

*Agenda Packet*

# PANAMA CITY BEACH CITY COUNCIL AGENDA

NOTE: AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY COUNCIL ALSO SITS, EX-OFFICIO, AS THE CITY OF PANAMA CITY BEACH COMMUNITY REDEVELOPMENT AGENCY AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT LATTER CAPACITY.

MEETING DATE: FEBRUARY 9, 2017  
MEETING TIME: 6:00 P.M.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION- PASTOR RAMON DUVALL, BEACHSIDE FELLOWSHIP CHURCH
- III. PLEDGE OF ALLEGIANCE- COUNCILMAN CHESTER
- IV. APPROVAL OF WORKSHOP OF DECEMBER 1, 2016 AND REGULAR MINUTES OF JANUARY 26, 2017
- V. APPROVAL OF AGENDA, AND ADDITIONS OR DELETIONS
- VI. PRESENTATIONS –
  - 1 FEBRUARY BOYS & GIRLS CLUB CIVIC ACHIEVEMENT AWARD PRESENTATION.
  - 2 FDOT SR 30A/US 98/PCB PARKWAY PD&E STUDY.
  - 3 AIRPORT AUTHORITY BOARD PRESENTATION.
- VII. PUBLIC COMMENTS-REGULAR & CONSENT ITEMS ONLY (Limited to Three Minutes)
- VIII. CONSENT AGENDA
  - 1 **RESOLUTION 17-32**, ANALYSIS OF EXISTING STORMWATER NON- AD VALOREM FUNDING PROGRAM AND UPDATE OF THE STORMWATER RATE STUDY. "A Resolution of the City of Panama City Beach, Florida, approving an Agreement with Ennead LLC and Public Utility Management and Planning Services, Inc., for analysis of the City's Existing Stormwater Non- Ad Valorem Funding Program and update to the Stormwater Rate Study; and providing an immediately effective date."
  - 2 **RESOLUTION 17-53**, AGREEMENT WITH BAY COUNTY EMERGENCY MANAGEMENT FOR NOTIFICATION SYSTEM IN SUPPORT OF ALERTFLORIDA INITIATIVE (ALERT BAY). "A Resolution of the City of Panama City Beach, Florida, approving an Agreement with Bay County Emergency management for use of the Notification System in support of the AlertFlorida Initiative; and providing an immediately effective date."
  - 3 **RESOLUTION 17-49**, VACANT LAND ACQUISITION HERMANN & JUDITH IRENE BOHN, 6919 SOUTH LAGOON DRIVE FOR THE GRAND LAGOON SEWER PROJECT. "A Resolution of the City of Panama City Beach, Florida, approving the purchase of vacant land for \$50,000 from Hermann and Judith Irene Bohn, co-Trustees of the Hermann and Judith Bohn Revocable Trust, and providing an immediately effective date."
  - 4 **RESOLUTION 17-54**, VACANT LAND ACQUISITION NONNIE LEE M. KINNER, LOT 7, BLOCK 13, HOLIDAY BEACH UNIT 15 (VEGA STREET) FOR THE GRAND LAGOON SEWER PROJECT. "A Resolution of the City of Panama City Beach, Florida, approving the purchase of vacant land for \$46,000 from Nonnie Lee M. Kinner, and providing an immediately effective date."

5\* **RESOLUTION 17-55, MASTER SERVICES AGREEMENT SOUTHERN EARTH SCIENCES, TASK ORDER #2017-1 FOR GEOTECHNICAL TESTING SERVICES, FRONT BEACH ROAD CRA SEGMENT 2 PROJECT.** "A Resolution of the City of Panama City Beach, Florida, approving Task Order #2017-1 to the Master Services Agreement with Southern Earth Sciences, Inc., for Geotechnical Testing Services for Front Beach Road CRA Segment 2 Construction Materials Testing, in the amount of \$56,000; and providing an immediately effective date."

