

RESOLUTION NO. 24-64

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A PURCHASE AND SALE AGREEMENT WITH FONTAINEBLEAU TERRACE OWNERS ASSOCIATION, INC. FOR LAND NEEDED FOR THE FRONT BEACH ROAD SEGMENT 4.2 PROJECT, IN THE TOTAL AMOUNT OF \$55,163.30.

BE IT RESOLVED that the City approves, and to the extent necessary ratifies, that certain Purchase and Sale Agreement between the City and Fontainebleau Terrace Owners Association, Inc., relating to the City's acquisition of land for the Front Beach Road Segment 4.2 Project in the total amount of Fifty-Five Thousand One Hundred Sixty-Three Dollars and Thirty Cents (\$55,163.30), inclusive of attorney's fees and costs, in substantially the form **attached** and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.


THIS RESOLUTION shall be effective immediately upon passage.

PASSED, APPROVED AND ADOPTED in regular session this 17th day of January, 2024.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

**OFFER AND AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY INTEREST(S)
BAY COUNTY
CITY OF PANAMA CITY BEACH**

Project: Front Beach Road Segment 4.2
Parcel No.: 805
Tax ID No.: 34511-630-000

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2023 by and between Fontainebleau Terrace Owners Association, Inc. (hereinafter called "Seller") and the City of Panama City Beach, (hereinafter called "Buyer");

WITNESSETH

For and in consideration of the mutual covenants, and conditions herein contained, Seller hereby agrees to sell and convey and Buyer hereby agrees to purchase the following real property interest upon the terms and conditions contained in this Agreement:

1) That the undersigned has been authorized by the Buyer to enter into an agreement to purchase and acquire that certain property, or interest therein, of the Seller as described in the attached Exhibit "A" (hereinafter the "Property");

2) That in order to construct the above referenced project (hereinafter called the "Project") it is necessary that Buyer acquire from Seller the Property or Seller's interest in the Property as that portion of Tax ID #34511-630-000, Bay County, Florida, containing 793.83 square feet, more or less, referred to as parcel 805 (Permanent Electrical Easement).

Property Address or description of its location: 14401 Front Beach Road, Panama City Beach, Florida 32413

3) That Buyer is offering to acquire the Property or interest therein under the threat of condemnation pursuant to its authority under Chapters 73, 74, and 166, *Florida Statutes*.

4) That the amounts paid by Buyer to Seller pursuant to this Agreement represent any and all compensation to which the Seller is entitled for the Buyer's acquisition of the Property and construction of the Project.

I. DESCRIPTION

- a. **Real property interest in the Property described as:**
 Parcel _____ Fee Simple
 Parcel 805 Permanent Electric Utility Easement
 Parcel _____ Temporary Construction Easement

II. PURCHASE PRICE*

a. Fee Simple Real Property	
Land	\$ 0.00
Improvements	\$ 0.00
Real Estate Damages (Severance/Cost-to-Cure)	\$ 0.00
b. Easements	
Permanent Electric Utility Easement – Parcel 805	\$ 33,500.00
Temporary Construction Easement	\$ 0.00
c. Total Real Property	\$ 33,500.00
d. Incentive (see paragraph 5)	
Parcel _____ Fee Simple	\$ 0.00
Parcel <u>805</u> Permanent Electric Utility Easement	\$ 15,010.00
Parcel _____ Temporary Construction Easement	\$ 0.00
e. Total Offer Amount	\$ 48,510.00

III. FEES AND COSTS*

- a. **Attorney fees and costs**** \$ 4,953.30
b. **Expert costs, if any, will be paid pursuant to Florida Statutes 73.091 at closing.**

* **Right-of-way agent does not have any authority to alter the terms of this offer. Any and all modifications, addendums, or counteroffers must be reviewed and approved by Buyer's Right-of-Way Manager and/or Counsel prior to acceptance.**

****This amount will only be paid upon Buyer's receipt of an executed attorney authorization letter from Seller.**

5) The incentive offer amount is being made to encourage early settlement and reduce right of way costs and shall expire and be permanently withdrawn upon the filing of an eminent domain lawsuit in the circuit court for Bay County, Florida, which shall occur no sooner than thirty (30) days after the delivery of this offer or the date the offer is returned as undeliverable by postal authorities. Therefore, at the time the lawsuit is filed, the total offer for the Property will be reduced to \$33,500.00.

