA.



**3.07 DOPING, SPRAY PAINTING, AND PAINT STRIPPING:**

- a. No paint, varnish, or lacquer spraying of aircraft or motor vehicles is permitted inside any building or hangar on the Airport unless such facility was properly designed and constructed for such activity. Hand-held aerosol containers or a small air compressor powered automotive type touch up spray gun not to exceed 7 oz. capacity may be permitted for paint touchup, used outside and in a no wind situation, with the specific written approval of the Airport Manager.
- b. The use of “dope”, cellulose, nitrate, or cellulose acetate dissolved in volatile flammable solvents, within any hangar is prohibited.

**3.08 SANITATION AND ENVIRONMENTAL POLLUTION:**

- a. Each person while on Airport property shall conduct his/her activities so as to not cause litter, environmental pollution, or unsanitary conditions.
- b. No person shall unnecessarily or unreasonably or in violation of law, cause any smoke, dust, fumes, gaseous matter, or particulates to be emitted into the atmosphere or be carried by the atmosphere. Exceptions include normal emissions from internal combustion engines, jet engines, smoke from cigarettes, cigars, or pipes, or aircraft maintenance activities.
- c. Aircraft may not be washed with running water in hangars.
- d. Any person who experiences overflow or spillage of oil, grease, fuel, or similar contaminants anywhere on the Airport is responsible and shall take appropriate action in the control, containment, clean up, disposal, and rehabilitation of such hazardous spill. Failure to take appropriate action to clean the area shall result in the City providing the cleanup at the expense of the responsible party. If the responsibility for the spill cannot be promptly determined, the leaseholder will be held responsible for the clean up.
- e. Spills, such as, jet fuel, gasoline, fuel oil, hydraulic oil, motor oil, turbine oil, alcohol, glycol, and all similar chemicals that could be considered hazardous, that covers over 10 feet in any direction or is over 50 square feet in area, continues to flow or is otherwise a hazard to persons or property require notification to the Fernandina Beach Fire Department as well as to the Airport Manager. The spill shall be investigated to determine the cause, to determine whether emergency procedures were properly carried out, and to determine the necessary corrective measures.
- f. In the event of spillage, fuel delivery devices and other vehicles shall not be moved or operated in the vicinity of the spill until the spillage is removed. A fireguard shall be promptly posted to the spill area.
- g. No garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or other litter of any kind shall be placed, discharged, or deposited on the Airport, including cigarettes, cigars, and matches, except in receptacles specifically provided for such purpose.
- h. The burning of garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or other litter of any kind is prohibited. With prior written permission of the Airport Manager, Fire Department personnel may engage in training exercises that require controlled burning.
- i. Any person discarding chemicals, paints, oils, batteries, or any products, which may not be discarded in a routine manner, will adhere to all applicable federal, state, and local laws and regulations.
- j. No fuel, grease, oil, dopes, paints, solvents, acid, flammable liquids, or contaminants of any kind shall be allowed to flow into or be placed in any Airport sanitary sewer system or storm drain system.
- k. No person shall dispose of any fill or building, discarded, or waste materials on Airport property except as approved in writing by the Airport Manager and appropriate City authorities.

**3.09 ELECTRICAL EQUIPMENT AND LIGHTING SYSTEM:**

- a. Extension lights and all portable and mobile lighting equipment used in and around aircraft hangars, shops, buildings, and other areas on or near combustible materials shall be explosion proof and meet NFPA standards. No portable lamp assembly shall be used without a proper protective guard or shield over such lamp assemblies to prevent breakage.
- b. All power operated equipment or electrical devices including hangar interior lights shall be shut off when not in use.
- c. A low current, constant current/constant voltage, or demand type battery charger with a maximum short term output charge rate exceeding seven amps, or a continuous trickle charge rate exceeding two amps, may not be used when an aircraft is located inside or partially inside a hangar.

**3.10 HEATING EQUIPMENT:**

- a. All heating equipment and fuel burning appliances installed or used on FBMA shall comply with the requirements of the State of Florida and the Florida Fire Prevention Code.
- b. Space heaters may be utilized when attended in hangars so long as the heater has a clear radius of 10 feet from aircraft, or any other object, and fire prevention/safety measures are observed.

## **Section 4 – Fueling Operations**

**4.01 GENERAL:**

- a. All fuel handled on the Airport shall be treated with due caution and prudent attention with regard to the rights and safety of others so as not to endanger, or likely to endanger, persons or property.
- b. All aircraft fueling operations, including self-fueling, shall be in accordance with NFPA 407 “Standards for Aircraft Fuel Servicing.”
- c. No aircraft shall be fueled or drained of fuel while within the confines of any building, hangar, or enclosed space.
- d. Fueling of aircraft is allowed only on paved surfaces.
- e. In accordance with FAA Order 5190.6B “Airports Compliance Handbook,” any person self-fueling with their own equipment requires authorization and permit from the Airport Manager confirming compliance with all orders, procedures, standards, and these R&R regarding fueling operations.
- f. Airport tenants involved in fueling operations, including those self-fueling, shall maintain an adequate supply of fuel absorbent materials readily available for use in the event of a fuel spill.
- g. No person shall engage in aircraft fueling or de-fueling without readily accessible, adequate, operational fire extinguishing equipment at the point of fueling.
- h. Aircraft being fueled shall be positioned so that aircraft fuel system vents or fuel tank openings are not closer than 25 feet from any terminal building, hangar, or service building.
- i. During fueling operations, no person shall use any material or equipment that is likely to cause a spark or ignition within 100 feet of such aircraft or vehicle.
- j. No aircraft shall be fueled or de-fueled while passengers are on board unless a passenger boarding device is in place at the cabin door of the aircraft, the door is open, and a flight crew member or ground person is at or near the cabin door.
- k. Fueling or de-fueling operations on the Airport shall not be conducted during periods of dangerous thunderstorm activity or if an electrical storm is observed within three statute miles of the Airport.
- l. Should a fire occur during the fueling of an aircraft, fueling shall be discontinued, all emergency valves and dome covers shall be shut down, and the Fire Department notified immediately.

- m. Any malfunction or irregularity detected on or within the aircraft being refueled or de-fueled shall be brought to the attention of the fueling operator immediately.

**4.02 ENGINE OPERATIONS:**

- a. No aircraft shall be fueled or de-fueled while one or more of its engines are running or is being warmed by external heat.
- b. No person shall start the engine of an aircraft on the Airport if there is any gasoline or other volatile fluid on the ground within the vicinity of the aircraft.
- c. Combustion heaters on aircraft e.g., wing & tail surface heaters, integral cabin heaters, shall not be operated during fueling operations.

**4.03 STATIC BONDING:**

- a. Each hose, funnel, or apparatus used in fueling or de-fueling aircraft, including self-fueling, shall be maintained in good condition and be properly bonded.
- b. A conductive funnel shall be used to reduce the chance of spillage during fueling operations, when a hose with an approved nozzle is unavailable. When a funnel is used, it shall be kept in contact with the filler neck as well as the fueling nozzle spout during fueling operations.

**4.04 LIABILITY:**

- a. The fueling operator, tenant, or lessee shall be solely responsible for any violation incident to or in connection with fueling, storage facilities, equipment, operations, and training. The City assumes no liability or responsibility for violations of any applicable fueling requirements and procedures.
- b. The operator, tenant, or lessee shall reimburse the Airport for any fines, legal, or court costs, incurred by FBMA for such violations.

## **Section 5 – Motor Vehicles**

**5.01 GENERAL:**

- a. All motor vehicles and their operators on the Airport shall comply fully with the State of Florida motor vehicle laws as amended, these R&R, and instructions issued by law enforcement personnel.
- b. Unless otherwise provided herein, the City shall have the authority to establish regulations regarding motor vehicle traffic and control on FBMA.
- c. The Airport Manager may tow, remove, or cause to be removed from the Airport any vehicle that is disabled, abandoned, and/or parked in violation of these R&R at the vehicle operator's risk and expense and without liability for damage that may result from such removal if the vehicle creates a safety hazard or interferes with Airport operations.
- d. Any person causing death or injury on the Airport or damage to Airport property as a result of a motor vehicle accident or incident shall report the accident or incident immediately to the Fernandina Beach Police Department as well as the Airport Manager. Such persons shall be responsible to the City for any damages to City property.
- e. Use of all-terrain vehicles, mini-bikes, go-carts, roller blades, roller skates, skateboards is not permitted on the Airport.
- f. Use of bicycles for transportation between buildings is permitted within hangar areas.

**5.02 LICENSING AND INSURANCE:**

- a. No person shall operate a motor vehicle or motorized ground equipment on the Airport without a valid operator's license appropriate for the vehicle being operated.
- b. All vehicles entering Airport property are required to have at least the minimum amount of insurance as required by State of Florida statutes.



**5.03 VEHICLE OPERATIONS WITHIN AIRPORT OPERATIONS AREA:**

- a. No person shall operate a motor vehicle of any kind on the Airport in a reckless manner, or in excess of the posted speed limit.
- b. Speed limits shall not exceed 10 mph on ramps, aprons, in aircraft parking or hangar areas, and other areas of the AOA unless posted.
- c. All motor vehicles on the Airport shall be operated on roadways or paved surfaces when traveling to/from/between aircraft parking areas, hangar areas, and tenant facilities.
- d. No motor vehicle shall be permitted on any portion of the AOA unless the Airport Manager has granted specific written permission to such vehicle's operator and such vehicle is utilized for, or in conjunction with, aeronautical activities.
- e. Pedestrians, aircraft, and emergency vehicles shall at all times have right of way over vehicular traffic.
- f. No person shall operate a motor vehicle in any hangar that is occupied by an aircraft on the Airport unless its exhaust is protected by screens and baffles pursuant to NFPA guidelines.
- g. No person shall park motorized ground equipment near any aircraft in such manner so as to prevent it or the other ground equipment from being readily driven or towed away from the aircraft in case of emergency.
- h. No vehicle used for hauling trash, dirt, or any other materials shall be operated on the Airport unless such vehicle is constructed so as to prevent the contents from dropping, sifting, leaking, or otherwise escaping there from.

**5.04 VEHICLES CROSSING TAXIWAYS AND RUNWAYS:**

- a. All motor vehicles operating on or across taxiways or runways shall have a functioning two-way radio (capable of communicating on UNICOM) and an operating yellow rotating flashing beacon, except when under escort by a motor vehicle properly authorized and equipped. During an emergency, blue/red flashing lights are acceptable for law enforcement and fire and rescue vehicles.
- b. The installation of two-way radio and/or flashing beacon shall not be construed as license to operate a motor vehicle on the taxiways or runways without prior written permission of the Airport Manager.
- c. Motor vehicles permitted to operate on the Airport will not proceed closer than 250 feet from the centerline of the runways nor across any of the runways prior to visually clearing for aircraft taking off or landing.
- d. When parking adjacent to a runway, all motor vehicles must park at least 250 feet to the outside of the runway lights. Exceptions include operational, agricultural, and maintenance equipment engaged in working on runways.
- e. Construction-related motor vehicles required to enter or work within the AOA, will be marked with an approved orange and white-checkered flag for daytime operations or a yellow beacon for nighttime operations. Non two-way radio capable construction vehicles shall be escorted at all times while within the AOA by an Airport authorized vehicle or flagman equipped with two-way radio.

**5.05 PARKING:**

- a. Short-term (less than 24 hours) motor vehicle parking is available only in the unpaved vehicle parking lot on Airport Road. Long-term (more than 24 hours up to 30 days) parking may be permitted in the paved vehicle parking lot on Airport Road. Any ground vehicle improperly parked in the short term or long term public parking areas without written approval of the Airport Manager may be removed at the owner's expense.
- b. No person may park in such a manner to obstruct a parking lot lane, driveway, roadway, Airport access gate, walkway, crosswalk, fire lane, runway, taxiway, taxi lane, and/or obstruct access to hangars, parked aircraft, and/or parked vehicles or create a hazard nor in a manner, which could interfere with, or create a hazard for aircraft operations.

- c. No person shall use any public parking area to temporarily or permanently store any type of motor vehicle.
- d. Boats, jet skis, snowmobiles, dune buggies, any cars including race cars and antique cars, recreational vehicles, trailers, and like equipment may not be permanently parked or stored on FBMA, including within hangars, unless permitted by written agreement or with written permission of the Airport Manager.
- e. Attended vehicles shall be parked parallel to the t-hangar. One vehicle only may be parked inside a t-hangar when hangar is empty and aircraft is not on the Airport. Additional motor vehicles shall park in long-term parking or other designated areas.
- f. Bulk hangar tenants shall park their motor vehicles in designated areas at their hangar.

**5.06 REPAIR OF VEHICLES:**

No person shall clean or make any repairs to motor vehicles anywhere on the Airport; except as may be approved by the Airport Manager for minor repairs.

## **Section 6 – Conflict Resolution Process**

**6.01 VIOLATIONS:**

The Airport Manager may issue verbal or written violation notices to any tenant or operator and agents or employees who, in his discretion, violates any part of these R&R.

**6.02 APPEAL PROCESS:**

- a. Anyone issued a written notice of violation who wishes to contest such issuance shall have ten (10) calendar days from such notice to provide a written statement to the Airport Manager explaining the occurrence and providing any other information or explanation concerning the alleged violation(s). The Airport Manager has ten (10) calendar days to respond to any request for review based upon information received from the alleged violator and, if applicable, may revise, amend, or rescind his original violation notice. However, should the Airport Manager, in his discretion, conclude that the alleged violation(s) poses a threat to the safety, health, and welfare of others, may temporarily revoke the violator's Airport privileges and/or temporarily suspend the Airport operations of the violator pending completion of such appeal.
- b. An alleged violator may file a written request of appeal to the City Manager within ten (10) calendar days of the Airport Manager's written decision. The City Manager, along with the City Attorney, and an appointee of the City Manager, who shall be a Department Director but not the Airport Manager, shall schedule a meeting to review and hear an appeal from the Airport Manager's decision. The Committee shall hear the appeal and have thirty (30) calendar days to issue a written opinion which shall be final and binding on the alleged violator.