**IX. REGULAR AGENDA - DISCUSSION/ACTION**

**NO. OFFICIAL ITEM**

1 **ML ORDINANCE 1394, MAINTENANCE OF COMMUNICATION CABLES IN RIGHT-OF-WAY, 2<sup>ND</sup> READING. PUBLIC HEARING AND ADOPTION.**

2 **ML ORDINANCE 1407, TRESPASSING ON PUBLIC PROPERTY, 2<sup>ND</sup> READING, PUBLIC HEARING AND ADOPTION.**

3 **MG RESOLUTION 17-56, BID AWARD-VINYL FENCING FOR POLICE DEPARTMENT IMPOUND YARD AND BUDGET AMENDMENT #18.**

4 **MG RESOLUTION 17-57, BID AWARD- POLICE MOBILE RADIOS AND BUDGET AMENDMENT #16.**

5 **MG ORDINANCE 1408, CHANGING MEETING DATES, 1<sup>ST</sup> READING.**

6\* **PC REQUEST FOR NEW PUBLIC WORKS I ENGINEER.**

7 **MG ORDINANCE 1409, AMENDING CHAPTER 24, NETWORK COMPANY VEHICLES FOR HIRE, 1<sup>ST</sup> READING.**

8 **MG ORDINANCE 1398, LOW SPEED VEHICLES REGISTRATION, 1<sup>ST</sup> READING, PUBLIC HEARING.**

9 **MT PUBLIC COMMENTS. (Limited to Three Minutes).**

10 **KO ATTORNEY REPORT.**

11 **MG CITY MANAGER REPORT.**

12 **MT COUNCIL COMMENTS.**

13 **MT ADJOURN.**

**\* Action on this item is taken by both the City Council and the City of Panama City Beach Community Redevelopment Agency, jointly and concurrently.**

JOHN REICHARD  X   
 PHIL CHESTER  X   
 JOSIE STRANGE  X   
 HECTOR SOLIS  X   
 MIKE THOMAS  X

JOHN REICHARD  X   
 PHIL CHESTER  X   
 JOSIE STRANGE  X   
 HECTOR SOLIS  X   
 MIKE THOMAS  X

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

David B. Fink 2/3/17  
 City-Clerk Date

I certify that the Council members listed above have been contacted and made aware of the items on this agenda.

David B. Fink 2/3/17  
 City-Clerk Date

IN AN EFFORT TO CONDUCT YOUR COUNCIL MEETINGS IN AN ORDERLY AND EXPEDIENT MANNER, WE RESPECTFULLY REQUEST THAT YOU WAIT UNTIL THE CHAIR RECOGNIZES YOU TO SPEAK, THEN COME TO THE PODIUM AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

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E-mailed and/or Faxed to following interested parties on: 2/6/17, Noon.

<u>NEWS MEDIA</u>	<u>CONTACT</u>
News Herald	John Henderson
Bullet	Editor
Channel 4	Ryan Rodig
Channel 7	Rex Ogburn
Channel 13	Ken McVay
Comcast	Kay C. McWilliams
WOW	Cil Schnitker
WKGC	Emily Balazs
WLTG	A. D. Whitehurst
Clear Channel	Crystal Presley
Powell Broadcasting	Jeff Storey, GM

NOTE; COPIES OF THE AGENDA ITEMS ARE POSTED ON THE CITY'S WEBSITE [WWW.PCBGOV.COM](http://WWW.PCBGOV.COM) UNDER "AGENDA INFORMATION".  
THIS MEETING WILL BE LIVE-STREAMED ON THE CITY WEBSITE.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding, and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is based. Sec. 286.0105, FS (1995)

# PRESENTATION

1

CITY OF PANAMA CITY BEACH

# CIVIC ACHIEVEMENT AWARD

*Be It Known That*

**Dylan Pippin**

**HAS GIVEN EXCEPTIONAL SERVICE  
TO THE BOYS AND GIRLS CLUB  
OF PANAMA CITY BEACH**

For the responsibility assumed, for the unselfish  
service rendered his community and its citizens in discharging  
the duties of good citizenship, this token of CIVIC ACHIEVEMENT  
is hereby awarded.

**Presented this 9<sup>th</sup> of February, 2017**



Handwritten signature of Mike Thomas in black ink.