6) This Agreement contains the total amount that Buyer will provide as reimbursement for any attorneys' fees and costs that Seller may choose to incur while reviewing this transaction. The attorney fees and costs in paragraph III above will only be paid to Seller's attorney(s) if Buyer has received an executed attorney authorization letter from Seller prior to closing. You may choose not to hire an attorney, and in such instances any appraisal fees incurred by Seller in reviewing this offer will be reviewed by Buyer and must be settled prior to closing. As stated above, at 4) III. b. expert costs, if any, will be paid pursuant to Florida Statutes 73.091.

7) Seller is responsible for delivering marketable title to Buyer, free and clear of liens or encumbrances, which materially affect the value of the Property. If material liens or encumbrances shall be found, Seller shall have a reasonable time in which to cure said defects. Marketable title shall be determined according to applicable title standards adopted by the Florida Bar in accordance with Florida Law subject only to those exceptions that are acceptable to Buyer. Seller shall be liable for any encumbrances not disclosed in the public records or arising after closing as a result of the actions of Seller, unless this requirement is waived by Buyer, at its sole discretion.

8) Conveyance of the Property from Seller shall be by:

- Parcel _____ Fee Simple
- Parcel 805 Permanent Electric Utility Easement
- Parcel _____ Temporary Construction Easement

to the City of Panama City Beach, a Florida municipal corporation, in a form acceptable to Buyer, as provided in the attached Exhibit "B".

9) At closing, Buyer shall pay closing costs including title insurance charges, documentary stamps, and recording fees.

10) At closing, Seller shall only be responsible for payment of taxes (prorated though date of closing in accordance with Section 196.295, *Florida Statutes*), payment of any judgments, liens, mortgages, deeds of trust or other such encumbrances against the Property, and any commissions due to realtors or real estate brokers.

11) Seller shall maintain the Property described in Exhibit "A" of this Agreement until the day of closing. The property shall be maintained in the same condition existing on the date of this Agreement, except for reasonable wear and tear.

12) Seller shall remove all personal property from the Property described in Exhibit "A" on or before the date of closing.

13) Seller and Buyer agree that a real estate closing pursuant to the terms of this agreement shall be contingent on delivery by Seller of an executed Public Disclosure affidavit in accordance with Section 286.23, *Florida Statutes*.

14) Seller and Buyer agree that this Agreement represents the full and final agreement for the herein described sale and purchase and no other agreements or representations, unless incorporated into this Agreement, shall be binding on the parties.

15) Time is of the essence in this Agreement.

16) This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns, subject to the Buyer's approval process described below:

i. Acquisitions for which the "Total Offer Amount" does not exceed \$25,000.00 may be approved by the City Manager, who is authorized to sign this Agreement on behalf of Buyer pursuant to Section 5-6 of the City of Panama City Beach Charter. However, a settlement amount exceeding \$25,000 will require City Council approval. If the Council's decision is yes, the City Manager will be authorized to execute this Agreement on behalf of Buyer. If the Council's decision is no, this Agreement will have no further force and effect.

ii. Acquisitions for which the "Total Offer Amount" exceeds \$25,000.00 shall be wholly contingent upon the City of Panama City Beach City Council voting to approve this Agreement. If the Council's decision is yes, the City Manager will be authorized to execute this Agreement on behalf of Buyer. If the Council's decision is no, this Agreement will have no further force and effect.

