

## **RESOLUTION 20-60**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH C.W. ROBERTS CONTRACTING, INC., FOR THE CONSTRUCTION OF BAY PARKWAY SEGMENT 2 IN AN AMOUNT NOT TO EXCEED \$16,641,381.00; DIRECTING THE APPROPRIATE OFFICERS OF THE CITY TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE FUNDS TO FULLY FUND THE PROJECT IN FY 2020-2021; AND DESIGNATING USE OF THE HALF-CENT INFRASTRUCTURE SALES TAX FOR THE PROJECT.**

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

1. The appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and CW Roberts, relating to the construction of Bay Parkway Phase 2 (from the terminus of North Pier Park Drive to the terminus of Nautilus Road), in an amount not to exceed Sixteen Million, Six Hundred Forty One Thousand, Three Hundred Eighty One Dollars (\$16,641,381.00), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.
2. The appropriate officers of the City are directed to budget and appropriate legally available funds in Fiscal Year 2020-21, in an amount equal to 110% of the unpaid contract price as of September 15, 2020.
3. The City Council finds and determines that the Bay Parkway Segment 2 project will improve traffic flow, capacity, and safety by reducing the demand on the Panama City Beach Parkway between Highway 79 and Nautilus Street, and hereby directs that the proceeds received by the City from the local government infrastructure surtax levied pursuant to Bay County Ordinance 16-21 be used to fund the construction and related services contemplated herein for the Bay Parkway Segment 2

Project.

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

**PASSED** in regular session this 27<sup>th</sup> day of March, 2020.

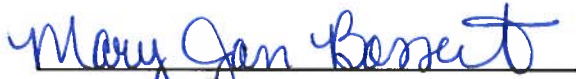
**CITY OF PANAMA CITY BEACH**

By:



Mike Thomas, Mayor

**ATTEST:**



Mary Jan Bossert, City Clerk

SECTION 00050  
AGREEMENT

THIS AGREEMENT is made this 27 day of February, 2020 by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called "OWNER") and C.W. Roberts Contracting, Inc., doing business as a corporation (an individual), or (a partnership), or (a corporation), having a business address of 1603 Bay Avenue, Panama City, FL. 32405 (hereinafter called "CONTRACTOR"), for the performance of the Work (as that terms is defined below) in connection with the construction of **Bay Parkway Phase 2** ("Project"), to be located at Panama City Beach, Florida, in accordance with the Drawings and Specifications prepared by **Gortemoller Engineering, Inc.** the Engineer of Record (hereinafter called "Engineer") and all other Contract Documents hereafter specified.

OWNER and CONTRACTOR, for the consideration herein set forth, agree as follows:

1. The CONTRACTOR shall furnish, at its sole expense, all supervision, labor, equipment, tools, material, and supplies to properly and efficiently perform all of the work required under the Contract Documents and shall be solely responsible for the payment of all taxes, permits and license fees, labor fringe benefits, insurance and bond premiums, and all other expenses and costs required to complete such work in accordance with this Agreement (collectively the "Work"). CONTRACTOR'S employees and personnel shall be qualified and experienced to perform the portions of the Work to which they have been assigned. In performing the Work hereunder, CONTRACTOR shall be an independent contractor, maintaining control over and having sole responsibility for CONTRACTOR'S employees and other personnel. Neither CONTRACTOR, nor any of CONTRACTOR'S sub-

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contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of OWNER.

2. The CONTRACTOR will commence the Work required by the Contract Documents within ten (10) calendar days after the date of the NOTICE TO PROCEED to be issued by OWNER in writing within thirty (30) calendar days from the date of this Agreement and will achieve Substantial Completion of the Work within 395 days of the required commencement date, except to the extent the period for Substantial Completion is extended pursuant to the terms of the Contract Documents ("Contract Time"). Final Completion of the Work shall be achieved by CONTRACTOR within the time period set forth in Section 15.2 of Section 00100, General Conditions.
3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$4,866 for each calendar day that expires after the Contract Time for Substantial Completion as more fully set forth in Section 15 of the General Conditions.
4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of \$ 14,826,721.39 Base Bid and for \$ 121,114.79 Add Alternate 1, \$ 273,450.70 Add Alternate 2, and \$ 642,955.80 Add Alternate 3 as shown in the BID SCHEDULE for a total bid in the basic amount of \$ 15,864,242.68, included within the Bid Proposal Form, as said amount may be hereafter adjusted pursuant to the terms of the Contract Documents ("Contract Price").
5. The term "Contract Documents" means and includes the following documents, all of which are incorporated into this Agreement by this  
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reference:

Section 00010	ADVERTISEMENT FOR BIDS
Section 00020	INFORMATION FOR BIDDERS
Section 00030	BID PROPOSAL FORM
Section 00040	BID BOND
Section 00050	AGREEMENT
Section 00060	PERFORMANCE BOND
Section 00070	PAYMENT BOND
Section 00080	NOTICE OF AWARD
Section 00090	NOTICE TO PROCEED
Section 00095	STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES, ON PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS
Section 00096	TRENCH SAFETY ACT CERTIFICATE OF COMPLIANCE
Section 00097	PUBLIC ENTITY CRIMES STATEMENT
Section 00099	CERTIFICATE OF INSURANCE
Section 00100	GENERAL CONDITIONS
Section 00800	SUPPLEMENTAL CONDITIONS

DRAWINGS prepared by Gortemoller Engineering, Inc.

numbered Cover Sheet through D6 and dated October 2019.

SPECIFICATIONS prepared or issued by Gortemoller Engineering, Inc.  
dated October 2019.

ADDENDA

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_

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No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

The Contract Documents also includes any written amendments to any of the above signed by the party to be bound by such amendment. The Contract Documents are sometimes referred to herein as the "Agreement".

6. The OWNER will pay the Contract Price to the CONTRACTOR in the manner and at such times as set forth in Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. This Agreement shall be governed by the laws of the State of Florida.
9. All notices required or made pursuant to this Agreement shall be in writing and, unless otherwise required by the express terms of this Agreement, may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, or (iii) by hand delivery to the appropriate address as herein provided. Notices to OWNER required hereunder shall be directed to the following address:

If to Owner:

\_\_\_\_\_  
City of Panama City Beach  
\_\_\_\_\_  
17007 Panama City Beach Parkway  
\_\_\_\_\_  
Panama City Beach, FL 32413  
ATTENTION: \_\_\_\_\_  
Anthony O'Rourke City Manager  
Fax No.: \_\_\_\_\_  
(850) 233-5108

If to Contractor:

\_\_\_\_\_  
\_\_\_\_\_

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ATTENTION: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

10. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement the sales tax savings program as more fully described in the Sales Tax Exemption Addendum. If required by OWNER, the Sales Tax Exemption Addendum shall be made a part of the Contract Documents, the form of which is set forth in Section 00808.
11. The failure of OWNER to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
12. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.
13. Should any provision of the Agreement be determined by a court with jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

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14. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term "including" is not limiting, and the terms "hereof", "herein", "hereunder", and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.
15. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be Gortemoller Engineering, Inc., Dexter Gortemoller, P.E., President.
16. CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, or ENGINEER may be responsible, in whole or in part, shall relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This section shall expressly apply to claims for

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early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may make a claim for its actual and direct delay damages accruing after said 90 calendar days as provided in Section 00805 Supplemental Conditions, Contract Claims and Changes. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

**17. INSURANCE - BASIC COVERAGES REQUIRED**

The CONTRACTOR shall procure and maintain the following described insurance on policies and with insurers acceptable to OWNER. Current Insurance Service Office (ISO) policies, forms, and endorsements or equivalents, or broader, shall be used where applicable.

These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

The CONTRACTOR and the CONTRACTOR'S subcontractors and sub-subcontractors shall be solely responsible for all of their property, including but not limited to any materials, temporary facilities, equipment and vehicles, and for

obtaining adequate and appropriate insurance covering any damage or loss to such property. The CONTRACTOR and the CONTRACTOR'S sub-contractors and sub-subcontractors expressly waive any claim against OWNER arising out of or relating to any damage or loss of such property, even if such damage or loss is due to the fault or neglect of the OWNER or anyone for whom the OWNER is responsible. The CONTRACTOR is obligated to include, or cause to be included, provisions similar to this paragraph in all of the CONTRACTOR'S subcontracts and its subcontractors' contracts with their sub-subcontractors.

The CONTRACTOR'S deductibles/self-insured retention's shall be disclosed to OWNER and are subject to OWNER'S approval. They may be reduced or eliminated at the option of OWNER. The CONTRACTOR is responsible for the amount of any deductible or self-insured retention. Any deductible or retention applicable to any claim or loss shall be the responsibility of CONTRACTOR and shall not be greater than \$25,000, unless otherwise agreed to, in writing, by OWNER.