**MAYOR MIKE THOMAS**

# PRESENTATION

2

# **S.R. 30A / U.S. 98 / Panama City Beach Parkway Project Development & Environment (PD&E) Study**

**FROM MANDY LANE TO THOMAS DRIVE INTERSECTION  
BAY COUNTY, FLORIDA**

**Financial Project ID No: 217838-2-22-01, ETDM No: 14208**

**CITY OF PANAMA CITY BEACH PRESENTATION | Feb. 9, 2017**



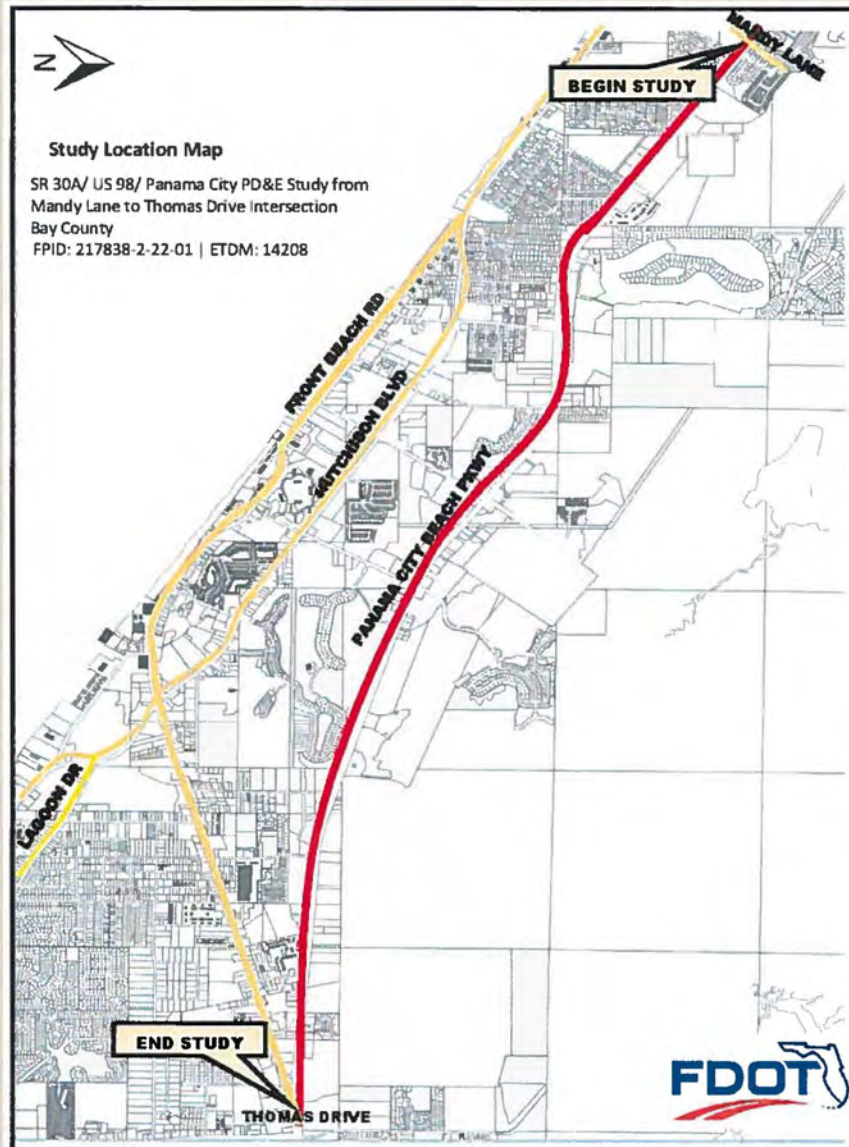
# Purpose of Briefing

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- Status Update for upcoming Alternatives Workshop
- Receive input



# Project Location



- S.R. 30A / U.S. 98 / Panama City Beach Parkway
- From Mandy Lane to Thomas Drive Intersection
- Approximately 7.9 miles in length
- Bay County
- Panama City Beach
- Design Year 2045