17) Any typewritten or handwritten provisions inserted into or attached to this Agreement as addenda must be initialed by both Seller and Buyer. Right-of-way agents for Buyer do not have any authority to negotiate or accept any addenda, modifications, or counteroffers to this agreement. Any and all addenda, modifications, or counteroffers to this agreement must be reviewed and approved by Buyer's right-of-way manager prior to acceptance.

There is an addendum to this agreement. Page 4 is made part of this agreement

There is not an addendum to this agreement.

IN WITNESS WHEREOF, Seller and Buyer hereby acknowledge that their signatures as Seller and Buyer below constitute their acceptance of this agreement.

SELLER(S):

Beverly Howard 10/27/23
Signature Date

BEVERLY HOWARD
Type or Print Name

Drew Whitman 10/27/23
Signature Date Sec.

David R. Morrison
Type or Print Name

BUYER:

CITY OF PANAMA CITY BEACH

BY:

Drew Whitman 12-4-23
Signature Date

Drew Whitman, City Manager
Type or Print Name and Title

ATTEST:

Lynne Fasone
Lynne Fasone, City Clerk

/s/ Amy Myers
Approved as to Form

Amy Myers, City Attorney
Type or Print Name

Date

Delivered By

Type or Print Name

Date

Receipt Acknowledged By

Type or Print Name

Date

ADDENDUM TO AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY
INTERESTS
BAY COUNTY
CITY OF PANAMA CITY BEACH

Project: Front Beach Road Segment 4.2
Parcel No.: 805
Tax ID No.: 34511-630-000

THIS ADDENDUM (the "Addendum") is attached to and shall form part of the Agreement for the Purchase and Sale of Real Property Interests entered the 27 day of October, 2023 between **FONTAINEBLEAU TERRACE OWNERS ASSOCIATION, IN.** ("Seller") and the **CITY OF PANAMA CITY BEACH** ("Buyer") (the "Agreement"). In the event of any conflict between the terms of the Agreement and the terms of this Addendum, then the terms of this Addendum shall control.