Insurance required of the CONTRACTOR or any other insurance of the CONTRACTOR shall be considered primary, and insurance of OWNER shall be considered excess, as may be applicable to claims or losses which arise out of the Hold Harmless, Payment on Behalf of OWNER, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

#### WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE COVERAGE

The CONTRACTOR shall purchase and maintain workers' compensation and employers' liability insurance for all employees engaged in the Work, in

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accordance with the laws of the State of Florida, and, if applicable to the Work, shall purchase and maintain Federal Longshoremen's and Harbor Workers' Compensation Act Coverage. Limits of coverage shall not be less than:

\$1,000,000	Limit Each Accident
\$1,000,000	Limit Disease Aggregate
\$1,000,000	Limit Disease Each Employee

The CONTRACTOR shall also purchase any other coverage required by law for the benefit of employees.

The CONTRACTOR shall provide to OWNER an Affidavit stating that it meets all the requirements of Florida Statute 440.02 (15) (d).

**COMMERCIAL GENERAL LIABILITY COVERAGE**

CONTRACTOR shall purchase and maintain Commercial General Liability Insurance on a full occurrence form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage, Products and Completed Operation Liability Coverages and shall not exclude coverage for the "X" (Explosion), "C" (Collapse) and "U" (Underground) Property Damage Liability exposures. Limits of coverage shall not be less than:

Bodily Injury, Property Damage & Personal Injury Liability	\$1,000,000 Combined Single Limit Each Occurrence, and
	\$2,000,000 Aggregate Limit

The General Aggregate Limit shall be specifically applicable to this Project. The

Completed Operations Liability Coverages must be maintained for a period of not less than three (3) years following OWNER'S final acceptance of the project.

The CONTRACTOR shall add OWNER as an additional insured through the use of Insurance Service Office Endorsements No. CG 20.10.10.01 and No. CG 20.37.10.01 wording or equivalent, or broader, an executed copy of which shall be attached to or incorporated by reference on the Certificate of Insurance to be provided by CONTRACTOR pursuant to the requirements of the Contract Documents.

**BUSINESS AUTOMOBILE LIABILITY COVERAGE**

The CONTRACTOR shall purchase and maintain Business Automobile Liability Insurance as to ownership, maintenance, use, loading and unloading of all of CONTRACTOR'S owned, non-owned, leased, rented or hired vehicles with limits not less than:

Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit Each Accident
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**EXCESS OR UMBRELLA LIABILITY COVERAGE**

CONTRACTOR shall purchase and maintain Excess Umbrella Liability Insurance or Excess Liability Insurance on a full occurrence form providing the same continuous coverages as required for the underlying Commercial General, Business Automobile and Employers' Liability Coverages with no gaps in continuity of coverages or limits with OWNER added by endorsement to the policy as an additional insured in the same manner as is required under the

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primary policies, and shall not be less than \$10,000,000, each occurrence and aggregate as required by OWNER.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) copies each of which shall be deemed an original on the date first written above.

(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH,  
FLORIDA

ATTEST:

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

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

NAME: Anthony O'Rourke  
(Please type)

TITLE: City Manager

\_\_\_\_\_  
City Attorney (as to form only)

CONTRACTOR:

ATTEST:

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

\_\_\_\_\_

NAME: \_\_\_\_\_  
(Please Type)

NAME: \_\_\_\_\_  
(Please Type)

ADDRESS: 1603 Bay Avenue

[END OF SECTION 00050]

AGREEMENT

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## CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

**1. DEPARTMENT MAKING REQUEST/NAME:**

Public Works / Kelly Jenkins

**2. MEETING DATE:**

02/27/2020

**3. REQUESTED MOTION/ACTION:**

Approve the construction agreement for Bay Parkway Ph2 project with C.W. Roberts, Inc., in the amount not to exceed \$15,864,242.68 plus contingencies for a budget total of \$16,641,381.

**4. AGENDA**

PRESENTATION   
PUBLIC HEARING   
CONSENT   
REGULAR

**5. IS THIS ITEM BUDGETED (IF APPLICABLE)?** Yes  No  N/A   
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED Yes  No  N/A

**6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)**

Bay Parkway Ph1 was completed in March 2017. The construction of Bay Parkway Ph 2 begins at the end of Ph1 and extends east with a terminus at Nautilus and Back Beach Road (see map).

A solicitation for construction bids was publicly advertised and three bidders responded. Bids were publicly opened on 2/18/20 at 2 pm. Gortemoller Engineering Inc. reviewed the bids and all bidders were deemed responsive. Gortemoller Engineering, Inc. recommends and staff agrees, that the construction Bid be awarded to the lowest responsive bidder, C.W. Roberts Contracting, Inc.

The Base Bid came back in the amount of \$14,826,721.39. However, staff recommends 3 additive alternatives to bring the not to exceed total to \$15,864,242.68. The total amount with utility and roadway contingencies is \$16,641,381 (General Funds = \$14,219,915, Utility Funds = \$2,421,466 (see attachments for detailed breakdown)). The Contractor shall provide all materials, equipment and labor to complete the project.