# Purpose and Need

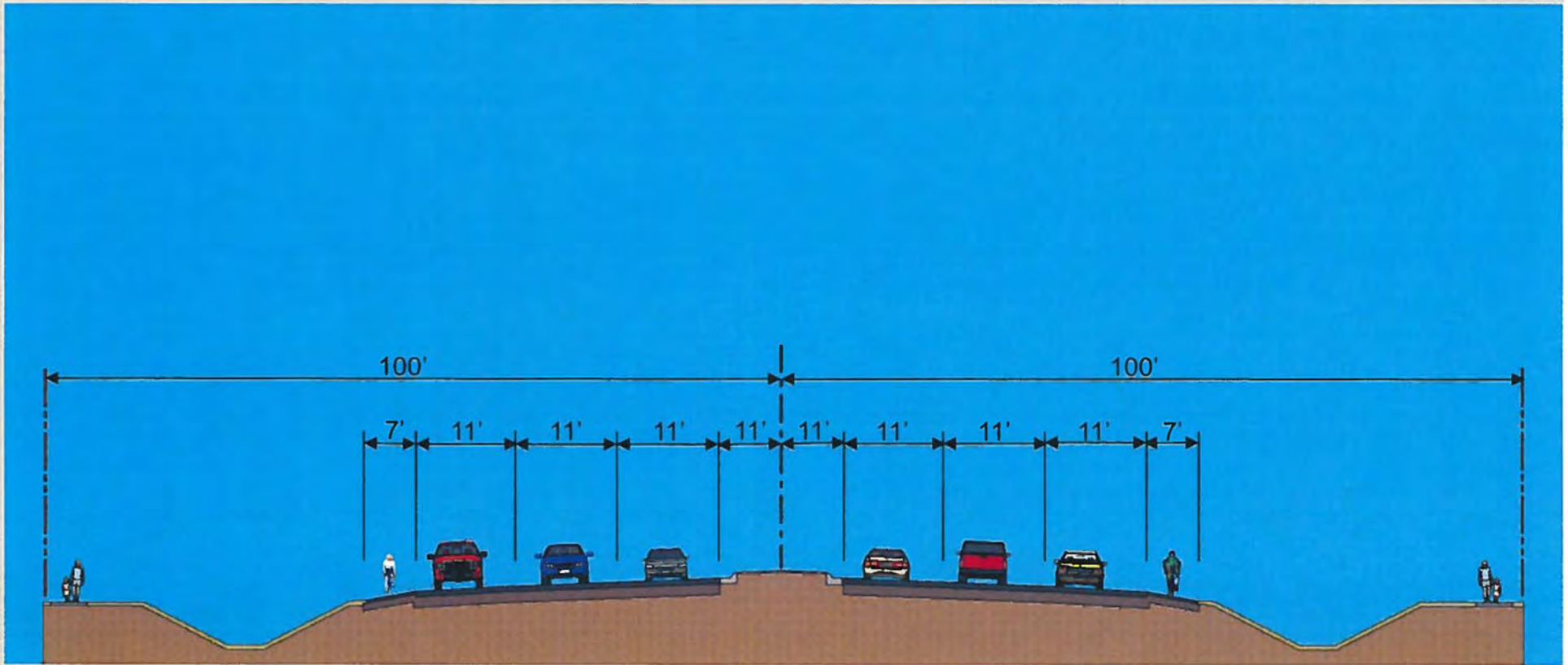
- **Add two lanes of capacity to the four lane section of U.S. 98 in order to address existing and projected future failing level-of-service**
  - Certain roadway segments are currently over capacity
- **Project is needed to relieve congestion**
- **Enhance safety and mobility**
  - Improve emergency evacuation
  - Include sidewalks and bicycle lanes



# Existing Characteristics

- 4 Lanes Divided: Mandy Lane to west of Richard Jackson Boulevard & East of Richard Jackson Boulevard to Cauley Avenue (45 mph/55mph)
- 6 Lanes Divided: West of Richard Jackson Boulevard to East of Richard Jackson Boulevard
- 4 Lanes Undivided w/ 2-Way Left Turn lane: Cauley Avenue to Thomas Drive
- Posted Speed: 45 mph/55 mph
- Discontinuous sidewalks and bicycle lanes
- Existing 200-ft Right-of-Way (R/W)