## **Appendix A**

### **REFERENCES**

Code of Federal Regulations – Title 14 Aeronautics and Space – All Chapters, Current Edition  
(commonly called Federal Aviation Regulations – FARs)

Code of Federal Regulations – Title 49 Transportation – Current Edition

Aeronautical Information Manual (AIM) - Current Edition

Chapters 1-10, Appendix 3 Abbreviations/Acronyms, Pilot/Controller Glossary

FAA Order 5190.6B – Airport Compliance Handbook

City of Fernandina Beach Code of Ordinances

Nassau County Code of Laws and Ordinances

State of Florida Statutes as applicable including:

Chapter 163 – Intergovernmental Programs

Chapters 329-333 – Aviation

Chapter 633 – Fire Prevention and Control

National Fire Prevention Association Codes as applicable including:

NFPA Code 403 – Standard for Aircraft Rescue and Firefighting Services at Airports

NFPA Code 407 – Standard for Aircraft Fuel Servicing

NFPA Code 409 – Standard on Aircraft Hangars

NFPA Code 410 – Standard on Aircraft Maintenance

NFPA Code 30 – Flammable and Combustible Liquids Code

State of Florida Administrative Code as applicable including:

Department 9 – Department of Community Affairs

Department 14 – Department of Transportation

Department 17 – Department of Environmental Regulation

Department 62 – Department of Environmental Protection

Fernandina Beach Municipal Airport Minimum Standards for Commercial Activities

Fernandina Beach Municipal Airport Noise Abatement Procedures

Aircraft Owners and Pilots Association (AOPA) - AOPA WATCH

Florida Department of Environmental Protection

State of Florida Aviation System Plan

State of Florida Department of Transportation, “Florida (Aviation) Guidelines”

Navy Helicopter Operations MOU

Local Operations MOUs



## **Appendix B**

### **DEFINITIONS**

The terms below shall have the following definitions for purposes of these R&R. All other terms not defined below and related to aeronautical practices, processes, and equipment shall be construed according to their general usage in the aviation industry.

- **Aeronautical Activity** – Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

- **Agency** – Any federal, state, or local government entity, unit, agency, organization, or authority.

- **Agreement (or Lease or Hangar Rental Agreement)** – A written contract between the City of Fernandina Beach and an entity or person to occupy, use, and/or develop land and/or improvements and engage in aeronautical activity. Such contract shall recite the terms and conditions under which the activity will be conducted at the Airport including, but not limited to, term of the agreement, rents, fees, and charges to be paid by the entity or person, and the rights and obligations of the respective parties.

- **Aircraft** – Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in air. Examples of aircraft include, but are not limited to, airplane, glider, rotorcraft, helicopter or gyroplane, balloon, blimp, and ultralight.

- **Airport** – All land within the legal boundaries of Fernandina Beach Municipal Airport, owned by the City of Fernandina Beach.

- **Airport Manager** – The individual appointed and authorized by the City of Fernandina Beach to administer and manage all operations of the Airport and Airport facilities.

- **Airport Rules and Regulations** – Rules and Regulations of the Airport, properly adopted by Resolution of the City Commission of the City of Fernandina Beach, as may be amended from time to time.

- **Airport Tenant (Tenant)** – Any person or entity based on the property of the Airport possessing an approved lease or agreement with the City; any person or entity with a sublease agreement with an entity based on the Airport possessing a lease or agreement with the City.

- **AOA (Airport Operations Area)** – The area of the Airport situated within the perimeter fence line, which is used primarily for aircraft parking, taxiing, refueling, landing, takeoff, or surface maneuvering.

- **Apron (or Ramp)** – A defined area of an Airport intended to accommodate aircraft for the purposes of loading and unloading passengers or cargo, refueling, parking, or maintenance.

- **City** – The City of Fernandina Beach located in Nassau County, Florida

- **Commercial Aeronautical Activity** – An activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of aircraft operations commonly conducted on the Airport and the purpose of such activity being to generate or secure earnings, income, compensation, services, goods, like-kind exchange, or profit of any kind, whether or not such results are accomplished.

- **Emergency Vehicle** – Vehicle of the police or fire department, ambulance or any vehicle conveying an Airport official or Airport employee in response to an official alarm call.

- **Entity** – A person, persons, firm, limited-liability company, corporation, partnership, unincorporated proprietorship, association, or group formed for the purpose of conducting the proposed activity.

## Fernandina Beach Municipal Airport Rules and Regulations

- FAA (Federal Aviation Administration) – The federal agency within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.
- FAR (Federal Aviation Regulation) – The federal government rules and regulations governing aviation activity under Code of Federal Regulations – Title 14 Aeronautics and Space.
- Fire Department – Fernandina Beach Fire Department having jurisdiction and responsibility over the Airport.
- Fixed Base Operator (FBO) – A business granted the right by the Airport sponsor to operate on an Airport and provide aeronautical services such as fueling, hangar space, tie-down and parking, aircraft rental, aircraft maintenance, and flight instruction.
- Flammable Liquids – A liquid or agent which when in contact with another property or properties may ignite causing a flame.
- Fuel – Any petroleum product used for the purpose of providing propulsion to an aircraft.
- Fuel Handling – The transporting, delivering, dispensing, storage, or draining of fuel or fuel waste products to or from any aircraft, vehicle or equipment.
- Hazardous Materials – Any substance, waste or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated as a hazardous material by any governmental authority, agency, department, commission, or board.
- Minimum Standards for Commercial Activities (Minimum Standards) – The qualifications, criteria, and standards established by the City of Fernandina Beach as the minimum requirements to be met as a condition for the right to conduct a commercial aeronautical activity on the Airport.
- Motor Vehicle (or Vehicle) – Any device that is capable of moving itself, or being moved, from place to place upon wheels, but does not include any device designed to be moved by muscular power or designed to move primarily through the air.
- NFPA (National Fire Protection Association) – All codes, standards, rules, and regulations contained in the standards of the National Fire Protection Association, as may be amended from time to time, and are incorporated herein by reference.
- Operator (Aircraft or Motor Vehicle) – Any person who is in actual physical control of an aircraft or motor vehicle.
- Operating Directive – Specific written documents detailing approved methods of operations as directed and signed by the Airport Manager. Such will become an addendum of the Airport Rules and Regulations.
- Owner – Any person who holds the legal title of an aircraft or a motor vehicle.
- Permission – A right or approval granted by the Airport Manager under authority delegated by City Manager and/or City Commission.
- Person – Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic or any other group acting as an entity, or combination of thereof; and further includes any trustee, receiver, committee, assignee, or other representative or employee thereof.
- Police Department (or Law Enforcement) – Fernandina Beach Police Department having jurisdiction and responsibility over the Airport.
- Public Area (or Common Area) – The land and/or improvements at the Airport that is available for use on a non-exclusive basis and not controlled by any leasehold.
- Regulatory Measures – Federal, state, county, city, and Airport, laws, codes, ordinances, policies, rules and regulations, including, without limitation, those of the United States Department of Transportation, the FAA, the FDOT, NFPA, Airport Minimum Standards, Airport Rules and Regulations, all as may be in existence, hereafter enacted, and amended from time to time.
- Restricted Area – Any area of the Airport wherein entry or use thereof is restricted to authorized personnel only pursuant to regulatory measures, including but not limited to: runways, taxiways, fire lanes, Airport maintenance facilities, mechanical rooms, electrical vaults, fire breaks, and any of the areas marked as such with appropriate signage.

- Run-up – Aircraft engine operation above normal idle power for purposes other than initiating taxi or takeoff.
- Runway – A defined rectangular surface on an Airport prepared or suitable for the landing or taking off of aircraft. Runways are identified by a broken white centerline, solid white edge lines, and white edge lights.
- Self-fueling or self-service – Self-fueling means the fueling or servicing of an aircraft (i.e. changing the oil, washing) by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling or other self-services cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. As one of many self-service activities that can be conducted by the aircraft owner or operator by his or her own employees using his or her own equipment, self-fueling, differs from using a self-service fueling pump made available by the Airport, a FBO, or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein and can be subject to Minimum Standards. In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees include activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.
- Shall (or will or must) – These words are always mandatory.
- Taxi lane – The portion of the aircraft parking areas used for access between taxiways and aircraft parking positions.
- Taxiway – A defined path established for the taxiing of aircraft from one part of an Airport to another. Taxiways are identified by a solid painted yellow centerline and blue edge lights.
- Tie-down Area – An area paved or unpaved suitable for parking and mooring of aircraft wherein suitable tie-down points are located.
- UNICOM (CTAF) – A two-way communication system operated by a non-governmental entity on a designated radio frequency to provide Airport advisory information while operating to or from an Airport that does not have a control tower or an Airport when the tower is closed. The Common Traffic Advisory Frequency (CTAF) may be a UNICOM, MULTICOM, Flight Service Station (FSS), or a tower frequency and is identified in appropriate aeronautical publications. While not required for operation at Fernandina Beach Municipal Airport, use is strongly encouraged.



1. **Call to Order:** Chairperson Chuck Colcord called the meeting to order at 6:00 pm.
2. **Members Present:** Chuck Colcord (Chair), Prudence Hostetter, Kent McKee, Ward Gill, and Dave Austin  
**Members Absent:** Tom Piscitello and Don Edlin  
  
**Others Present:** Commissioner Len Kreger, Commissioner Chip Ross, Brian Echard, Kathryn Echard, Andrew Holesko (Passero Associates), Robert Kozakoff (Airport Staff), Nathan Coyle (Airport Staff), David Broughton, and R.D. Lake.
3. **Public Comment Regarding Items Not On The Agenda:** No public comment was received.
4. **Old Business:** Member McKee asked if there were any updates on the coordination of a GPS procedure, and Airport Manager Coyle stated that he continued to work with the FAA ADO office and flight procedures on this matter, and would hopefully have an update soon.
5. **New Business:**

#### **5.1 Airport Architectural Standards – Final Discussion and Recommendation**

Airport Manager Coyle presented a revised copy of draft airport architectural standards which included recommended changes that had previously been provided to the AAC. Mr. Coyle stated that the item regarding T-Hangar exclusivity still required discussion.

Mr. Coyle provided an excerpt from an AOPA publication on hangar development which outlined pros/cons between airport hangar development and private hangar development. Mr. Coyle then asked AAC members for feedback on this provision within the draft standards. Member McKee stated that he felt as though the T-Hangar exclusivity should be removed to allow private development of T-Hangars which would allow for sufficient development to help better meet the demand for hangar space at the airport. Member Austin stated that he supported this concept to allow private development of T-Hangars and that additional development may have beneficial impacts to the airport beyond land lease revenue through aviation activity, such as fuel flowage. Member Colcord asked if there were any options to control private development once exclusivity is removed, and Mr. Coyle stated that he had attempted to research this but that, in discussion with the City's Attorney, felt as though once the exclusivity is removed that it may never be available to the airport again. Member McKee asked if there were a method to control private development of T-Hangars through a process such as identifying an area within the Master Plan or on the airport's layout plan for private T-Hangar development. Andrew Holesko provided comment stating that a simple amendment to the airport's ALP could be achieved but that he was not sure about the proposed concept. Mr. Coyle stated that he thought this concept was interesting and that he had not considered it before. Mr. Coyle stated that he could discuss this concept with the FAA to see if it might be an option for consideration of the airport. The group provided

consensus that it would be beneficial to research this option and come back with more information.

Mr. Coyle then asked if there were any other comments or questions on the rest of revisions within the proposed draft airport architectural standards as presented. No other comments or questions were posed.

**A motion was made by Member Hostetter, seconded by Member Austin, to recommend that the City adopt all proposed revisions to the airport's architectural standards and for the AAC to further evaluate T-Hangar exclusivity, specifically the option of identifying a parcel on the airport's layout plan for private T-Hangar development, before proposing any amendments to that language within the airport's architectural standards. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

## **5.2 AAC Vacancy – Review of Applicants and Recommendation**

Airport Manager Coyle presented four applications of interest for appointment under the existing vacancy for the AAC. Mr. Coyle also introduced Mr. R.D. Lake and Mr. David Broughton, two of the applicants, who were in the audience at the meeting. Mr. Lake and Mr. Broughton both introduced themselves and provided background regarding their experience within aviation.

The AAC deliberated on the recommendation stating that all applicants, and those at the meeting, were well qualified to fill the vacancy.

**A motion was made by Member Hostetter, seconded by Member McKee, to recommend that the City Commission appoint Mr. David Broughton to the Airport Advisory Commission to fill the existing voting vacancy on the committee. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

## **6. Airport Manager and Staff Reports:**

Airport Manager Coyle presented his monthly department report to the group as included within the agenda packet.

Airport Manager Coyle also provided information about a recent discussion that had been conducted with City Manager Martin regarding an interest in potentially moving forward to develop a joint-use fire station on airport property, as shown on the airport's ALP, to serve firefighting needs of the general public and the airport alike. Mr. Coyle stated that the airport currently carries a capital improvement project in 2026 for FDOT funds to develop an ARFF facility on the airport, and that FDOT funding could be used to fund eligible (ARFF-related) expenses within construction of this facility. The City is interested in moving forward on this project within the next few years. Mr. Coyle stated that he had asked FDOT about obtaining grant funding to support the project and/or support eligible components of design work and

FDOT suggested that funds could be transferred from an existing project. Mr. Coyle stated that the FBO has offered a zero percent loan in support of funding needed for the fuel farm and perhaps there is an option to use that offer to cover any grant dollars which would potentially be transferred from the fuel farm project. Mr. Coyle asked for thoughts from the group.

Member Gill stated that he thought there would be benefit to the airport from having a fire station and ARFF capability on-site. Member Hostetter asked if the preliminary design/conceptual work would look at traffic flow and any potential issues with fire vehicles access Amelia Parkway, and Mr. Coyle stated that he believes response capability would most likely be a part of the planning process. Member Colcord stated that he would be concerned if this project would jeopardize replacement of the existing fuel farm. Mr. Coyle stated that he felt the fuel farm project could still be completed but did not yet have cost estimates as Passero will be completing initial scoping for the project in the coming weeks, which would reveal general cost estimates for the project. Mr. Coyle stated that he would keep the group advised on this discussion as it evolves.

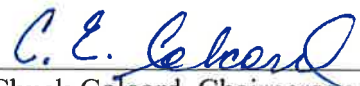
**7. Commission Member Reports and Comments:**

Member Colcord asked if there were any updates on Hangar B or the demolition of the old FBO office facility. Mr. Coyle stated that there were no updates on Hangar B however the plans for demolition of office space had been received from Passero and a bid packet had been developed for release, and would be released in the coming weeks.