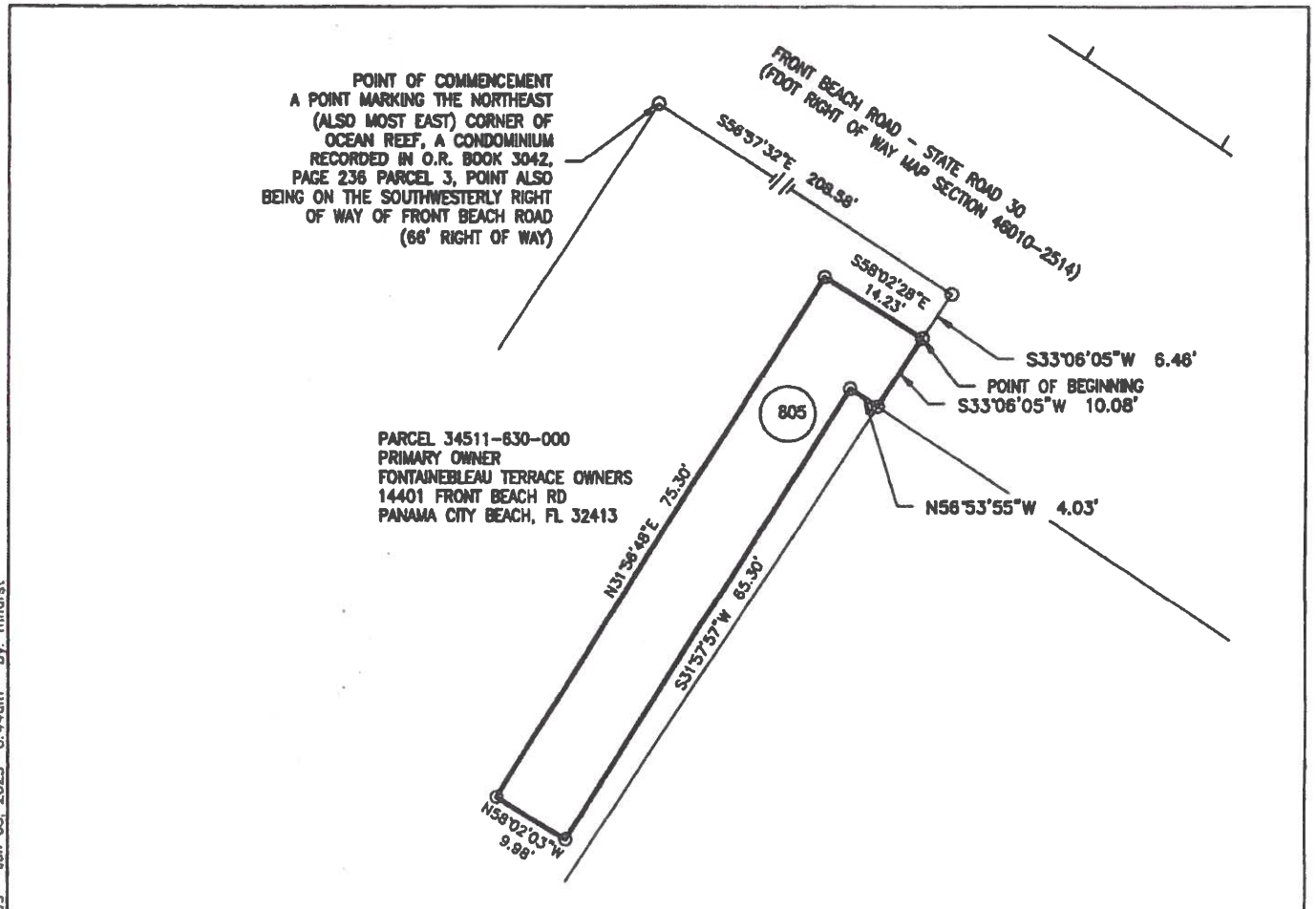
1. All terms defined in the Agreement shall have the same meaning when used in this Addendum.
2. The utility facilities to be installed by Buyer within the bounds of the Permanent Electric Utility Easement include underground cables, conduits, and appurtenant equipment, (collectively, the "Utility Facilities"). With respect to installation of the Utility Facilities Buyer covenants and agrees as follows:
 - a. The current use of the parking spaces located over the easement area will not be materially affected by the installation or routine operation of the Utility Facilities. This provision is not applicable to any loss of parking spaces previously located, in whole or in part, within the bounds of the public right of way.
 - b. Following installation of the Utility Facilities, Buyer and its contractors shall restore paving and improvements within the Temporary Construction Easement to substantially the same condition as existed prior to such work and restripe any parking spaces where striping was materially damaged.
 - c. While installing the Utility Facilities Buyer and its contractors shall use commercially reasonable efforts not to close or entirely block or cause to be closed or entirely blocked the drive aisles upon and across the Seller's property during business hours. In the event circumstances dictate that a drive aisle be closed during business hours incident to installation of the Utility Facilities, Buyer covenants and agrees that at no time shall such drive aisle be more than 50% closed or obstructed, and continuous access through the drive aisle shall be maintained on the remaining 50% of the drive aisle so as to allow access over and across the Seller's property by means of the existing drive aisles, and ingress and egress by Seller, its tenant, and guests and invitees of the tenant. In the event of the permitted closure of any of the drive aisles, partial or otherwise, such closure shall not last longer than 24 hours. This provision is not applicable to ingress and egress between Front Beach Road and the eastern side of Seller's property (the area generally located at the northeast corner of parcel tax ID No. 34511-630-000) as, at the request of Seller to increase fire safety, this area is subject to a proposed construction by Buyer of a right-in only driveway from Front Beach Road into Seller's property.
 - d. Regarding the electrical connection and method of installation, to the extent possible, the installation shall be via a minimally invasive technique such as directional boring under the easement.