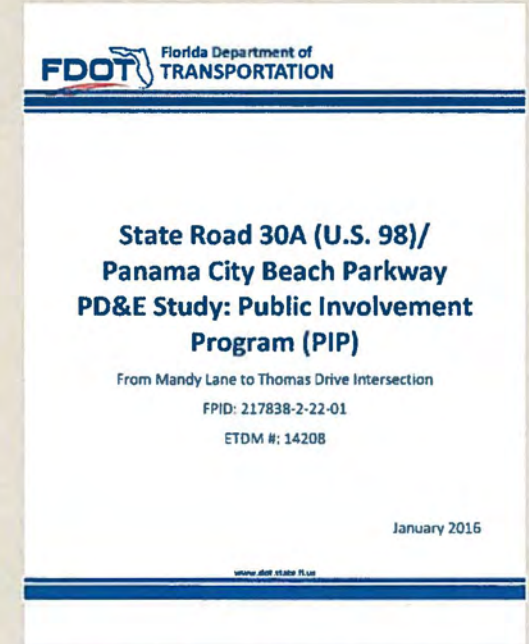
# Proposed 6-Lane Suburban Typical Section



11-ft Lanes  
22-ft Median  
10-ft Shoulder (7-ft paved)  
5-ft Sidewalks  
200-ft R/W  
Design Speed 45 mph

# Public Involvement

- Public Involvement Plan
- Meetings with Agencies
- Local Government Coordination
- Meetings with the Public
- Project Website
- <http://www.nwflroads.com>



# Public Kick-Off Meeting Held

Date: April 21, 2016

Location: Panama City Beach Lyndell Senior Center  
423 Lyndell Lane  
Panama City Beach, FL

42 people in attendance including project staff

Key issues of concern were:

- Intersection improvements
- Noise impacts
- Drainage
- Traffic congestion
- Multimodal accommodations

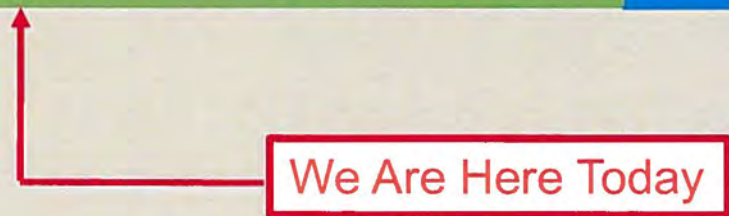
# Study Schedule and Funding

- **Begin Study: December 18, 2015**
- **Receive Location Design Concept Approval (LDCA): January 2018**