**8. Next Meeting Date:** Thursday April 11, 2019.

**9. Adjournment:** There being no further business to come before the Airport Advisory Commission, the meeting was adjourned at 8:00 p.m.

  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Chuck Colcord, Chairperson



## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Ordinance 2019-14  
FY 2018/2019 Amended Pay and Classification Plan

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ITEM TYPE: Ordinance (w/o fiscal impact)

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REQUESTED ACTION: Consider Ordinance 2019-14 at Second Reading.

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SYNOPSIS: This Ordinance amends the Pay and Classification Plan per Section 62-247 of the City's Code of Ordinances which states, "The classification plan shall be that as established by the city commission each year by ordinance and may be amended by the city commission from time to time in its discretion, by Ordinance, as it may deem necessary to ensure that the plan reflects the current job classification of all positions in the city service."

The recommended changes are as follows:

Amend Planning Director title to Planning and Conservation Director, as approved in FY18/19 budget.

Change/add the Building Inspector position title to Building Inspector I, II, and III with coresponding pay grades to enable the City to attract, adequately compensate, and retain qualified Building Inspectors.

Add the position of Associate Medical Director to provide for a contingency plan for the Fire Department.

Add the position of Urban Forestry Inspector/Arborist, as approved in FY 18/19 budget.

This Ordinance was approved at First Reading by the City Commission at its Regular Meeting on June 4, 2019.

Based upon preliminary budget discussions regarding the position of Deputy City Manager/City Engineer, the pay grade for that position is increased from 146 (salary range: \$69,825- \$109,946) to 147 (\$73,316- \$149,975). Please note that this revision was not included in the First Reading.

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FISCAL IMPACT: None

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission approve proposed Ordinance 2019-14 at Second Reading.

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|                                                |           |
|------------------------------------------------|-----------|
| Robin Marley, Human Resources Director         | 6/6/2019  |
| Nicole Bednar, Administrative Services Manager | 6/10/2019 |
| Dale Martin, City Manager                      | 6/19/2019 |
| Pauline Testagrose, Comptroller                | 6/20/2019 |
| Tammi E. Bach, City Attorney                   | 6/20/2019 |
| Katie Newton, Legal Assistant                  | 6/21/2019 |

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Date: June 05, 2019

Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION: Enact

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ORDINANCE 2019-14

AN ORDINANCE OF THE CITY OF FERNANDINA BEACH, FLORIDA, ESTABLISHING AN AMENDED CLASSIFICATION PLAN FOR FISCAL YEAR 2018/2019, PURSUANT TO SECTION 120 OF THE CITY CHARTER AND SECTION 62-247 OF THE CODE OF ORDINANCES OF THE CITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 120 of the City Charter states, “The city commission shall fix, by ordinance, the salary or compensation of the city attorney, the department heads, the city manager and the city commission. The city manager shall fix the number and compensation of all other officers and employees. The salaries so fixed shall be uniform for like service in each grade of the city service, as the same shall be graded or classified by the city manager, and approved by the city commission.”; and

WHEREAS, Section 62-247 of the City’s Code of Ordinances states, “The classification plan shall be that as established by the city commission each year by ordinance and may be amended by the city commission from time to time in its discretion, by ordinance, as it may deem necessary to ensure that the plan reflects the current job classification of all positions in the city service.”; and

WHEREAS, the City recognizes that the compensation plan is intended to provide all employees with an equitable and competitive pay, relative to pay received by other employees performing similar work in other areas of the City’s organization and also relative to rates received by other employees in the labor market from which City employees are recruited; and

WHEREAS, it is in the best interest of the City to amend the Classified Service Titles and Pay Grades to reflect the current organizational needs and responsibilities of the City.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA:

SECTION 1. CLASSIFIED SERVICE TITLES AND PAY GRADES. The Classified Service Titles and Pay Grades are shown below.

| Exempt Classifications          | Pay Grade  |
|---------------------------------|------------|
| Accountant                      | 135        |
| Accounting Supervisor           | 138        |
| Administrative Coordinator      | 131        |
| Administrative Services Manager | 137        |
| Airport Director                | 143        |
| Airport Operations Manager      | 134        |
| Aquatics Manager                | 131        |
| <u>Aquatics Supervisor</u>      | <u>131</u> |

| <b>Exempt Classifications (continued)</b>   | <b>Pay Grade</b> |
|---------------------------------------------|------------------|
| <u>Associate Medical Director</u>           | <u>143</u>       |
| Building Official                           | 141              |
| Building Director                           | 145              |
| Code Enforcement Director                   | 137              |
| Community Rating System (CRS) Administrator | 135              |
| Comptroller                                 | 147              |
| Deputy Building Official                    | 139              |
| Deputy City Clerk                           | 132              |
| Deputy City Manager                         | <u>147</u>       |
| Deputy Fire Chief                           | 142              |
| Deputy Police Chief                         | 144              |
| Fire Chief                                  | 144              |
| Fleet, Facilities, and Sanitation Director  | 143              |
| Grants Administrator                        | 137              |
| Human Resources Generalist                  | 131              |
| Human Resources Director                    | 143              |
| Information Technology Director             | 143              |
| Junior Accountant                           | 132              |
| Legal Assistant                             | 132              |
| Maintenance Director                        | 143              |
| Network Administrator                       | 139              |
| Paralegal                                   | 137              |
| Parks & Recreation Assistant Director       | 138              |
| Parks & Recreation Director                 | 141              |
| Parks & Recreation Manager                  | 136              |
| Planner I                                   | 134              |
| Planner II                                  | 136              |
| <u>Planning and Conservation</u> Director   | 143              |
| Police Captain                              | 143              |
| Police Chief                                | 146              |
| Project Manager                             | 143              |
| Public Information Officer                  | 131              |
| Recreation Programs Supervisor              | 131              |
| Senior Planner                              | 138              |
| Stormwater Director                         | 143              |



| <b>Exempt Classifications (continued)</b> | <b>Pay Grade</b> |
|-------------------------------------------|------------------|
| Systems Administrator                     | 136              |
| <u>Urban Forestry Inspector/Arborist</u>  | <u>135</u>       |
| Utilities Director                        | 146              |
| Utility Billing Supervisor                | 135              |
| Utility Operations Superintendent         | 138              |
| <b>Non-Exempt Classifications</b>         | <b>Pay Grade</b> |
| Accounting Clerk                          | 128              |
| Administrative Specialist                 | 128              |
| Airport Operations Specialist             | 131              |
| Building Inspector I                      | 135              |
| Building Inspector II                     | 136              |
| Building Inspector III                    | 137              |
| Chief Plant Operator                      | 133              |
| Childcare Professional                    | 120              |
| Code Compliance Officer                   | 131              |
| Communications Officer Supervisor         | 129              |
| Customer Service Specialist               | 126              |
| Deputy Wastewater Superintendent          | 136              |
| Electrician                               | 131              |
| Electrician/HVAC Technician               | 131              |
| Engineer I                                | 132              |
| Evidence & Property Custodian             | 130              |
| Fire Inspector                            | 134              |
| Fire/Rescue Captain                       | 138              |
| Fire/Rescue Engineer                      | 133              |
| Fire/Rescue Lieutenant                    | 136              |
| Firefighter /EMT                          | 131              |
| Firefighter/Paramedic                     | 131              |
| Foreman                                   | 131              |
| Heavy Equipment Operator                  | 128              |
| Help Desk Specialist                      | 130              |
| Information Technology Technician         | 132              |
| Intern I                                  | 117              |
| Intern II                                 | 125              |
| Irrigation/Maintenance Tech               | 126              |

| <b>Non-Exempt Classifications (continued)</b> | <b>Pay Grade</b> |
|-----------------------------------------------|------------------|
| Lead Operator                                 | 133              |
| Maintenance Assistant                         | 122              |
| Maintenance Tech                              | 127              |
| Maintenance Worker                            | 123              |
| Master Mechanic                               | 130              |
| Mechanic                                      | 127              |
| Meter Reader                                  | 126              |
| Ocean-Rescue Lifeguard I                      | 124              |
| Ocean-Rescue Lifeguard II                     | 125              |
| Ocean-Rescue Lifeguard III                    | 126              |
| Ocean-Rescue Supervisor                       | 129              |
| Office Assistant                              | 123              |
| Permit Specialist                             | 128              |
| Planning Technician                           | 130              |
| Plans Examiner                                | 136              |
| Plant Operator                                | 130              |
| Police Detective                              | 22               |
| Police Officer                                | 22               |
| Police Reserve Officer                        | 122              |
| Police Sergeant                               | 26               |
| Police Service Aide                           | 125              |
| Pool Lifeguard                                | 117              |
| Purchasing Agent                              | 132              |
| Records Coordinator                           | 129              |
| Recreation Aide                               | 117              |
| Recreation Leader                             | 124              |
| Sign Technician                               | 127              |
| Sr. Childcare Professional                    | 122              |
| Sr. Electrician/HVAC Technician               | 133              |
| Sr. Maintenance Worker                        | 125              |
| Sr. Plans Examiner                            | 138              |
| Sr. Police Reserve Officer                    | 130              |
| Sr. Water Safety Instructor/Lifeguard         | 120              |
| Staff Assistant                               | 126              |
| Street Maintenance Tech                       | 126              |

| <b>Non-Exempt Classifications (continued)</b> | <b>Pay Grade</b> |
|-----------------------------------------------|------------------|
| Utility Billing Specialist                    | 128              |
| Warehouse Tech                                | 128              |
| Water Collector                               | 124              |
| Water Fitness Instructor                      | 126              |
| Water Locator                                 | 123              |
| Water Quality Supervisor                      | 136              |
| Water Safety Instructor                       | 119              |
| Water Tech I                                  | 126              |
| Water Tech II                                 | 128              |
| Waste Water Plant Operator Trainee            | 126              |
| Waste Water Systems Tech I                    | 126              |
| Waste Water Systems Tech II                   | 128              |
| Youth Program Supervisor                      | 128              |

SECTION 2. CONSOLIDATED PAY PLAN. The Classified Service Pay Schedule for Department Directors and General Employees (Appendix “A”), Fire Employees (Appendix “B”), and the Police Officer Pay Schedule (Appendix “C”) are hereby adopted for Fiscal Year 2018/2019.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof, shall be held invalid by any court, administrative agency or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses and phrases under application shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective on August 1, 2019, after its second reading, public hearing and final enactment.

ENACTED by the City Commission this 2nd day of July, 2019.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
JOHN A. MILLER  
Mayor – Commissioner



ATTEST:

APPROVED AS TO FORM AND LEGALITY:



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CAROLINE BEST  
City Clerk

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TAMMI E. BACH  
City Attorney

Date of First Reading: June 4, 2019  
Date of Second Reading and Public Hearing: July 2, 2019  
Date of Final Passage:

| Appendix "A"                 |          |            |           |            |           |            |
|------------------------------|----------|------------|-----------|------------|-----------|------------|
| Classified Service Pay Scale |          |            |           |            |           |            |
| General Employees            |          |            |           |            |           |            |
| Effective October 1, 2018    |          |            |           |            |           |            |
| Grade                        | Minimum  | Hourly min | Midpoint  | Hourly Mid | Maximum   | Hourly Max |
| 117                          | \$16,962 | 8.15       | \$21,839  | 10.50      | \$26,715  | 12.84      |
| 118                          | \$17,835 | 8.57       | \$22,962  | 11.04      | \$28,090  | 13.50      |
| 119                          | \$18,729 | 9.00       | \$24,113  | 11.59      | \$29,498  | 14.18      |
| 120                          | \$19,644 | 9.44       | \$25,292  | 12.16      | \$30,939  | 14.87      |
| 121                          | \$20,644 | 9.93       | \$26,579  | 12.78      | \$32,514  | 15.63      |
| 122                          | \$21,644 | 10.41      | \$27,867  | 13.40      | \$34,090  | 16.39      |
| 123                          | \$22,251 | 10.70      | \$29,042  | 13.96      | \$35,833  | 17.23      |
| 124                          | \$23,900 | 11.49      | \$30,771  | 14.79      | \$37,643  | 18.10      |
| 125                          | \$25,071 | 12.05      | \$32,279  | 15.52      | \$39,486  | 18.98      |
| 126                          | \$26,384 | 12.68      | \$33,941  | 16.32      | \$41,498  | 19.95      |
| 127                          | \$27,667 | 13.30      | \$35,622  | 17.13      | \$43,576  | 20.95      |
| 128                          | \$29,029 | 13.96      | \$37,375  | 17.97      | \$45,721  | 21.98      |
| 129                          | \$30,498 | 14.66      | \$39,266  | 18.88      | \$48,034  | 23.09      |
| 130                          | \$31,988 | 15.38      | \$41,185  | 19.80      | \$50,381  | 24.22      |
| 131                          | \$33,594 | 16.15      | \$43,252  | 20.79      | \$52,911  | 25.44      |
| 132                          | \$35,271 | 16.96      | \$45,411  | 21.83      | \$55,551  | 26.71      |
| 133                          | \$37,039 | 17.81      | \$47,687  | 22.93      | \$58,336  | 28.05      |
| 134                          | \$38,894 | 18.70      | \$50,076  | 24.08      | \$61,258  | 29.45      |
| 135                          | \$40,840 | 19.63      | \$52,582  | 25.28      | \$64,323  | 30.92      |
| 136                          | \$42,875 | 20.61      | \$55,202  | 26.54      | \$67,529  | 32.47      |
| 137                          | \$45,018 | 21.64      | \$57,961  | 27.87      | \$70,903  | 34.09      |
| 138                          | \$47,266 | 22.72      | \$60,855  | 29.26      | \$74,444  | 35.79      |
| 139                          | \$49,623 | 23.86      | \$63,890  | 30.72      | \$78,157  | 37.58      |
| 140                          | \$52,100 | 25.05      | \$67,079  | 32.25      | \$82,058  | 39.45      |
| 141                          | \$54,715 | 26.31      | \$70,445  | 33.87      | \$86,176  | 41.43      |
| 142                          | \$57,458 | 27.62      | \$73,977  | 35.57      | \$90,496  | 43.51      |
| 143                          | \$60,332 | 29.01      | \$77,677  | 37.34      | \$95,023  | 45.68      |
| 144                          | \$63,360 | 30.46      | \$81,575  | 39.22      | \$99,791  | 47.98      |
| 145                          | \$66,500 | 31.97      | \$85,750  | 41.23      | \$105,000 | 50.48      |
| 146                          | \$69,825 | 33.57      | \$89,885  | 43.21      | \$109,946 | 52.86      |
| 147                          | \$73,316 | 35.25      | \$111,648 | 53.68      | \$149,975 | 72.10      |