In the event the contract period extends beyond the 12 month time period, the City receives a credit back in the amount of \$5,262.43/day for a potential credit up to \$315,754.71. Attached is a copy of the engineer of records recommendation, bid tabulation, a draft agreement, and a location map.

Additional task orders are recommended as part of this project and are in subsequent memos.



February 21, 2020

Ms. Kathy Younce – City Engineer  
City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, FL 32413

**Re: Bay Parkway Phase 2 from Bay Parkway Phase I to Nautilus Street  
Contract Award Recommendation**

Dear Kathy,

The project Bid Opening was held at the City of Panama City Beach City Hall on February 18, 2020 at 2:01 P.M. Three firms submitted bids which were opened and the name of the firm was read aloud along with the Lump Sum Base Bid. The firm name and the Base Bids were then recorded on the Bid Tabulation Sheet.

We have reviewed the Bids and **C.W. Roberts Contracting, Inc.** is the low bidder with a Lump Sum Base Bid of **\$14,826,721.39**.

It is the recommendation of Gortemoller Engineering, Inc. that Bay Parkway Phase 2 be awarded to C.W. Roberts Contracting, Inc. as the responsive, low bidder.

We also reviewed the add alternates and it appears that the add alternate costs were within a reasonable range of the Engineering Estimates if the City chooses to move forward with these items.

If you have any questions or need additional information, please let me know.

Sincerely,  
Gortemoller Engineering, Inc.

A handwritten signature in blue ink that reads 'Blake Furbee'.