- **Future phases include:**

- **Design**
- **Right-of-Way**
- **Construction**

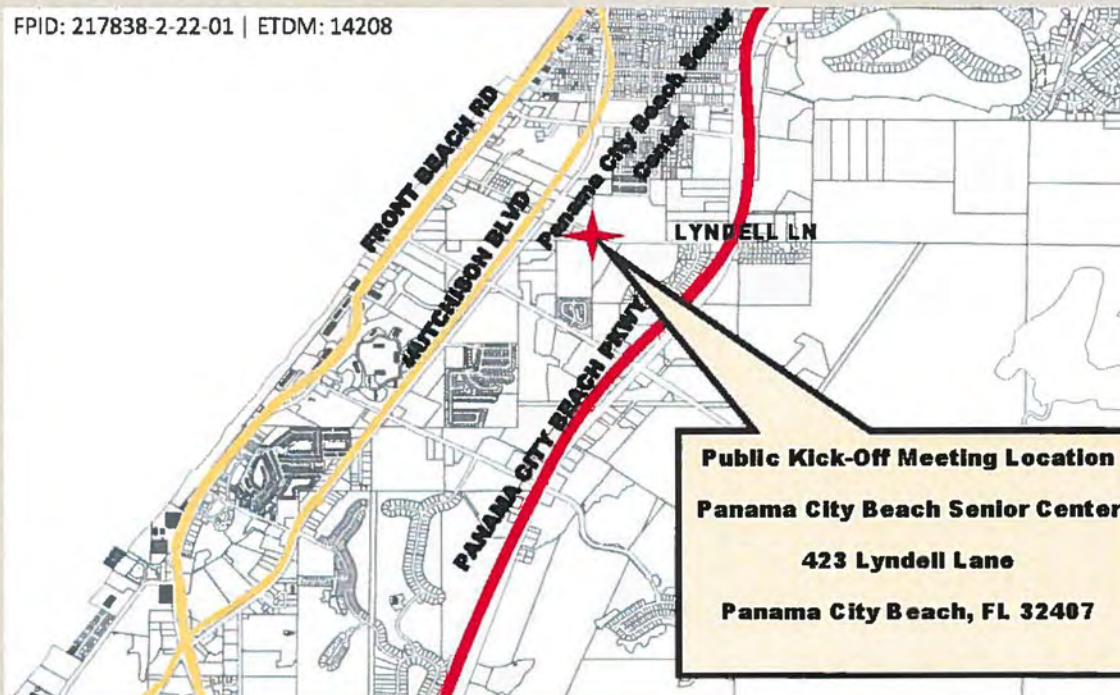


# Alternatives Public Workshop

Date: February 16, 2017

Location: Panama City Beach Lyndell Senior Center  
423 Lyndell Lane  
Panama City Beach, FL

Time: 5:30 pm to 6:30 pm





## Contact Information

### **FDOT Project Manager**

Sherry Alaghemand, P.E.

FDOT, District 3

(888) 638-0250, extension 1510

[Sherry.Alaghemand@dot.state.fl.us](mailto:Sherry.Alaghemand@dot.state.fl.us)

### **FDOT Public Information Director**

Ian Satter

FDOT, District 3

(888) 638-0250, extension 1205

[Ian.Satter@dot.state.fl.us](mailto:Ian.Satter@dot.state.fl.us)



# CONSENT AGENDA ITEM

1



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

Stormwater/Kelly Jenkins

2. MEETING DATE:

02/09/2017

3. REQUESTED MOTION/ACTION:

Approve agreement for the update to the City's Stormwater Assessment Program with Ennead LLC and Public Utility Management and Planning Services, in the amount of \$29,500.00.

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)

Staff requested a proposal from its stormwater utility consultant, Ennead LLC, to provide an analysis of our existing program and rates.

The original stormwater rate study was completed by Ennead LLC "Ennead" and Public Utility Management and Planning Services "PUMPS" in 2006. Ennead performs our annual filing of the stormwater TRIM to the County for our existing stormwater program and is most familiar with our system. We have asked them to look at the methodology we use to perform calculations for our collections and to update our rate study. Rate recommendations are typically based on a 5 year forecast and therefore we are well overdue for this study. Funds are available in the current year's stormwater budget to complete this work.

Attached is a copy of the proposal and associated information (Exhibit A). Staff recommends approval of this agreement with Ennead and PUMPS.

CONSENT

AGENDA ITEM #

1

**RESOLUTION 17-32**

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH ENNEAD LLC AND PUBLIC UTILITY MANAGEMENT AND PLANNING SERVICES, INC., FOR ANALYSIS OF THE CITY'S EXISTING STORMWATER NON-AD VALOREM FUNDING PROGRAM AND UPDATE TO THE STORMWATER RATE STUDY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and Ennead LLC, and Public Utility Management and Planning Services, Inc. relating to the analysis of the City's existing Stormwater Non-Ad Valorem funding program and update to the Stormwater rate study, in the basic amount of \$29,500, in substantially the form attached and presented to the Council today, draft dated February 1, 2017, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

CONSENT  
AGENDA ITEM # \_\_\_\_\_



February 1, 2017

Ms. Kelly Jenkins, P.E.  
City Engineer  
110 S. Arnold Parkway  
Panama City Beach, FL 32413

Subject: City of Panama City Beach, Florida  
A Proposal to provide an updated Stormwater Rate Study

Dear Ms. Jenkins:

Ennead LLC (“Ennead”) and Public Utility Management and Planning Services, Inc. (“PUMPS”) would be pleased to provide for the update of the Stormwater Rate Study, originally submitted to the City of Panama City Beach (the “City”) in August 2005. The project includes the review of the existing Stormwater Non-ad Valorem (“NAV”) funding program, a submittal of recommendations designed to update and refine the existing Stormwater NAV Assessment Program and subsequent updates to the program to be made at the direction of City Council.