| Appendix "B"                                                                                                                                                                               |       |            |            |          |            |            |            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------|------------|----------|------------|------------|------------|
| CLASSIFIED SERVICE PAY SCALE                                                                                                                                                               |       |            |            |          |            |            |            |
| FIRE DEPARTMENT*                                                                                                                                                                           |       |            |            |          |            |            |            |
| Effective October 1, 2018                                                                                                                                                                  |       |            |            |          |            |            |            |
| Title                                                                                                                                                                                      | Grade | Min Annual | Hourly Min | Midpoint | Hourly Mid | Max Annual | Hourly Max |
| Firefighter/EMT and FF/Paramedic                                                                                                                                                           | 131   | \$33,594   | \$11.54    | \$43,253 | \$14.85    | \$52,911   | \$18.17    |
| Fire/Rescue Engineer                                                                                                                                                                       | 133   | \$37,039   | \$12.72    | \$47,688 | \$16.38    | \$58,336   | \$20.03    |
| Fire/Rescue Lieutenant                                                                                                                                                                     | 136   | \$42,875   | \$14.72    | \$55,202 | \$18.96    | \$67,529   | \$23.19    |
| Fire/Rescue Captain                                                                                                                                                                        | 138   | \$47,266   | \$16.23    | \$60,855 | \$20.90    | \$74,444   | \$25.56    |
| *Firefighters are non-exempt (hourly) employees. Approximation of annual compensation is determined on the basis of normally scheduled hours worked (2912 annually) times the hourly rate. |       |            |            |          |            |            |            |

| Appendix "C"                                                                                                                                                                                  |       |            |            |          |            |            |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------|------------|----------|------------|------------|------------|
| CLASSIFIED SERVICE PAY SCALE                                                                                                                                                                  |       |            |            |          |            |            |            |
| POLICE DEPARTMENT*                                                                                                                                                                            |       |            |            |          |            |            |            |
| Effective October 1, 2018                                                                                                                                                                     |       |            |            |          |            |            |            |
| Title                                                                                                                                                                                         | Grade | Min Annual | Hourly Min | Midpoint | Hourly Mid | Max Annual | Hourly Max |
| Police Officers and Police Detectives                                                                                                                                                         | 22    | \$38,504   | \$17.63    | \$46,705 | \$21.39    | \$54,906   | \$25.14    |
| Police Sergeants                                                                                                                                                                              | 26    | \$51,804   | \$23.72    | \$61,938 | \$28.36    | \$72,072   | \$33.00    |
| *Police Officers are non-exempt (hourly) employees. Approximation of annual compensation is determined on the basis of normally scheduled hours worked (2184 annually) times the hourly rate. |       |            |            |          |            |            |            |

NOTICE OF PUBLIC HEARING  
CITY COMMISSION  
CITY OF FERNANDINA BEACH

NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Tuesday, July 2, 2019, at 6:00 PM** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following application:

**ORDINANCE 2019-14**

**AN ORDINANCE OF THE CITY OF FERNANDINA BEACH, FLORIDA, ESTABLISHING AN AMENDED CLASSIFICATION PLAN FOR FISCAL YEAR 2018/2019, PURSUANT TO SECTION 120 OF THE CITY CHARTER AND SECTION 62-247 OF THE CODE OF ORDINANCES OF THE CITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 310-3115, TTY/TDD 711 or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD/COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, S/HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

For information, please contact the Staff of the City Clerk's Office, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday, (904) 310-3115.

*Note:*

***Please run as a DISPLAY in the June 19, 2019 edition of the News Leader.***

***Please send proof of publication to:***

*City Clerk's Office*

*City Hall, 204 Ash Street*

*Fernandina Beach, FL 32034*

*904-310-3115*



## CITY COMMISSION AGENDA ITEM

*City of Fernandina Beach*



SUBJECT: Ordinance 2019-10  
Code Amendment - Human Relations

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ITEM TYPE: Ordinance (w/o fiscal impact)

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REQUESTED ACTION: Consider Ordinance 2019-10 at Second Reading.

---

SYNOPSIS: This Ordinance prohibits discriminatory conduct in employment, credit transactions and public accommodations based on the following protected classes: race, color, religion, sex, national origin, military or veteran status, disability, marital status, sexual orientation, gender identity or gender expression. This ordinance includes protected classes in addition to those protected by federal civil rights laws and state of Florida civil rights laws. This Ordinance applies to any employer, business or professional association more than 15 employees and exempts religious organizations also exempted under federal civil rights laws.

On May 7, 2019, the City Commission approved this Ordinance at First Reading. The City Commission directed the City Attorney to work with the business community to address their concerns regarding complaint process. This Ordinance has been amended by the City Attorney to include a "review committee" made up of the City Manager, City Clerk and City Attorney to review complaints made under the Ordinance and make findings as to reasonable cause before a special magistrate hearing can be held. On June 4, 2019, the City Commission approved changes at second reading and scheduled third and final reading of the Ordinance for July 2, 2019.

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FISCAL IMPACT: No fiscal impact.

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CITY ATTORNEY COMMENTS: No additional comments.

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission enact proposed Ordinance 2019-10 at Second Reading.

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|                                                |           |
|------------------------------------------------|-----------|
| Katie Newton, Legal Assistant                  | 6/6/2019  |
| Tammi E. Bach, City Attorney                   | 6/19/2019 |
| Nicole Bednar, Administrative Services Manager | 6/19/2019 |
| Dale Martin, City Manager                      | 6/21/2019 |

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Date: June 05, 2019

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Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION: Enact

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ORDINANCE 2019-10

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING CHAPTER 54, HUMAN RELATIONS, CREATING SECTION 54-1 DEFINITIONS; CREATING SECTION 54-36 PURPOSE; CREATING SECTION 54-37 PROHIBITED CONDUCT; CREATING SECTION 54-38 COMPLAINTS; CREATING SECTION 54-39 EXEMPTIONS; CREATING SECTION 54-40 CRIMINAL ACTS; CREATING SECTION 54-41 FALSE CLAIMS; AMENDING SECTION 54-52 DECLARATION OF POLICY, OBJECTIVES; AMENDING SECTION 54-54 PROHIBITED CONDUCT; AMENDING SECTION 54-55 MULTIPLE LISTING SERVICES; AMENDING SECTION 54-56 EDUCATIONAL ACTIVITIES; AMENDING SECTION 54-57 BROKERAGE SERVICES; AMENDING SECTION 54-58 USE OF REMEDIES OF THIS CHAPTER, OTHER REMEDIES; AMENDING SECTION 54-59 DISCRIMINATION IN THE FINANCING OF HOUSING; AMENDING SECTION 54-60 EXEMPTIONS; AMENDING SECTION 54-61 INTERFERENCE, COERCION, OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fernandina Beach is a welcoming and inclusive community; and

WHEREAS, the City of Fernandina Beach recognizes and appreciates the contributions of the many diverse members of the community; and

WHEREAS, the City wishes to ensure that all citizens are protected from discriminatory practices within the City limits; and

WHEREAS, Chapter 54 of the Code of Ordinances provides for regulations protecting citizens from discrimination; and

WHEREAS, the City wishes to expand those protections.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. It is hereby proposed that Chapter 54, Human Relations, Chapter I, In General, of the Code of Ordinances, City of Fernandina Beach Florida, is hereby amended by adding a section to be numbered Section 54-1, which section ~~shall~~ reads as follows.

**Sec. 54-1. Definitions.**

For the purpose of this chapter, the following definitions ~~shall~~ apply, unless the context clearly indicates or requires a different meaning:

*Aggrieved individual* ~~shall~~ means any individual who claims to have been injured by a discriminatory practice.

*Discriminatory practice* ~~shall~~ means any practice or act made unlawful or which is otherwise prohibited by this chapter.

*Dwelling* ~~shall~~ means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant

land which is offered for sale or lease for the construction or location of any such building, structure or portion thereof.

*Familial status* is established when an individual who has not attained the age of 18 years is domiciled with:

- (1) A parent or other person having legal custody of such individual; or
- (2) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.

*Family* includes a single individual.

*Gender expression* shall means an individual's gender-related appearance and behavior, whether or not that gender expression is or is perceived to be different from that traditionally associated with the individual's assigned sex at birth.

*Gender identity* shall means an individual's gender-related identity, whether or not that identity is or is perceived to be different from that traditionally associated with the sex assigned to that individual at birth.

*Disability* means:

- (1) A person has a physical or mental impairment which substantially limits one or more major life activities, or he has a record of having, or is regarded as having, such physical or mental impairment; or
- (2) A person has a developmental disability as defined in F.S. § 393.063.

*Housing* means any building, facility or structure, or portion thereof, which is used, occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more individuals, groups or families and any vacant land offered for sale or lease for the construction or location of such building, facility or structure.

*Lending institution* means any bank, insurance company, savings and loan association, or any other person regularly engaged in the business of lending money or guaranteeing loans.

*National origin* shall means the national origin of an ancestor or the country of origin of an individual's forebears, naturally, by marriage or by adoption.

*Person* shall includes means one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

*Places of public accommodation* shall means any establishment, service, place or building which offers, sells, or otherwise makes available to the public any good, service, facility, privilege or advantage. The following shall must not be considered places of public accommodation: private clubs or establishments not open to the public other than members of the club or establishment, and facilities and accommodations owned or operated by religious organizations, associations, societies, or non-profit organizations operating or controlled by a religious organization, where the facilities and accommodations are made available to members of that religion but not to the public.

*Real estate broker* means any person duly licensed as a real estate broker in accordance with the laws of the state.

*Real estate salesperson* means any person duly licensed as a real estate salesperson in accordance with the laws of the state.

Realtor means a person who is professionally qualified and is a member of a local board of realtors, the Florida Association of Realtors, and the National Association of Realtors.

Religious organization shall include a religious corporation, association or society.

Sexual orientation means an individual's actual or perceived heterosexuality, homosexuality or bisexuality.

To rent means and includes to lease, to sublease, to let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

SECTION 2. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-36, which section ~~shall~~ reads as follows:

**Sec. 54-36. Purpose.**

To promote a city where individuals are free from discrimination based upon race, color, religion, sex, national origin, military or veteran status, disability, familial status, marital status, sexual orientation, gender identity, or gender expression.

SECTION 3. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-37, which section ~~shall~~ reads as follows:

**Sec. 54-37. Prohibited Conduct**

Subject to the exceptions set out in this chapter, it ~~shall be~~ is unlawful for any person to do any of the following acts:

- (1) No person, employer, employment agency or labor organization shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation, promotion, admission to or employment in a program established to provide apprenticeship or other training, or other term or condition of employment because of the individual's race, color, religion, sex, national origin, military or veteran status, disability, familial status, marital status, sexual orientation, gender identity or gender expression.
- (2) No person shall discriminate against any individual in any aspect of any credit transaction, or in any terms and conditions of bonding because of the individual's race, color, religion, sex, national origin, military or veteran status, disability, familial status, marital status, sexual orientation, gender identity or gender expression.
- (3) No person who owns, leases, rents, operates, manages or in any manner controls a public accommodation shall withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's race, color, religion, sex, national origin, military or veteran status, disability, familial status, marital status, sexual orientation, gender identity or gender expression.
- (4) It ~~shall be~~ is unlawful for a person to retaliate or discriminate in any manner against an individual because such individual opposed a practice prohibited by this chapter or prohibited by existing federal or state law prohibiting discrimination; or to retaliate or



discriminate in any manner against an individual because such individual has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this chapter or under any federal or state law prohibiting discrimination.

- (5) It shall be unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

- (6) Nothing in this Section is intended to prohibit or otherwise deter military and veteran preference hiring and/or promotion practices by an employer.

SECTION 4. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-38, which section ~~shall~~ reads as follows:

**Sec. 54-38. Complaints.**

- (a) *Complaints generally.* Complaints under this chapter ~~may~~ must be filed, not later than one year or 365 days after the date of the alleged discriminatory practice, by any person alleging to be aggrieved by a discriminatory practice under this chapter. All complaints ~~shall~~ must be in writing on a form prescribed by the city manager and approved by the city attorney, shall be under oath or affirmation, and shall state the name, address and telephone number of the respondent, the address of the complainant, the date of the alleged offense, the alleged facts surrounding the acts complained of and other information the city manager reasonably requires. The city manager shall not process any complaint failing to provide all information required in this subsection.
- (b) *Fees.* A filing fee as established by ordinance of the city commission and on file in the city clerk's office shall accompany any complaint. Such fee shall be used to cover administrative costs of this chapter. The city manager may waive such fee, in whole or part, for persons determined to be indigent upon the filing of an affidavit certifying the person is indigent and unable to pay the subject fee.
- (c) *Timeliness and reasonable cause determination.* Prior to the city manager taking any action on the complaint, the city manager, city attorney and city clerk ("review committee") will collectively conduct a review and ~~shall~~ must first find that the complaint has been timely filed and there is reasonable cause to proceed with the complaint. If the review committee determines that no reasonable cause exists to believe that a discriminatory practice under this chapter has occurred, the review committee ~~shall~~ must promptly dismiss the complaint. Upon a determination that the complaint states reasonable cause to believe that a discriminatory practice has occurred, the review committee ~~shall~~ must provide notification to the respondent as provided in this section. For the purposes of this section, the term "reasonable cause" ~~shall~~ must be based upon sufficiently trustworthy information which would lead an impartial observer to a belief that an unlawful discriminatory practice under this chapter has occurred.
- (d) *Service of copies of charge.* Within ten days of finding reasonable cause, the city clerk ~~shall~~ must cause a copy of the complaint to be served on the respondent by certified mail, return receipt requested, or hand delivery, and ~~shall~~ must advise the respondent of the procedural

rights and obligations under this chapter. The respondent may file, within ~~45~~ 30 calendar days after receipt of the complaint from the city clerk, an answer to the complaint. An answer ~~shall~~ must be in writing and under oath. The city clerk ~~shall~~ must forward a copy of the answer to the complaint.