Blake Furbee, P.E.  
Project Engineer

708 Thomas Drive  
Panama City Beach, Florida 32408  
(850) 249-2425 – [www.gorteng.com](http://www.gorteng.com)

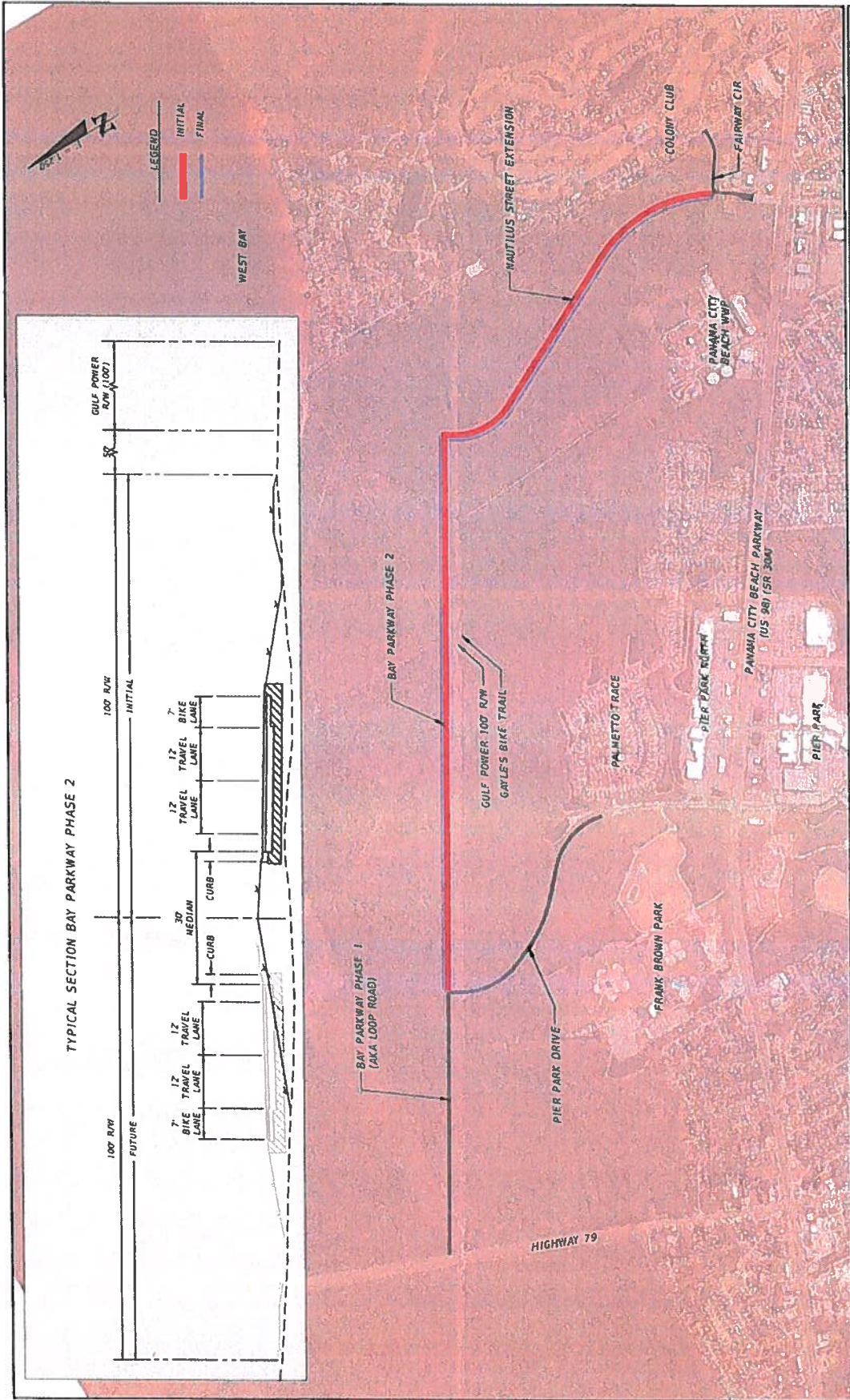




**City of Panama City Beach**  
**Bid Tabulation Sheet**  
**Bay Parkway Phase 2**  
**Project No. 18-010 (FPID #: 442483-2-54-01)**

Opened by: Kathy Younce		Tabulated by: Blake Furbee		Opening: February 18th, 2020 at 2:01 P.M.						
CONTRACTOR	Bid Proposal	Bid Bond	Drug Free Workplace	Trench Safety Act	Public Entity Crimes	Sales Tax Exemption Addendum	Signed Addenda Forms	Certificate of Current Capacity	Status of Contracts on Hand	
	GAC CONTRACTORS, INC.	Y	Y	Y	Y	Y	Y	Y	Y	Y
GULF COAST UTILITY CONTRACTORS, LLC.	Y	Y	Y	Y	Y	Y	Y	Y	Y	
C.W. ROBERTS CONTRACTING, INC.	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>**Y (yes) or N (no) or v, indicates only if documents are included with the response at the time of the opening, and is not an indication that documents are properly completed or determined to be responsive.**</b>										

Currently in 65-85 for Bay Parkway II (NO UTILITIES)	Road Budget	Utility Budget	
Original	12,500,000		
Rolled forward and reappropriate in Oct '19	<u>332,000</u>		
	12,832,000		
Spent FY 2020 to date as of 02/19/20			
Hand, Arendall	(2,210)		
Gortemoller	<u>(75,403)</u>		
Remaining budget	12,754,387		
Balance of Gortemoller design	<u>(44,053)</u>		
	<u><u>12,710,334</u></u>		
Base bid	13,148,210	1,678,511	
Add alternate friction base Phase I	121,115		
Add alternate conduit future lighting II	<u>273,451</u>		
Add Alternate Gayle's Trails Forcemain		642,956	
	13,542,776	2,321,466	15,864,242
Contingency 5%	677,139	fixed \$ 100,000	
	<u>14,219,915</u>	2,421,466	16,641,381
Gortemoller post design engineering svcs	86,000		
Nova geotech	52,000		
Icarus permit modification	10,000		
	<u>14,367,915</u>		
Estimated in all (excluding utilities) roadway	14,400,000		
Current FY 2020 budget available	<u>(12,710,334)</u>		
Shortfall	<u><u>1,689,666</u></u>		
Funding sources:			
Bay County FY 2020	1,750,000	already in FY revenue	
Bay County FY 2021	1,750,000		
State of Florida FY 2021	2,000,000	State's FY 2022 (requires immediate invoicing to State 07/01/21)	
CIGP FY 2022	<u>2,000,000</u>	State's FY 2023 (requires immediate invoicing to State 07/01/22)	
	7,500,000		
1/2 cent sales tax currently on hand	2,681,485		
1/2 cent sales tax anticipated balance of FY '20	900,000		
1/2 cent sales tax anticipated FY 2021	1,300,000		
balance to be funded from reserves	2,018,515		
	<u><u>14,400,000</u></u>		



 <p>Gortemoller Engineering, Inc 708 Thomas Drive Panama City Beach, FL 32408 (850) 249-2425 CA 00009505</p>	<p><b>CLIENT</b></p> <p>City of Panama City Beach 110 South Arnold Road Panama City Beach, FL 32413</p>	<p><b>PROJECT</b></p> <p>Bay Parkway Phase 2 (from the End of Bay Parkway Phase 1 (aka Loop Road) to Nautilus Street</p>	<p><b>BAY PARKWAY PHASE 2</b></p>
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