This proposal presents the tasks necessary to review the underlying data supporting the funding program and the resulting update to the Stormwater Rate Study. This proposal is based on certain assumptions made as a result of our conversations about this project. The time frame for the implementation of this project precedes the development of the TRIM Notice File by a minimum of 60 days. Although a work schedule, list of tasks and estimated fees is offered at this time, we are able to adjust the schedule and level of participation as deemed necessary by City staff. Following a general description of the project, please find:

Attachment A	Services Offered and Estimated Fees
Attachment B	Schedule of Deliverables
Attachment C	Consultant’s Hourly Rates
Attachment D	Agreement

All work performed by Ennead and PUMPS would reflect the funding strategy and policy goals set by the City, legal documents prepared by the City’s attorney, and deliverables conforming with the requirements of 197.3632 F.S.

#### **Background**

In August 2005, PUMPS staff authored a Stormwater Rate Study, supported largely by data gathered and analyzed by Ennead. Recommendations formed in the rate study were presented to the City, leading to the adoption of legal documents prepared by the City’s Attorney, Harrison, Sale, et al.



Implementation followed and subsequent annual assessment support has been provided by Ennead; including preparation of TRIM Notice files and delivery of Final Rolls to be certified to the County in September of each year.

#### **Task 1 Review and Update of General Rate Study Parameters**

Ennead has maintained data records for all tax parcels since the program's inception, and is uniquely aware of the rate structure and apportionment methodology. Over time, development activity has impacted the distribution of impervious area to differing types of land uses. The quality and quantity of data now available may impact the methodology originally established. This rate study will include a review of original program algorithms, which may lead to the refinement of data and rate calculations.

The primary source of parcel data that underlies the assessment program is the Bay County Property Appraiser's ("BCPA") office. Additional data, such as impervious area developed by either Ennead or collected from other sources may be used to supplement the data derived from BCPA records.

Other factors affect the assessment charges. For that reason, Ennead and PUMPS would review exempt parcels, by exemption category and all parcels receiving a mitigation credit. The current application process and application forms will be analyzed for compliance with existing mitigation credit policy and legal authority.

#### **Task 2 Review Program Funding Requirements and Prioritize Future Capital Projects**

City Stormwater Staff will provide Fred Bloetscher, P.E., and PhD. (PUMPS) with all current and proposed Stormwater management budget reports and schedules. Staff will also provide a list of equipment with associated condition assessment and replacement schedule and a detailed break-down of all personnel who will be paid from Stormwater Management Program funds.

Dr. Bloetscher will schedule a two- or three-day site visit, meeting with the City Engineer to identify and prioritize anticipated capital projects and stormwater program requirements set by local, state and federal agencies.

Dr. Bloetscher's findings will be included in the Rate Study Report.

#### **Task 3 Review of Single-Family Rate Class and the Equivalent Residential Unit ("ERU") Value**

Ennead would review the median residential impervious area value through the measurement of a statistically valid number of randomly-sampled residential parcels. Ennead would work with the City's Attorney and/or City staff to determine if an adjustment to the equivalent residential billing unit ("ERU") is appropriate.

#### **Task 4 Review of Condominium Rate Class and Measurement of Condominiums**

Data to be collected in this study would include, but is not limited to, impervious area associated with each condominium development. Condominium developments would be measured digitally with associated polygons and database files made available to the City at the conclusion



ENNEAD LLC

of the project. The total number of verifiable residential condominium units would be established, and those parcels within the condominium development that have other uses would be identified and coded appropriately. Algorithms in eUtility would be updated to reflect the correct ERU to be assigned to each condominium tax parcel.

**Task 5 Review of Non-Residential Rate Classes**

A sample set of non-residential tax parcels will be digitally measured to verify that the current ERU value assigned to them is accurate. This effort may show that additional measurement is recommended, but the scope of that task cannot be determined at this time, and is not included in this contract.

**Task 6 Presentation of Rate Study and Pro Forma Rates to the City**

Documentation and record-keeping plays an important role in providing legal sufficiency for an assessment program. Working collaboratively, Ennead and PUMPS would determine the total number of billing units following the completion of tasks described above, would present proposed Pro Forma Rate options and potential new revenue, and would update rates adopted by the City in the eUtility database, so that all records are available for use in the 2017 TRIM Notice File.