Pursuant to F.S. § 57.105 and preserve any rights provided by section 54-41 of this chapter, a respondent may serve a motion for sanctions on the complainant at any time after a complaint has been served on a respondent asking the complainant to withdraw the complaint within 21 days of service of the motion because the complaint is not supported by material facts necessary to establish the claim or would not be supported by the application of then-existing law to those material facts. If the complainant does not withdraw or appropriately correct the challenged complaint, the respondent may commence a civil action in a court of competent jurisdiction and file the motion pursuant to F.S. § 57.105 and section 54-41 of this chapter.

- (e) *Amendments to complaints or answers.* Complaints or answers may be amended any time prior to the 14th calendar day before the date of a special magistrate hearing held pursuant to section 54-38(f) below. The city clerk ~~shall~~ must furnish a copy of each amended complaint or answer to the respondent or complainant, respectively, as promptly as practicable.
- (f) *After a finding of reasonable cause by the review committee, the complainant may request a hearing be held before a special magistrate within sixty (60) calendar days to determine if the alleged person committed a discriminatory practice prohibited by this chapter. If the special magistrate finds that a discriminatory practice has been committed or is about to be committed, the special magistrate may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the discriminatory practice including, but not limited to, a temporary or permanent injunction or other equitable relief, a temporary restraining order, or an award of actual damages, including back pay, ~~punitive damages~~, an award of reasonable attorney's fees, interest, and costs, or other such relief as the special magistrate deems appropriate.*
- (g) *Either party may appeal the decision of the special magistrate by commencing a civil action in a court of competent jurisdiction provided, however, that such civil action ~~shall~~ must be filed no later than one (1) year after the special magistrate's decision is rendered in writing. ~~discriminatory practice is alleged to have been committed.~~*
- (h) *If, in a civil action commenced under this chapter, the court finds that a discriminatory practice has been committed or is about to be committed, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the discriminatory practice including, but not limited to, a temporary or permanent injunction or other equitable relief, a temporary restraining order, an award of actual damages, including back pay, punitive damages, an award of reasonable attorney's fees, interest, and costs, or other such relief as the court deems appropriate.*
- (i) *Pending civil trial.* The city manager, review committee or special magistrate may not proceed on any complaint where the aggrieved person has instituted a civil action under federal or state law, seeking relief with respect to the unlawful discriminatory practice or a respondent has filed a civil action seeking determination under F.S. § 57.105.

SECTION 5. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-39, which section ~~shall~~ reads as follows:

## **Sec. 54-39. Exemptions.**

Nothing in sections 54-37 through 54-38 shall applies to:

(1) *Sovereign immunity.*

- a. Pursuant to Chapter X, Section 13, Florida Constitution, nothing in this chapter shall be can be deemed to be a provision for filing suit against the state or otherwise be deemed to be a waiver of sovereign immunity.
- b. Nothing in this chapter shall can be construed to prohibit any sovereignly immune entity from adopting its own internal policies and rules to prohibit discriminatory practices and acts and to resolve allegations or complaints of such discriminatory practices and acts to the extent allowed by law.
- c. Nothing in this chapter shall can be deemed to modify, impair, or otherwise affect any other right or remedy conferred by the Constitutions or laws of the United States or the State of Florida, and the provisions of this chapter shall can be deemed to be in addition to those provided by such other laws.

(2) *Religious organizations.* With respect to hiring, classification, grading, discharge, discipline, compensation, promotion, admission to or employment in a program established to provide apprenticeship or other training, or other term or condition of employment, ~~if~~ this chapter shall does not apply to a corporation, association, educational institution, or society that is exempt from the religious discrimination provisions of title VII of the Civil Rights Acts of 1964 pursuant to section 702(a) of such Act (42 U.S.C. 2000e-1(a)), or as such section may hereafter be amended. For purposes of this chapter, such corporations, associations, educational institutions, or societies shall include religious corporations, associations, educational institutions, or societies which condition opportunities in the area of employment to members of that religious corporation, association, educational institution, or society or to persons who subscribe to its tenants or beliefs.

(3) *Employers.* Notwithstanding any other provision of this chapter, it shall is not be a discriminatory practice under this chapter to take or fail to take any action based upon the individual's race, color, religion, sex, national origin, military or veteran status, disability, familial status, marital status, sexual orientation, gender identity or gender expression when a bona fide occupational qualification is reasonably necessary for the performance of employment to which such action or inaction is related. Employers are able to observe the terms of a bona fide seniority system, a bona fide employee benefit plan such as a retirement, pension, or insurance plan, or a system which measures earnings by quantity or quality of production, which is not designed, intended, or used to evade the purposes of this chapter. This chapter shall cannot be construed to make unlawful the rejection or termination of employment when the individual applicant or employee has failed to meet bona fide requirements for the job or position sought or held, nor shall does this chapter preclude such physical and medical examinations of applicants and employees as an employer may require of applicants and employees to determine fitness for the job or position sought or held.

(4) *Businesses.* This chapter shall does not apply to a corporation, professional association or business that employs fifteen (15) employees or less.

(5) *Rentals.* This chapter shall does not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families

living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as their residence.

SECTION 6. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-40, which section reads as follows:

**Sec. 54-40. Criminal acts.**

Nothing in this chapter may be asserted or construed as a defense to any criminal act, prohibited by local, state or federal laws.

SECTION 7. It is hereby proposed that Chapter 54, Human Relations, Chapter II, Discrimination, Division 1, Generally, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended by adding a section numbered 54-41, which section shall read as follows:

**Sec. 54-41. False claims.**

If a court of competent jurisdiction finds that an unsupported claim was filed by an individual claiming to be an aggrieved party under this chapter, the party required to defend against the meritless claim shall may be entitled to attorney's fees and sanctions pursuant to F.S. § 57.105.

SECTION 8. It is hereby proposed that Section 54-52, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-52. Declaration of policy; objectives.**

- (a) It is the policy of the city to foster the public health, safety and general welfare by promoting equal housing opportunity for all persons, regardless of race, color, creed, national origin, ancestry, religion, sex, sexual orientation, gender identity, gender expression, military or veteran status, handicap disability, familial status, marital status or familial status.
- (b) The objective of this division is to provide a positive means to achieve equal housing opportunity and to discourage and eliminate discriminatory practices by timely processing of complaints, by conciliation and mediation, and by public hearings.

SECTION 9. It is hereby proposed that Section 54-54, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-54. - Rights of seller, lessor or property owner. Prohibited conduct.**

~~Nothing contained in this division shall preclude the seller, lessor, property owner, or his authorized agent from setting forth reasonable rules, regulations, terms, and conditions pertaining to the sale, lease or disposal of his property, provided that the rules, regulations, terms, and conditions are not based on race, color, religion, national origin, ancestry, sex, handicap or familial status.~~



Subject to the exceptions set out in this chapter, it shall be unlawful for any person to do any of the following acts:

- (1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression.
- (3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression.

SECTION 10. It is hereby proposed that Section 54-55, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-55. ~~Sale or rental.~~ Multiple listing services.**

~~Except as provided in section 54-58, it shall be an unlawful discriminatory housing practice to:~~

- ~~(1) Refuse to sell or rent after the making of a bona fide offer which meets the stated conditions of sale or rental, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, ancestry, sex, handicap or familial status.~~
- ~~(2) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of related services or facilities because of race, color, religion, national origin, ancestry, sex, or familial status.~~
- ~~(3) Make, print, publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any~~

~~preference, limitation or discrimination based on race, color, sex, religion, national origin, ancestry, handicap or familial status, or an intention to make any preference, limitation or discrimination.~~

- ~~(4) Represent to any person who is financially qualified in accordance with standard lending practices because of race, sex, color, religion, national origin, ancestry, handicap or familial status that any dwelling is not available for inspection, sale or rental when the dwelling is in fact available to persons who are financially qualified.~~
- ~~(5) Induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of real property owned, used or occupied by any person of any particular race, color, religion, national origin, ancestry, sex, handicap or familial status, by direct or indirect methods.~~
- ~~(6) Promote, induce, influence, or attempt to promote, induce or influence, by the use of postal cards, letters, circulars, telephone, visitation, or any other means, directly or indirectly, a property owner, occupant or tenant to list for sale, or sell, remove from, lease, assign, transfer, or otherwise dispose of any housing by referring as a part of a process or pattern of inciting neighborhood unrest, community tension, or fear of racial, color, sexual, religious, national, or ethnic change in any street, block, neighborhood, or any other area to the race, color, religion, sex, national origin, ancestry, handicap or familial status of actual or anticipated neighbors, tenants or other prospective buyers of any housing.~~
- ~~(7) Cause to be made any untrue or intentionally misleading statement, advertise or in any other manner to attempt as part of a process or pattern of inciting neighborhood unrest, community tension, or fear of racial, color, religious, nationality, sexual, ethnic change, handicap or familial status in any street, block, neighborhood, or any other area, to obtain a listing of any housing for sale, rental, assignment, transfer, or other disposition, where the statement, advertising or other representation is false or materially misleading, or where there is insufficient basis to judge its truth or falsity to warrant making the statement, or to make any other material misrepresentations in order to obtain the listing, sale, removal from, lease, assignment, transfer, or other disposition of housing.~~
- ~~(8) Make as part of a process or pattern of discouraging the purchase, rental, occupancy of, or other use of any housing in a particular block or neighborhood area, any representation to a person known to be a prospective purchaser that the block, neighborhood or area may undergo, is undergoing or has undergone a change with respect to racial, color, religious, nationality, sexual, ethnic composition, handicap or familial status.~~
- ~~(9) Place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer, or other disposition or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer, or otherwise dispose of any housing that is not, in fact, available.~~
- ~~(10) Cause, coerce or attempt to cause or coerce any person to retaliate against any other person because such person has lawfully opposed any act or failure to act that is a violation of this division or has, in good faith, filed a complaint, testified, participated, or assisted in any way in any proceedings under this division, or prevent any person from complying with this division.~~

It shall be is unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership or participation on account of race, color, sex, religion, national origin, disability, military or veteran status, familial status, marital status, sexual orientation, gender identity or gender expression.

SECTION 11. It is hereby proposed that Section 54-56, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-56. Financing of housing Educational activities.**

It shall be an unlawful discriminatory housing practice for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of real estate loans to deny a loan or other financial assistance to any financially qualified person applying for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions because of the race, color, religion, national origin, sex, ancestry, handicap or familial status of the person or any person associated with him, the purposes of the loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given. Nothing contained in this section shall impair the scope of effectiveness of the exceptions contained in section 54-58.

The city manager is authorized to undertake such educational and conciliatory activities as in his/her judgment will further the purposes of this chapter. He may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the suggested means of implementing this chapter. The city manager shall must further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The city manager may issue reports on such conferences and consultation as it deems appropriate.

SECTION 12. It is hereby proposed that Section 54-57, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-57. - Brokerage services.**

It shall be is an unlawful discriminatory housing practice to deny any person who is otherwise professionally qualified by state law and who is willing to meet both the financial and ethical standards of the county board of realtors, Florida Association of Realtors, and National Association of Realtors, access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership or participation, on account of race, color, religion, national origin, ancestry, sex, ~~handicap~~ disability, military or veteran status, marital status, sexual orientation, gender identity, gender expression or familial status.

SECTION 13. It is hereby proposed that Section 54-58, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**~~Sec. 54-58.— Exceptions to sections 54-55 through 54-57. Use of remedies of this chapter, other remedies.~~**

~~In compliance with P.L. 90-284, title VIII, pertaining to fair housing, nothing in sections 54-55 through 54-57 shall apply to:~~

- ~~(1) A religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in the religion is restricted on account of race, color, national origin, ancestry, sex, handicap or familial status.~~
- ~~(2) Nothing shall prevent or limit the right of any person to refuse to rent a room, rooms, or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.~~

Nothing in this chapter requires any person claiming to have been injured by an action or inaction prohibited by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the Federal Civil Rights Acts, the Florida Civil Rights Act of 1992 or other applicable legal provisions.

SECTION 14. It is hereby proposed that Section 54-59, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-59. Filing and processing complaints-Discrimination in the financing of housing.**

- ~~(a) Any person who believes he has been subjected to a discriminatory act or practice in contravention of this division may file a written complaint with the city manager, sworn to or affirmed, which shall state the name and address of the complainant and the person or persons against whom the complaint is made. It shall also state the alleged facts surrounding the alleged commission of an unfair housing practice and any other information which the fair housing board may require. A complaint shall be filed within 60 days after the date of the alleged discriminatory housing practice.~~
- ~~(b) Upon the filing of a complaint as set forth in subsection (a), above, the city manager shall notify the chairperson of the fair housing board. The chairperson shall appoint a person who may or may not be a member of the fair housing board to investigate and, if necessary, attempt to mediate the dispute. If the person is unable to reconcile the dispute within ten days, he shall report that fact to the chairperson. The complaint shall then be considered by the fair housing board at its next meeting. The fair housing board shall make an appropriate investigation to ascertain facts and issues and present them to the full fair housing board. If the fair housing board shall determine that there are reasonable grounds to believe a violation has occurred and is susceptible of conciliation, it shall attempt to conciliate the~~



~~matter by methods of initial conference and persuasion with all interested parties and any representatives the parties may choose to assist them. Conciliation conferences shall be informal.~~

- ~~(c) The terms of conciliation agreed to by the parties pursuant to this section may be reduced to writing and incorporated into a consent agreement to be signed by the parties. The agreement shall be for conciliation purposes only and shall not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the fair housing board by the chairperson or acting chairperson.~~
- ~~(d) If the fair housing board determines that the complaint lacks reasonable grounds upon which to base a violation of this division, the fair housing board may in its discretion recommend that the matter be closed or order further investigation, as may be necessary.~~
- ~~(e) Public hearings.~~
  - ~~(1) If the fair housing board, with respect to a matter which involved a contravention of this division, fails to conciliate a complaint after the parties have, in good faith, attempted conciliation; fails to effect an informal conciliation agreement or a formal consent agreement; or determines that a complaint is not susceptible of conciliation, then the fair housing board shall thereafter schedule a public hearing to determine the facts. The fair housing board shall serve upon all interested parties a notice of the time and place of the hearing. The respondent or his authorized counsel may file statements with the fair housing board prior to the hearing date, as it deems necessary in support of its position.~~
  - ~~(2) The hearing shall be held not less than 30 days after service of the statement of charges and notice to the respondent signed by two members of the fair housing board. The interested parties may, at their option, appear before the fair housing board in person or by duly authorized representative and may have the assistance of an attorney. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony and evidence shall be given under oath or by affirmation.~~
  - ~~(3) The fair housing board shall not be bound by strict rules of evidence prevailing in courts of law or equity. The fair housing board shall keep a full record of the hearing, which shall be public and open to inspection by any person, and, upon request by any principal party to the proceedings, the fair housing board shall furnish a copy of the hearing record, if any, at such cost as the fair housing board deems appropriate. The fair housing board shall make findings of fact.~~
- ~~(f) The purpose and effect of the procedure before the fair housing board and of its findings is to obtain:~~
  - ~~(1) The resolution of differences and postures which are not consistent with the law; and~~
  - ~~(2) Where conciliation has failed to resolve the discriminatory postures, to clarify the issues and to assist an aggrieved person to formulate his case, if he elects to seek remedies afforded by the law, particularly, but not limited to, the United States Civil Rights Act of 1968.~~
- ~~(g) If, in the opinion of the fair housing board, the action is warranted, the matter shall be turned over to the city attorney or state attorney for further investigation with a view towards filing charges against the offending party in the appropriate court. Nothing in this section shall prevent any party from exercising any right or seeking any remedy to which he might~~

~~otherwise be entitled or from the filing of any complaint with any other agency or any court having jurisdiction.~~

- ~~(h) The fair housing board shall at all times provide the complainant with full and timely information as to all the alternatives available under local, state and federal law, including assistance to initiate judicial action if desired, under any circumstances.~~

It is unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, sex, religion, national origin, familial status, marital status, disability, military or veteran status, sexual orientation, gender identity or gender expression of the person or of any person associated with him in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance, or because of the race, color, sex, religion, national origin, familial status, marital status, disability, military or veteran status, sexual orientation, gender identity or gender expression of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given.