Seller's Initials

BH / PM

Buyer's Initials _____

Exhibit "A"



LEGAL DESCRIPTION: FPL PERMANENT EASEMENT 805

A PARCEL OF LAND LYING AND BEING IN SECTION 28, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT MARKING THE NORTHEAST (ALSO MOST EAST) CORNER OF OCEAN REEF, A CONDOMINIUM RECORDED IN OFFICIAL RECORDS BOOK 3042, PAGE 236, PARCEL 3 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA (POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF FRONT BEACH ROAD (66' RIGHT OF WAY) AND PROCEED SOUTH 56 DEGREES 57 MINUTES 32 SECONDS EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, FOR A DISTANCE 208.58 FEET; THENCE SOUTH 33 DEGREES 06 MINUTES 05 SECONDS WEST, FOR A DISTANCE OF 6.46 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 33 DEGREES 06 MINUTES 05 SECONDS WEST, FOR A DISTANCE OF 10.08 FEET; THENCE NORTH 56 DEGREES 53 MINUTES 55 SECONDS WEST, FOR A DISTANCE OF 4.03 FEET; THENCE SOUTH 31 DEGREES 57 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 65.30 FEET; THENCE NORTH 58 DEGREES 02 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 9.98 FEET; THENCE NORTH 31 DEGREES 56 MINUTES 48 SECONDS EAST, FOR A DISTANCE OF 75.30 FEET; THENCE SOUTH 58 DEGREES 02 MINUTES 28 SECONDS EAST, FOR A DISTANCE OF 14.23 FEET TO THE POINT OF BEGINNING. CONTAINING 793.83 SQUARE FEET OR 0.018 ACRES, MORE OR LESS.

1. THE UNDERSIGNED SURVEYOR HAS NOT BEEN PROVIDED A CURRENT TITLE OPINION OR ABSTRACT OF MATTERS AFFECTING TITLE OR BOUNDARY TO THE SUBJECT PROPERTY. IT IS POSSIBLE THERE ARE RECORDED DEEDS, UNRECORDED DEEDS, EASEMENTS, RESTRICTIONS, SETBACKS OR OTHER INSTRUMENTS AND GOVERNMENT REGULATIONS WHICH COULD AFFECT THE BOUNDARIES AND/OR USE OF THE PROPERTY.
2. THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT DEPICT THE RESULTS OF A FIELD SURVEY.

LEGEND:
R/W = RIGHT OF WAY
NO. = NUMBER
P.O.B. = POINT OF BEGINNING
RWT = RIGHT OF WAY TAKING
-||- = LINE NOT TO SCALE

DAVID JON BARTLETT, P.S.M. DATE SIGNED
PROFESSIONAL SURVEYOR & MAPPER No. LS4018

Drawing name: M:\50104124_PCB CRA Phase 4.2\Survey.dwg\50104124 TCE-LA 2023.dwg FPL 805 Jun 08, 2023 8:44am by: mhurst

<p>Dewberry DEWBERRY ENGINEERS INC. 203 ABERDEEN PARKWAY PANAMA CITY, FLORIDA 32405 PHONE: 850.522.0644 FAX: 850.522.1011 WWW.DEWBERRY.COM CERTIFICATE OF AUTHORIZATION NO. LB 8011</p>	<p>SKETCH OF DESCRIPTION</p> <p>FPL PERMANENT EASEMENT 805 14401 FRONT BEACH ROAD CITY OF PANAMA CITY BEACH CRA PHASE 4.2</p>		<p>DRAWING DATE:</p> <p>06/07/2023</p>	<p>PROJECT NO.</p> <p>50104124</p>
	<p>FB/PG: N.A.</p>	<p>FLD DATE: N.A.</p>	<p>SCALE: 1"=20'</p>	<p>APPROVED BY:</p> <p>JHG</p>

EXHIBIT "B"