SECTION 15. It is hereby proposed that Section 54-60, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec 54-60. Recovery of costs. Exemptions.**

~~Any person determined by the fair housing board to have violated any of the provisions of this division shall be assessed an amount to be determined by the fair housing board equal to the costs incurred by the fair housing board in processing the complaint, through and including the cost incurred in conducting a hearing on the complaint.~~

Nothing in sections 54-54 and 54-59 shall applies to:

- (1) Any single-family house sold or rented by its owner, provided the private individual owner does not own more than four (4) single-family houses at any one (1) time. In the case of the sale of a single-family house by a private individual owner who does not reside in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this paragraph shall applies only with respect to one (1) sale within any twenty-four-month period. In addition, the bona fide private individual owner shall does not own any interest in, nor shall there be have owned or reserved on their behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than four (4) single-family houses at any one (1) time. The sale or rental of any single-family house shall must be excepted from the application of this chapter only if the house is sold or rented:

- a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman or the facilities or services of

any person in the business of selling or renting dwellings, or of any employee or agent of the broker, agent, salesman, or person; and

- b. Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 54-54(3) above. Nothing in this section shall prohibits the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title.
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as their residence.
- (3) For the purposes of this chapter, a person is deemed to be in the business of selling or renting dwellings if:
  - a. He or she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;
  - b. He or she has, within the preceding twelve (12) months, participated as agent, other than in the sale of their own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - c. He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (4) Nothing in this chapter shall prohibits a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nothing in this chapter shall prohibits a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

SECTION 16. It is hereby proposed that Section 54-61, Chapter 54, Human Relations, Chapter II, Discrimination, Division 2, Housing, of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 54-61. —~~Penalty for violation of division.~~ Interference, coercion, or intimidation; enforcement by civil action.**

~~Any person who shall violate the provisions of this division shall be subject, upon conviction, to penalties as prescribed in section 1-12 of this Code.~~

It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise of, or on account of their having exercised, or on account of their having aided or encouraged any other person in the exercise of any right granted under this chapter. This section may be enforced by appropriate civil action.

SECTION 17. All Ordinances or parts of Ordinances and all Resolutions in conflict herewith be and the same are hereby repealed.

SECTION 18. SEVERABILITY. If any provision or portion of the Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of the Ordinance ~~shall~~ remain in full force and effect.

SECTION 19. EFFECTIVE DATE. This Ordinance ~~shall~~ takes effect immediately upon its final ~~adoption~~ enactment.

ENACTED this 2nd day of July, 2019.

ATTEST:

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
Caroline Best  
City Clerk

\_\_\_\_\_  
John A. Miller  
Commissioner-Mayor

APPROVED AS TO FORM & LEGALITY:

\_\_\_\_\_  
Tammi E. Bach  
City Attorney



NOTICE OF PUBLIC HEARING  
CITY COMMISSION  
CITY OF FERNANDINA BEACH

NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Tuesday, July 2, 2019, at 6:00 PM** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following application:

**ORDINANCE 2019-10**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING CHAPTER 54, HUMAN RELATIONS, CREATING SECTION 54-1 DEFINITIONS; CREATING SECTION 54-36 PURPOSE; CREATING SECTION 54-37 PROHIBITED CONDUCT; CREATING SECTION 54-38 COMPLAINTS; CREATING SECTION 54-39 EXEMPTIONS; CREATING SECTION 54-40 CRIMINAL ACTS; CREATING SECTION 54-41 FALSE CLAIMS; AMENDING SECTION 54-52 DECLARATION OF POLICY, OBJECTIVES; AMENDING SECTION 54-54 PROHIBITED CONDUCT; AMENDING SECTION 54-55 MULTIPLE LISTING SERVICES; AMENDING SECTION 54-56 EDUCATIONAL ACTIVITIES; AMENDING SECTION 54-57 BROKERAGE SERVICES; AMENDING SECTION 54-58 USE OF REMEDIES OF THIS CHAPTER, OTHER REMEDIES; AMENDING SECTION 54-59 DISCRIMINATION IN THE FINANCING OF HOUSING; AMENDING SECTION 54-60 EXEMPTIONS; AMENDING SECTION 54-61 INTERFERENCE, COERCION, OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 310-3115, TTY/TDD 711 or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD/COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, S/HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

For information, please contact the Staff of the City Clerk's Office, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday, (904) 310-3115.

*Note:*

***Please run as a DISPLAY in the June 19, 2019 edition of the News Leader.***

***Please send proof of publication to:***  
*City Clerk's Office*  
*City Hall, 204 Ash Street*  
*Fernandina Beach, FL 32034*  
*904-310-3115*

**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Board Appointment  
Planning Advisory Board

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ITEM TYPE: Board Appointment

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REQUESTED ACTION: Approve appointment.

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SYNOPSIS: In accordance with Land Development Code Section 9.02.02(c) Planning Advisory Board (PAB) regular members shall be nominated for appointment by a City Commissioner and confirmed by majority vote of the City Commission. City Commissioners shall only nominate one regular member at a time.

Mayor Miller's PAB regular member appointment vacancy was created upon the resignation of Mr. Wayne Peterson. The City Clerk is in receipt of an Advisory Board/Committee Application from Ms. Genece Minshew. Mayor Miller hereby nominates Ms. Minshew as his PAB regular member appointment for an unexpired term ending November 1, 2020.

In accordance with City Charter Section 69, Ms. Minshew resides within the jurisdictional boundaries of the incorporated City limits.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission appoint Ms. Genece Minshew to the Planning Advisory Board for an unexpired term ending November 1, 2020.

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|                                                |           |
|------------------------------------------------|-----------|
| Caroline Best, City Clerk                      | 6/7/2019  |
| Nicole Bednar, Administrative Services Manager | 6/18/2019 |
| Dale Martin, City Manager                      | 6/19/2019 |

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Date: June 07, 2019

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Submitted By: Caroline Best, City Clerk

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COMMISSION ACTION: Approve

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## Planning Advisory Board

| Position | Term       | Name & Address                                                                                       | Phone          |
|----------|------------|------------------------------------------------------------------------------------------------------|----------------|
| 1        | 12-01-2017 | Greg Roland<br>302 South 7th Street, Fernandina Beach, FL 32034<br>groland.pab@gmail.com             | (904) 261-0074 |
| 2        | 11-01-2016 | Mark Bennett<br>815 South Fletcher Avenue, Fernandina Beach, FL 32034<br>mark.bennett@wellsfargo.com | (904) 491-4778 |
| 3        | 12-01-2017 | Frank Santry<br>1005 South 19th Street, Fernandina Beach, FL 32034<br>santrylaw@gmail.com            | (850) 339-9150 |
| 4        | 12-18-2018 | Richard Clark<br>1502 Northpark Drive, Fernandina Beach, FL 32034<br>racndm@me.com                   | (515) 202-8316 |
| 7        | 12-01-2016 | Jenny Schaffer<br>124 South 5th Street, Fernandina Beach, FL 32034<br>jenny@summerhouserealty.com    | (904) 557-4739 |
| 8        | 12-01-2017 | Mark Durham<br>1201 Atlantic Avenue, Fernandina Beach, FL 32034                                      | (904) 491-9905 |

## Planning Advisory Board

**Term Length:** 3 Months

**Max Terms:** 1 Term(s)

**Number of Members:** 8

**Meeting Schedule:** Second Wednesday of each month

**Meeting Time:** 5:00 PM

**Meeting Location:** City Commission Chambers

**Meeting Address:** 204 Ash Street

**Type:** Advisory Boards

**Description:**

**Council Liaison:**

Mike Lednovich  
(714) 398-9824  
malednovick@gmail.com

**Staff Liaison:**

Kelly Gibson, AICP  
  
kgibson@fbfl.org

| Position Number | Name           | Appt Date  | No. of Terms Served | Term Expiration Date |
|-----------------|----------------|------------|---------------------|----------------------|
| 1               | Greg Roland    | 12/01/2017 | 1                   | 12/01/2020           |
| 2               | Mark Bennett   | 11/01/2016 | 1                   | 11/01/2018           |
| 3               | Frank Santry   | 12/01/2017 | 1                   | 12/01/2020           |
| 4               | Richard Clark  | 12/18/2018 | 1                   | 12/20/2022           |
| 7               | Jenny Schaffer | 12/01/2016 | 1                   | 12/01/2019           |
| 8               | Mark Durham    | 12/01/2017 | 1                   | 12/01/2020           |



## Caroline Best

---

**From:** Caroline Best  
**Sent:** Thursday, May 16, 2019 1:32 PM  
**To:** gminshew@gmail.com  
**Cc:** kbriley@fbfl.org; Nathan Coyle  
**Subject:** RE: Online Form Submittal: Advisory Board/Committee Application

Dear Ms. Minshew,

Thank you for expressing interest in serving on the Planning Advisory Board (PAB) and the Airport Advisory Commission (AAC).

Because PAB members are appointed by the Honorable City Commissioners at the Organizational Meeting which occurs after each election, the next of which is 2020, I am forwarding your application, in accordance with [City Code of Ordinances Section 2-122\(a\)\(2\)](#), to Airport Manager Mr. Nathan Coyle (copied herein) who serves as staff liaison to the AAC. Mr. Coyle will have your application placed on the next available AAC agenda for consideration. Upon AAC approval your application will move to the City Commission for their honorable consideration.

Again, thank you for your interest in serving and please don't hesitate to contact me with any questions.

Sincerely,

Caroline Best, CMC  
City Clerk  
204 Ash Street  
Fernandina Beach, Florida 32034  
Office (904) 310-3115

**If this email is related to the Board, Committee or Commission that you serve on, please DO NOT REPLY TO ALL.**

***P Go Green: Please don't print this unless its really necessary***

Disclaimer: According to Florida Public Records Law, email correspondence to and from the City of Fernandina Beach, including email addresses and other personal information, is public record and must be made available to the public and media upon request, unless otherwise exempt by the Public Records Law. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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**From:** noreply@civicplus.com <noreply@civicplus.com>  
**Sent:** Wednesday, May 15, 2019 8:50 AM  
**To:** Caroline Best <cbest@fbfl.org>; Kim Briley <kelliott@fbfl.org>  
**Subject:** Online Form Submittal: Advisory Board/Committee Application

## Advisory Board/Committee Application

This application is intended to provide information that will enable the City Commission to select the most qualified Board/Committee members. Please

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complete all applicable sections and return the form along with your current résumé to the City Clerk's Office.

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City of Fernandina Beach  
City Clerk's Office  
204 Ash Street  
Fernandina Beach, FL 32034  
(904) 310-3115

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|      |               |
|------|---------------|
| Name | Genece Minshe |
|------|---------------|

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|                             |                     |
|-----------------------------|---------------------|
| Home Mailing Street Address | 2428 Los Robles Dr. |
|-----------------------------|---------------------|

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|      |                  |
|------|------------------|
| City | Fernandina Beach |
|------|------------------|

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|          |       |
|----------|-------|
| Zip Code | 32034 |
|----------|-------|

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|               |              |
|---------------|--------------|
| Primary Phone | 904 491 0185 |
|---------------|--------------|

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|                 |              |
|-----------------|--------------|
| Secondary Phone | 404 314 0148 |
|-----------------|--------------|

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Please note that board materials are distributed electronically.

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|                                  |                                                          |
|----------------------------------|----------------------------------------------------------|
| Email to receive board materials | <a href="mailto:gminshe@gmail.com">gminshe@gmail.com</a> |
|----------------------------------|----------------------------------------------------------|

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|          |         |
|----------|---------|
| Employer | Retired |
|----------|---------|

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|                |                             |
|----------------|-----------------------------|
| Position Title | <i>Field not completed.</i> |
|----------------|-----------------------------|

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|                  |                             |
|------------------|-----------------------------|
| Business Address | <i>Field not completed.</i> |
|------------------|-----------------------------|

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|      |                             |
|------|-----------------------------|
| City | <i>Field not completed.</i> |
|------|-----------------------------|

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|     |                             |
|-----|-----------------------------|
| Zip | <i>Field not completed.</i> |
|-----|-----------------------------|

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|                                        |                         |
|----------------------------------------|-------------------------|
| Select the board you are applying for: | Planning Advisory Board |
|----------------------------------------|-------------------------|

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|                                             |                             |
|---------------------------------------------|-----------------------------|
| Additional board that you are applying for: | Airport Advisory Commission |
|---------------------------------------------|-----------------------------|

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|                                                                  |                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Why are you interested in serving on this Board? Please explain. | I think that citizen involvement is critical to the success of any city. The issues before both of these board become more complex each day and I can bring a reasoned, pragmatic neighborhood viewpoint to the board. I have sat on city boards in Decatur, GA and understand the importance of listening and |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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seeing all sides of an issue. And, I want to be more involved in the city.