TO

**OFFER AND AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY INTEREST(S)
BAY COUNTY
CITY OF PANAMA CITY BEACH**

PERMANENT ELECTRIC UTILITY EASEMENT

THE CITY OF PANAMA CITY BEACH, FLORIDA

Page 1 of 2

	UNDERGROUND EASEMENT (BUSINESS) This Instrument Prepared By:
Section 28, Township 3S, Range 16W	Name: Amy Myers, CRA Attorney
Parcel ID # (Maintained by County Appraiser): 34511-630-000	Co. Name: Hand Arendall Harrison Sale
Project: Front Beach Road Segment 4.2 Parcel #: 805 County: Bay	Address: 304 Magnolia Avenue Panama City, FL 32401

The undersigned, **FONTAINEBLEAU TERRACE OWNERS ASSOCIATION, INC.**, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to the City of Panama City Beach Florida its affiliates, licensees, agents, successors, and assigns (the City), a non-exclusive easement forever for the construction, operation and maintenance of underground electric utility facilities (including cables, conduits, appurtenant equipment, and appurtenant above-ground equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage as well as the size of, and remove such facilities or any of them within an easement described as follows:

See Exhibit "A" ("Easement Area")

Together with the right to permit any other person, firm, or corporation to attach or place wires to or within any facilities hereunder and lay cable and conduit within the Easement Area and to operate the same for communications purposes; the right of ingress and egress to the Easement Area at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Easement Area; the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area, which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the Easement Area, over, along, under and across the roads, streets or highways adjoining or through said Easement Area.

(Continued on Page 2)

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument on _____, 2023.

Signed, sealed and delivered in the presence of:

(Witness' Signature)

Print Name: _____
(Witness)

(Witness' Signature)

Print Name: _____
(Witness)

By: _____

Print Name: _____

Print Address: _____

By: _____

Print Name: _____

Print Address: _____

STATE OF _____ AND COUNTY OF _____. The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ____ day of _____, 2023, by _____, and _____ who is (are) personally known to me or has (have) produced _____ as identification.
(Type of Identification)

My Commission Expires:

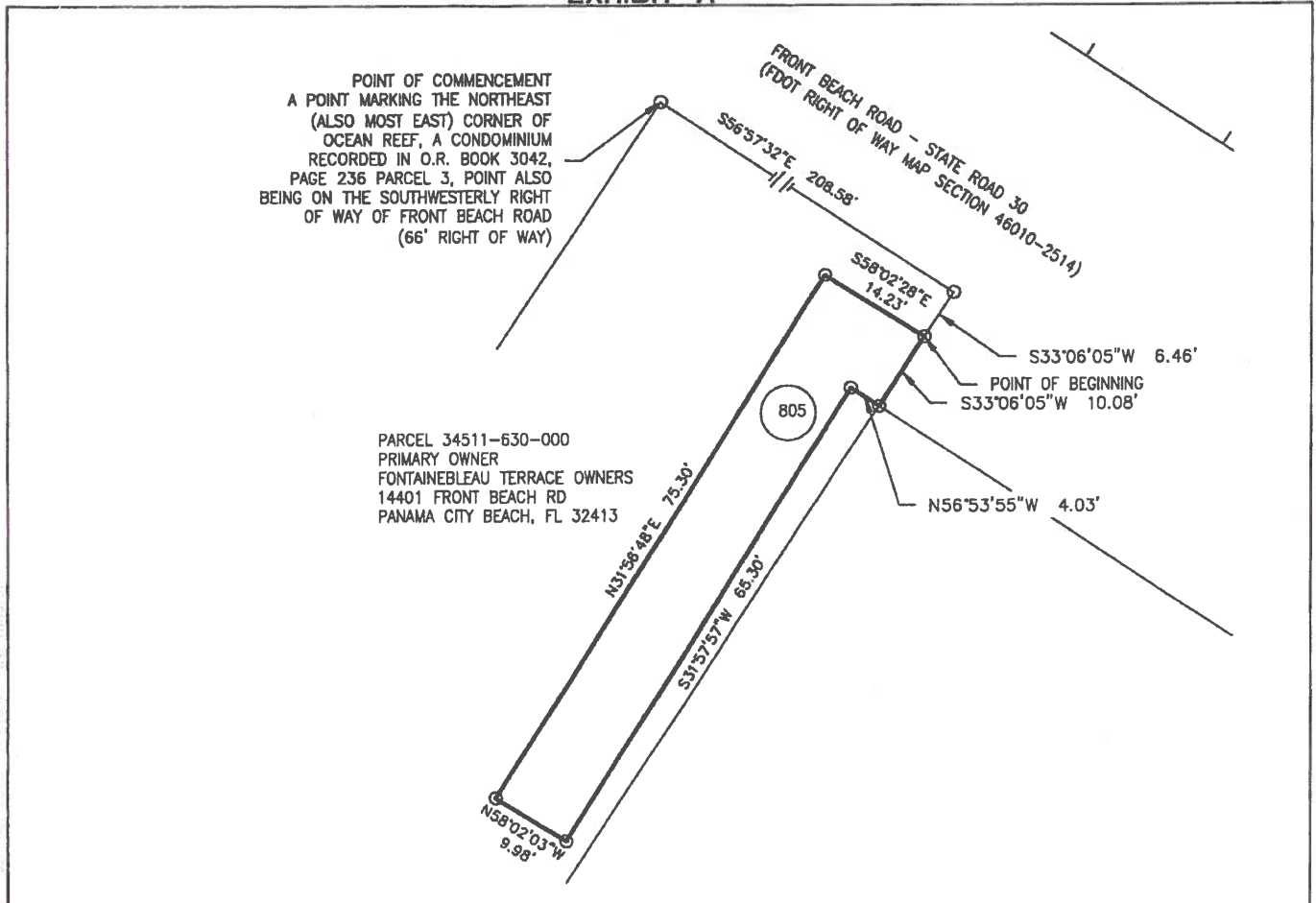
Notary Public, Signature

Print Name: _____

Title/Rank: _____

Serial No.: _____

EXHIBIT "A"



PARCEL 34511-630-000
 PRIMARY OWNER
 FONTAINEBLEAU TERRACE OWNERS
 14401 FRONT BEACH RD
 PANAMA CITY BEACH, FL 32413

LEGAL DESCRIPTION: FPL PERMANENT EASEMENT 805

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DAVID JON BARTLETT, P.S.M. DATE SIGNED
 PROFESSIONAL SURVEYOR & MAPPER No. LS4018

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	FB/PG: N.A.	FLD DATE: N.A.	SCALE: 1"=20'	APPROVED BY: JHG

Invoice #: 2023-42-920

REQUEST FOR PAYMENT

Agency: Panama City Beach CRA (the City)
Project: Front Beach Road – Segment 4.2
County: Bay
Parcel No.: 920 – Fontainebleau Terrace Owners Association, Inc.

Date: November 22, 2023
Payment Type: License Agreement
Amount: **\$1,700.00**
To: Amy Myers, City Attorney

Please issue one (1) check in the amount of: \$1,700.00

Payable to: Fontainebleau Terrace Owners Association, Inc.
14401 Front Beach Road
Panama City Beach, FL 32413

Warrant Control: Please ensure the check for Fontainebleau Terrace Owners Association, Inc. is returned for distribution to:

Send to: Keystone Field Services, Inc.
1466 Lee Avenue
Tallahassee, FL 32303

Attached, for your further handling, is a signed License Agreement from Fontainebleau Terrace Owners Association, Inc. in accordance with the City's offer of compensation plus an incentive in accordance with a resolution adopting an incentive schedule for land rights pursued by the City, the total offer and acceptance is \$1,700.00.

Submitted by: JOR
Jan Rybak, SR/WA
Keystone Field Services, Inc.

11/22/2023
Date

Panama City Beach Review and Approval:

Date Approved
By Council: JOR

N/A

Reviewed by Legal: Amy Myers
Amy Myers, CRA Attorney

12/19/23
Date

Approved by: Kathy Younce
Kathy Younce, Assistant Public Works Director

Date