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### Eligibility

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Are you a resident of the City? Yes

Length of time: 20 years as property owner, 11 years as full time resident

Do you hold a public office? No

Office name: *Field not completed.*

Are you employed by the City? No

Position: *Field not completed.*

Are you currently serving on a Board? No

Board Name: *Field not completed.*

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### Potential Conflict of Interest:

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Have you ever been engaged in the management/ownership of any business enterprise that has a financial interest with the City of Fernandina Beach? No

*Field not completed.*  
If yes, please provide details:

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### Major Affiliations:

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List community, professional, or other applicable policy-making Boards on which you have served. Note the length of service and office held (if any):  
City of Decatur GA Zoning and Code Enforcement Board - 6 years  
Westchester Neighborhood Association (GA) President - 5 years  
Fernandina Beach Main Street Economic Vitality Council Chair - 1 year  
Hubbard House Board (Jacksonville) - Treasurer and President - 4 years  
President of Florida NOW - 4 years

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### Qualifications:

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Please list any specific qualifications, education or experience that would  
My 40+ years in the telecommunications industry has given me the knowledge and experience to view complex issues, break them down, understand process and regulatory restrictions and

directly relate to the Board for which you are being recommended:      be able to see both sides of an argument or issue. It allowed me to become pragmatic and understand the importance of incremental change focused on longer term goals. My experience in local government boards and community groups also gives me the ability to understand and take into account the concerns of individuals vs. the rights of property owners.

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Organization or Commissioner sponsoring nomination (if applicable):      *Field not completed.*

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Educational Background:      High School  
(Check all that apply)

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Other:      *Field not completed.*

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Major areas of study:      *Field not completed.*

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Florida's Public Records Law, Chapter 119, Florida Statutes, states:

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"It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning or zoning, are required to file a financial disclosure form (Form 1) within 30 days after appointment and annually thereafter, for the duration of the appointment as required by Chapter 112, Florida Statutes

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I understand that if I am appointed to one of the City's boards, I will be required to file a financial disclosure form - Form 1, as described above, and I am willing to comply with this requirement.

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I understand that any false, incomplete or misleading information given by me on the application is sufficient cause for rejection of this application. I understand and agree that any such false, incomplete or misleading information discovered on this application at any time after appointment to a Board may result in my removal.

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I also understand that all board appointments are for voluntary, uncompensated services. Additionally, if appointed, I am able to attend meetings and otherwise fulfill the duties of the office.

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Applications are submitted to the City Commission when vacancies occur and are effective for two years from date of completion.

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Do you understand the duties and responsibilities      Yes

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of the Board/Committee  
that you are applying for?

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By submitting this form, I declare the foregoing facts to be true, correct, and complete.

---

|      |              |
|------|--------------|
| Date | May 15, 2019 |
|------|--------------|

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|                       |                |
|-----------------------|----------------|
| Applicant's Signature | Genece Minshew |
|-----------------------|----------------|

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Email not displaying correctly? [View it in your browser.](#)

May 20, 2019

MAY212019AM9:17

CITY CLERK'S OFFICE

Dear City Commissioners and Mr. Martin:

CITY OF FERNANDINA BEACH

I regret to inform you that I am resigning my seat on the Planning Advisory Board. Over the last couple of years, the PAB meetings have become too long and too contentious. City staff is criticized at every meeting which is unprofessional and uncomfortable to watch. Staff has done everything asked of them, yet still it does not seem good enough for certain Board members. I cannot stand by and watch this behavior from any Board member. I hope that the City Commission takes a stand to correct this dysfunctional Board. City staff works very hard and deserves to be treated with respect.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Wayne Peterson", with a stylized flourish at the end.

Wayne Peterson

**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Discussion  
Waterfront Park Development

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ITEM TYPE: Discussion

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REQUESTED ACTION:

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SYNOPSIS: This item is placed on the agenda at the request of Commissioner Lednovich.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager 6/19/2019

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Date: May 31, 2019

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Submitted By: Nicole Bednar, Administrative Services Manager

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COMMISSION ACTION:

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**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Discussion  
Land Conservation

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ITEM TYPE: Discussion

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REQUESTED ACTION:

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SYNOPSIS: This item is placed on the agenda at the request of Commissioner Lednovich.

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FISCAL IMPACT: To be determined based upon Commission direction.

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager 6/19/2019

---

Date: May 31, 2019

---

Submitted By: Nicole Bednar, Administrative Services Manager

---

COMMISSION ACTION:

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**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Discussion  
Joint Local Planning Agency Meeting Follow-up

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ITEM TYPE: Discussion

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REQUESTED ACTION:

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SYNOPSIS: This item is placed on the agenda at the request of Vice Mayor Kreger.

The City of Fernandina Beach and Nassau County Board of County Commissioners met in a Joint Local Planning Agency Meeting on March 12, 2019. Vice Mayor Kreger would like to follow up on topics discussed which included island wide planning related to beaches, utilities, and conservation.

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FISCAL IMPACT: To be determined based upon City Commission direction.

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager 6/19/2019

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Date: June 05, 2019

Submitted By: Caroline Best, City Clerk

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COMMISSION ACTION:

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**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Discussion  
Balloon Release Ordinance

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ITEM TYPE: Discussion

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REQUESTED ACTION:

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SYNOPSIS: This item is placed on the agenda at the request of Mayor Miller.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Dale Martin, City Manager 6/19/2019

Tammi E. Bach, City Attorney 6/19/2019

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Date: June 06, 2019

Submitted By: Katie Newton, Legal Assistant

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COMMISSION ACTION:

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## **Sec. 70-19 – Balloon Release.**

(a) It shall be unlawful for any person to intentionally release, organize the release of, or intentionally cause to be released one or more balloons inflated with a gas that is lighter than-air except for:

- (1) Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; or
- (2) Balloons released indoors.

(b) Any person who shall violate or fail to comply with the provisions of this section shall be charged with such violation, tried in municipal court, and upon being found guilty shall be fined \$100.00 for the first offense and \$500.00 for each subsequent offense.

Whereas the release of helium, foil, mylar or “biodegradable” balloons (which have a lifespan of 5-7 years) into the atmosphere has a deleterious effect on the environment when the balloons inevitably deflate and,

Whereas these balloons, many of which land in the river, streams, marsh or ocean, represent one of the most common and destructive forms of floating garbage and are nothing more than “pretty litter” and,

Whereas both research and local first-hand observation shows that marine life and animals ingest these balloons because they mistake them for jellyfish or other edible resources and,

Whereas the U.S. Fish and Wildlife Service regularly issues media notices, warning of the devastating impacts of balloons on wildlife and,

Whereas the animals and marine life are not able to process the balloons and choke (or the balloon forms an intestinal obstruction) and the creature is sentenced to a painful death and,

Whereas St. Marys and Camden County serve as the “gateway to Cumberland Island National Seashore” and should, as such, maintain a strong reputation for environmental stewardship and,

Whereas the release of helium, foil, mylar, or “biodegradable” balloons on the mainland directly impacts the wellbeing of the species of our region, including those on and near Cumberland Island,

Therefore, the city of St. Marys hereby resolves that the release of helium, foil, mylar or “biodegradable” balloons into the atmosphere should be prohibited in order to protect the air, land, and waters of Camden County against environmental contamination and degradation and to protect the health and life of animals, birds, and fish. Let our ordinances so show.

Ordinance:

In an effort to protect the safety of wildlife and the integrity of our coastal environment, no person shall release balloons of any number and of any kind within the boundaries of the city of St. Marys.

Any rental or use of City Property permit applications shall include a notice of the prohibition of balloon release as well as a link to education information regarding the effects of balloons on wildlife.



Sun 5/5/2019 7:11 PM

Dear Alex,

The number of balloons washing up on CI National Seashore increases every year. For some reason I thought Florida had a moratorium on releases, and that Georgia would soon follow. Guess I am wrong. Yesterday, on my weekly beach survey I counted 32 dead balloons, and that was a very conservative count.

Leatherback sea turtles (endangered species) feed on jellyfish. When balloons reach a certain altitude, they burst and fall to the ground. In the ocean, such burst balloons have ragged, hanging parts which resemble the tentacles of jellyfish. These are sometimes consumed by Leatherbacks and cause their demise.

There is nowhere on Cumberland Island National Seashore that you might not see a dead balloon. They fall over the entire island, as well as the mainland. Wilderness areas assumed to be pristine have dead balloons scattered throughout and in the most unlikely places.

What are we doing to our planet? These balloon releases are frivolous, yet are having a great impact on our natural areas. Balloons used for advertising have reduced slightly in number thanks to many who complained to the advertisers. Now we face mostly greeting balloons: Happy Birthday, Happy Easter, Happy Valentine's Day, and so on. As long as releasing balloons is legal, they will continue to increase in number. We must make politicians aware of this problem.

Thanks for anything you can do to help.

Sincerely,  
Carol Ruckdeschel

U.S. Fish and Wildlife Services:

<https://www.fws.gov/news/blog/index.cfm/2015/8/5/balloons-and-wildlife-please-dont-release-your-balloons>

Newsweek: <https://www.newsweek.com/plastic-balloons-join-plastic-straw-controversy-are-balloons-bad-environment-1074341>

Huffington Post: [https://www.huffingtonpost.com.au/2017/02/22/releasing-balloons-has-a-devastating-impact-on-the-environment\\_a\\_21719802/](https://www.huffingtonpost.com.au/2017/02/22/releasing-balloons-has-a-devastating-impact-on-the-environment_a_21719802/)

TechTimes: <https://www.techtimes.com/articles/242538/20190429/baby-dolphin-found-dead-on-florida-beach-has-plastic-bags-balloon-in-stomach.htm>

ABC: <https://www.abc.net.au/news/2018-09-19/balloons-found-out-to-sea-threatening-marine-life/10265058>

**CITY COMMISSION AGENDA ITEM**  
*City of Fernandina Beach*



SUBJECT: Discussion  
Plastic Straw Ban Ordinance

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ITEM TYPE: Discussion

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REQUESTED ACTION:

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SYNOPSIS: This item is placed on the agenda at the request of Mayor Miller.

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FISCAL IMPACT: N/A

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CITY ATTORNEY COMMENTS: N/A

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CITY MANAGER RECOMMENDATION(S): N/A

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Nicole Bednar, Administrative Services Manager 6/19/2019

Dale Martin, City Manager 6/19/2019

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Date: June 12, 2019

Submitted By: Katie Newton, Legal Assistant

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COMMISSION ACTION:

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## **ORDINANCE NO. 17-13**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA PROHIBITING THE DISTRIBUTION OF PLASTIC STRAWS, AS DEFINED, BY ANY PERSON, AS DEFINED, WITHIN THE TOWN; PROVIDING FOR PENALTIES FOR ANY SUCH DISTRIBUTION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

**WHEREAS:** the Town finds that plastic straws, when irresponsibly discarded, pose an environmental hazard to the health, safety and welfare of the citizens and visitors of Fort Myers Beach as well as negatively impacting water quality and the surrounding marine life ; and,

**WHEREAS:** the Town's Marine Resource Task Force, charged with researching and recommending resolutions to issues relating to citizen health and safety and the preservation of the Town's natural characteristics and marine environment, has found that plastic straws when irresponsibly discarded into the natural environment negatively affects that environment;

**WHEREAS:** Straws made of paper, plant, vegetable and other natural products are available and are a more environmentally-friendly alternative to plastic straws;

**NOW, THEREFORE, IT IS HEREBY ORDAINED** by the Town Council of the Town of Fort Myers Beach, Florida that:

### **I. Name:**

This Ordinance shall be known as the "Prohibition of Plastic Straws" Ordinance. The preamble and findings of fact above are incorporated herein.

### **II. Definitions:**

A. "Person" means any person, business, corporation, public nonprofit entity, agency or institution, partnership or other organization or group, however organized.

B. "Natural products" means an item containing nothing artificial or synthetic in its compounds while it remains a whole item and throughout its decomposition process.

C. "Straw" means a tube for transferring a beverage from its container to the mouth of the drinker by suction.

E. "Distribution" or to "distribute" means the vending, sale, giving, deployment or delivering for any purpose of a straw, other than as defined herein, whether or not incident to the sale, vending or provision of any kind of beverage in a container. "Distribution" does not include provision of a straw with a beverage on private property used as a residence or by the School Board



of Lee County or by beverages prepared and packaged outside the Town, provided such beverage is not altered, packaged or repackaged within the Town.

### **III. Distribution of Plastic Straws Prohibited.**

Beginning 90 days after the date of adoption of this Ordinance, no person shall distribute plastic straws within the Town.

### **IV. Penalties for Distribution.**

#### **A. For any violation of Section III:**

- (1). First offense within any one year period: \$100.00 fine.
- (2). Second offense within any one year period: \$200.00 fine.
- (3). Third offense or more within any one year period: \$500.00 fine.

#### **B. Each and every prohibited distribution is a single violation.**

### **V. Enforcement.**

Officers of the Town's Code Enforcement Division, or such other Town employees so authorized by the Town Manager to issue citations, shall enforce this Ordinance by written citation issued to the violator.

### **VI. INCLUSION INTO THE CODE OF ORDINANCES.**

The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or relettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

### **VII. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

## VIII. CONFLICTS.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

## IX. EFFECTIVE DATE.

This ordinance becomes effective immediately upon adoption.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member Shamp and seconded by Vice Mayor Gore, and upon being put to a roll call vote, the result was as follows:

Dennis Boback, Mayor                      aye  
Anita Cereceda, Council Member      nay  
Bruce Butcher, Council Member      aye

Tracey Gore, Vice Mayor                      aye  
Joanne Shamp, Council Member              aye

DULY PASSED AND ADOPTED THIS 6TH DAY OF NOVEMBER, 2017 BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH.

ATTEST:

By:   
Dennis C. Boback, Mayor

By:   
Michelle D. Mayher, Town Clerk

Approved as to form and legal  
sufficiency

By:   
The Peterson Law Group,  
Town Attorney

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE III, ENTITLED "LITTER," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 46-92 THEREOF, ENTITLED "LITTER; DEFINITIONS; PROHIBITIONS ON LITTER; PENALTIES FOR LITTER AND COMMERCIAL HANDBILL VIOLATIONS; COMMERCIAL HANDBILL REGULATIONS, FINES, AND REBUTTABLE PRESUMPTIONS; SEIZURE AND REMOVAL OF LITTER BY THE CITY; ENFORCEMENT; APPEALS; LIENS" TO PROHIBIT ANY PERSON FROM CARRYING ANY SINGLE-USE PLASTIC BEVERAGE STRAW OR SINGLE-USE PLASTIC STIRRER ONTO ANY BEACH OR PARK WITHIN THE CITY, OR ONTO ANY CITY MARINA, PIER, DOCK, OR BOAT RAMP; AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 82-8 THEREOF, TO BE ENTITLED "PROHIBITIONS REGARDING SALE OR USE OF SINGLE-USE PLASTIC BEVERAGE STRAWS AND SINGLE-USE PLASTIC STIRRERS BY CITY CONTRACTORS AND SPECIAL EVENT PERMITTEES," TO PROHIBIT THE SALE, USE, PROVISION, AND OFFERING OF SINGLE-USE PLASTIC BEVERAGE STRAWS AND SINGLE-USE PLASTIC STIRRERS BY CITY CONTRACTORS AND SPECIAL EVENT PERMITTEES IN CITY FACILITIES AND ON CITY PROPERTY; AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 5, ENTITLED "SIDEWALK CAFES," BY AMENDING SUBDIVISION II, ENTITLED "PERMIT," BY AMENDING SECTION 82-385 THEREOF, ENTITLED "MINIMUM STANDARDS, CRITERIA, AND CONDITIONS FOR OPERATION OF SIDEWALK CAFES," TO PROVIDE PROHIBITIONS REGARDING SINGLE-USE PLASTIC BEVERAGE STRAWS AND SINGLE-USE PLASTIC STIRRERS ON THE RIGHT-OF-WAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Miami Beach ("City") declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

**WHEREAS**, disposable food service articles, including single-use plastic beverage straws and single-use plastic stirrers, constitute a portion of the litter in the City of Miami Beach's streets, parks, public places, and waterways; and

**WHEREAS**, the City's goal is to reduce litter by reducing the use of and replacing single-use plastic beverage straws and single-use plastic stirrers with reusable materials; and

**WHEREAS**, as an environmental leader among local governments in the State of Florida, the City of Miami Beach, by virtue of this Ordinance, will prohibit the use of single-use plastic beverage straws and single-use plastic stirrers by its contractors and special event permittees in City facilities and on City property; will prohibit the use of single-use plastic beverage straws and single-use plastic stirrers by sidewalk cafes on the public right-of-way; and, will strengthen its litter laws by prohibiting single-use plastic beverage straws and single-use plastic stirrers in City parks, beaches, marinas, piers, docks, and boat ramps; and

**WHEREAS**, this Ordinance will preserve and enhance the environment of the City of Miami Beach.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.** Division 1 of Article III of Chapter 46 of the Code of the City Miami Beach is hereby amended as follows:

**CHAPTER 46  
ENVIRONMENT**

\* \* \*

**ARTICLE III. Litter**

\* \* \*

**DIVISION 1. Generally**

**Sec. 46-92. Litter; definitions; prohibitions on litter; penalties for litter and commercial handbill violations; commercial handbill regulations, fines, and rebuttable presumptions; seizure and removal of litter by the city; enforcement; appeals; liens.**

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

- (2) *Business* means any commercial or industrial activity, entity, or event in or for which any goods or services are made, sold or offered for sale or other consideration, pecuniary or otherwise.

\* \* \*

- (5) *Litter* means any paper, handbill, commercial handbill, garbage, bottle caps, chewing gum, tobacco products, including, but not limited to, used and unused cigarettes, cigars, pipe or chewing tobacco, polystyrene or plastic products, or other waste, including, but not limited to, tree, plant, and grass cuttings, leaves, or other yard maintenance debris, that has been placed or deposited on a public sidewalk, street, road, avenue, beach, swale, median, building, fence, wall, boardwalk, beachwalk, baywalk, cutwalk, park, or in a gutter, drain, or sewer, or on any other public property, right-of-way or place, or on any object located on public property, or on the kneewall, window ledge or sill of any public or private building, or on a motor vehicle, or on any other type of private real or personal property. Handbills and commercial handbills



attached to a trash receptacle, but not within the trash receptacle in the usual manner, shall also be considered litter.

\* \* \*

- (7) *Person, benefactor, or owner* include, within their respective meanings, either an individual or an entity.
- (8) *Right-of-way* means and includes, but is not limited to, any state, county, or city-owned public street, sidewalk, street corner, curb, bicycle path, or pedestrian walkway.
- (9) *Polystyrene* means a thermoplastic polymer comprised of at least 80 percent styrene or para-methylstyrene by weight.
- (10) *Expanded polystyrene* means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).
- (11) *Single-use plastic beverage straw* means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. *Single-use plastic beverage straw* includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.
- (12) *Single-use plastic stirrer* means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. *Single-use plastic stirrer* includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.
- (b) *Litter prohibited.* It shall be unlawful for any person or benefactor to throw, discard, place or deposit, or cause to be thrown, discarded, placed, or deposited, litter in any manner or amount whatsoever in or on any public highway, sidewalk, road, street, alley, thoroughfare, beach, park, baywalk, beachwalk, cutwalk, sidewalk cafe areas, or any other public place, except in containers or areas lawfully provided therefor. It shall be unlawful for any person to throw, discard, place or deposit any garbage, cans, bottles or containers in or on any freshwater lakes, rivers, streams, canals, or tidal or coastal waters within the city. In addition, it shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount whatsoever on any private real or personal property, including, but not limited to, sidewalk cafe furniture and fixtures, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local laws, rules or regulations.
- (c) *Prohibitions on beaches, marinas, piers, docks, boat ramps, and in parks.* It shall be unlawful for any person to carry onto any beach within the city a glass or metal bottle or other glass or metal container. In addition, it shall be unlawful for any person to carry any expanded polystyrene product, single-use plastic beverage straw, or single-use plastic stirrer onto any beach or park within the city, or onto any city marina, pier, dock, or boat

ramp, or for any business to provide plastic straws with the service or delivery of any beverage to patrons on any beach within the city.

(1) Notwithstanding the above, beginning on August 1, 2018, the city shall engage in public education efforts to inform the public of those provisions in this subsection (c) that pertain to single-use plastic beverage straws and single-use plastic stirrers, and to provide assistance with identifying alternatives to single-use plastic beverage straws and single-use plastic stirrers. Beginning on November 1, 2018, and continuing through January 31, 2018, the city shall provide for a warning period, during which the code compliance department shall issue written warnings for violations of those provisions of subsection (c) that pertain to single-use plastic beverage straws and single-use plastic stirrers. Beginning on February 1, 2019, the code compliance department shall enforce the provisions in subsection (c) that pertain to single-use plastic beverage straws and single-use plastic stirrers.

- (d) *Prohibitions on causing litter in sewers and on public and private property.* It shall be unlawful for any person to use leaf blowers, or any other means, to sweep, cast or throw, or cause to be cast or thrown, or discarded into any of the gutters, drains, sewers, or public rights-of-way within the city, or upon any adjacent public or private real or personal property, any garbage, litter, paper, handbill, trash, tree, plant, or grass cuttings, leaves, yard maintenance debris, or other objects or substances.

\* \* \*

- (f) *Penalties for violations.* The following civil fines shall be imposed for violations of this section, except as provided in subsection (h) below:

(1) For violations of subsection (c):

- a. First offense within a 12-month period: \$100.00 civil fine.
- b. Second offense within a 12-month period: \$200.00 civil fine.
- c. Third or subsequent offense within a 12-month period: \$500.00 civil fine.

(2) For violations of subsection (b) that take place anywhere other than a beach or park within the city, or a city marina, pier, dock, or boat ramp, or for violations of subsections (d) or (e):

- a. First offense within a 12-month period: \$1,000.00 civil fine.
- b. Second offense within a 12-month period: \$2,000.00 civil fine.
- c. Third or subsequent offense within a 12-month period: \$3,000.00 civil fine.

(3) For violations of subsection (b) that take place on a beach or park within the city, or on a city marina, pier, dock, or boat ramp:

- a. First offense within a 12-month period: \$1,500.00 civil fine;
- b. Second offense within a 12-month period: \$2,500.00 civil fine; and



- c. Third or subsequent offense within a 12-month period: \$3,500.00 civil fine.
- (4) In lieu of a civil fine, the special master may accept voluntary community service removing litter in the city equivalent to one hour of community service for each \$50.00 of an imposed civil fine. If the community service is not completed within six months of an adjudication of guilt, the fine shall be reinstated.
- \* \* \*
- (l) *Enforcement by code compliance officers; notice of violation.* If a code compliance officer (which, as defined in section 70-66, includes a police officer) finds a violation of this article, such code compliance officer shall issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to a hearing.
- (m) *Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.*
- (1) A violator who has been served with a civil notice of violation shall elect either to:
- a. Pay the civil fine in the manner indicated on the notice; or
  - b. Request an administrative hearing before a special master to appeal the notice of violation, which hearing must be requested within ten days of service of the notice of violation.
- (2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of the City Code.
- (3) The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties may be assessed accordingly.
- (4) Any party aggrieved by a decision of the special master may appeal that decision to a court of competent jurisdiction.
- (5) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
- (6) Other than the option to accept voluntary community service in lieu of a civil fine pursuant to subsection (f)(4), the special master shall not have discretion to alter the penalties prescribed in subsections (f)(1), (f)(2) or (f)(3).
- (n) *Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.*
- (1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

- (2) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien, plus accrued interest.
- (o) *Planning board authority.* Nothing in this article shall limit or restrict any condition or limitation imposed by the planning board.
- (p) *Injunctive relief.* As an additional means of enforcement, the city may seek injunctive relief and/or follow procedures to revoke a business tax receipt and/or certificate of use as set forth in chapters 14, 18 and 102 of the City Code when there are more than three offenses by the same violator within a calendar year.

**SECTION 2.** Article I of Chapter 82 of the Code of the City Miami Beach is hereby amended as follows:

**CHAPTER 82  
PUBLIC PROPERTY**

\* \* \*

**ARTICLE I. In General**

\* \* \*

**Sec. 82-8. Prohibitions regarding sale or use of single-use plastic beverage straws and single-use plastic stirrers by city contractors and special event permittees.**

- (a) *Legislative intent.* Plastic straws are neither readily recyclable nor biodegradable, and take hundreds of years to degrade. The City's goal is to reduce litter by reducing the use of and replacing single-use plastic beverage straws and single-use plastic stirrers with reusable materials.
- (b) *Definitions.* For purposes of this section only, the following definitions shall apply:
- (1) *City contractor* means a contractor, vendor, commercial lessee, concessionaire of the city, or operator of a city facility or property.
  - (2) *City facility* includes, but is not limited to, any building, structure, park, beach, golf course, marina, pier, dock or boat ramp leased to the city, or owned, operated, leased, or managed by the city.
  - (3) *City property* includes, but is not limited to, any land, water, or air rights leased to the city, or owned, operated, leased, or managed by the city.
  - (4) *Single-use plastic beverage straw* means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant



sources, for transferring a beverage from its container to the mouth of the drinker. *Single-use plastic beverage straw* includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

(5) *Single-use plastic stirrer* means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. *Single-use plastic stirrer* includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

(6) *Special event permittee* means any person or entity issued a special event permit by the city for a special event on city property or in a city facility.

(c) *Prohibitions.* City contractors and special event permittees shall not sell, use, provide beverages with, or offer the use of single-use plastic beverage straws or single-use plastic stirrers in city facilities or on city property. A violation of this section shall be deemed a default under the terms of the city contract, lease, or concession agreement and is grounds for revocation of a special event permit.

(d) *Exceptions.* Any city contract, lease, or concession agreement entered into prior to February 1, 2019, or any special event permit issued prior to February 1, 2019, shall not be subject to the requirements of this section, unless the city contractor or special event permittee voluntarily agrees thereto.

**Secs. 82-89—82-35. – Reserved.**

**SECTION 3.** Subdivision II of Division 5 of Article IV of Chapter 82 of the Code of the City Miami Beach is hereby amended as follows:

## **CHAPTER 82 PUBLIC PROPERTY**

\* \* \*

### **ARTICLE IV. Uses in Public Rights-of-Way**

\* \* \*

#### **DIVISION 5. Sidewalk Cafes**

\* \* \*

##### **Subdivision II. Permit**

\* \* \*

**Sec. 82-385. Minimum standards, criteria, and conditions for operation of sidewalk cafes.**

\* \* \*

(p) No food preparation, food storage, expanded polystyrene food service articles, single-use plastic beverage straws, single-use plastic stirrers, refrigeration apparatus or equipment, or fire apparatus or equipment, shall be allowed on the right-of-way. In addition, expanded

polystyrene food service articles, single-use plastic beverage straws, and single-use plastic stirrers shall not be provided to sidewalk cafe patrons.

- (1) Notwithstanding the above, beginning on August 1, 2018, the city shall engage in public education efforts to inform the public of those provisions in this subsection (p) that pertain to single-use plastic beverage straws and single-use plastic stirrers, and to provide assistance with identifying alternatives to single-use plastic beverage straws and single-use plastic stirrers. Beginning on November 1, 2018, and continuing through January 31, 2018, the city shall provide for a warning period, during which the code compliance department shall issue written warnings for violations of those provisions of subsection (p) that pertain to single-use plastic beverage straws and single-use plastic stirrers. Beginning on February 1, 2019, the code compliance department shall enforce the provisions in subsection (p) that pertain to single-use plastic beverage straws and single-use plastic stirrers.

\* \* \*

#### **SECTION 4. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

#### **SECTION 5. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

#### **SECTION 6. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

#### **SECTION 7. EFFECTIVE DATE.**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

#### **ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Dan Gelber, Mayor

(Sponsored by Mayor Dan Gelber and Co-Sponsored by Commissioner Michael Góngora)

Underline denotes additions

~~Strike-through~~ denotes deletions

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APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

22 April 5/30/18  
City Attorney NK Date