Best Regards,

ENNEAD LLC

Camilla Augustine, Owner  
Client Services Director



## ATTACHMENT A Services Offered and Estimated Fees

<b>Project Management</b>	<b>\$1,000</b>
<ul style="list-style-type: none"><li>• Participation in a "kick-off" phone conference (one hour)</li><li>• Three (3) half-day "day" trips to the City of Panama City Beach, if required, to meet with City staff (Stormwater and Building Department) and/or City Attorney and Bay County Property Appraiser's staff</li></ul>	
<i>Deliverables: Critical Events Calendars for delivery of Phase 1 recommendations</i>	
<b>Task 1 Review and Update of General Rate Study Parameters</b>	<b>\$3,500</b>
<ul style="list-style-type: none"><li>• Identification of all sources available to include, but not limited to County data files,</li><li>• Analysis of the parcel information associated with the 19,448 parcels assessed within the City of Panama City Beach in 2016</li><li>• Review of Administrative Portion of the Rate-consideration of components</li><li>• Detailed Frequency of distribution of land use classes and grouping of land use classes into discrete rate classes</li><li>• Analysis of the cost of extending exempt status to specific rate classes</li><li>• Identification of land use classes that are not appropriately assessed, as necessary</li><li>• Update mitigation credit policy if changes are required as identified by City Engineering staff</li></ul>	
<b>Task 2 Review Program Funding Requirements and Prioritize Future Capital Projects</b>	<b>\$6,450</b>
<ul style="list-style-type: none"><li>• Review current and proposed Stormwater budget with assistance of City staff</li><li>• Review administrative costs, equipment needs, equipment assessment</li><li>• Assist City with prioritization of capital projects and develop long-term program goals</li></ul>	
<i>Travel: One two or three day visit Deliverables: Critical Events Calendars for delivery of Phase 1 recommendations</i>	
<b>Task 3 Review of Single-Family Rate Class and the "ERU" Value</b>	<b>\$4,500</b>
<ul style="list-style-type: none"><li>• Identify a random statistically-valid sample set of single-family residential tax parcels</li><li>• Measure impervious area using polygons and compare values to that found in the BCPA records</li><li>• Work with the City and City's Attorney to determine if an adjustment to the equivalent residential Unit is appropriate.</li><li>• Estimate how different ERU values would impact ERUs assigned to tax parcels in non-residential rate classes</li></ul>	





ENNEAD LLC

## Services Offered and Estimated Fees

- Enter impervious areas associated with all rate classes in Ennead's eUtility application

### **Task 4 Review of Condominium Rate Class and Measurement of Condominiums \$7,300**

- Identify condominium developments and develop impervious area values for buildings, parking, and extra features using digital measurements. This will be accomplished by creating impervious area polygons displayed over cadastral and digital aerial photos.
- Identify condominium unit ERUs based on the development impervious and the number of units in that development
- Identify condominium units that may be commercial uses, but indicate condominium use
- Assign mitigation credits to each qualifying condominium, as appropriate

### **Task 5 Review of Non-Residential Rate Classes \$3,500**

- Measure a sample set of impervious area associated with all rate classes in Ennead's eUtility application

A sample set of non-residential tax parcels will be digitally measured to verify that the current ERU value assigned to them is accurate. This effort may show that additional measurement is recommended, but the scope of that task cannot be determined at this time, and is not included in this contract.

### **Task 6 Presentation of Rate Study and Pro Forma Rates to the City \$3,250**

- Matrix Report indicating alternative revenue based on various ERU-based assessments
- Develop a new Frequency of Distribution of Revenue by rate class using current rates and new condominium ERU assignments
- Collect input from City Staff and City Attorney verifying ERU rate for FY 2017-2018
- One (1) trip to attend public meeting or meet with Staff to present Final Report recommendations

*Deliverable: Final Report including Pro Forma*

#### **Data Acquisition Expenses are not anticipated.**

Out-of-pocket expenses incurred to acquire digital parcel maps; aerial photogrammetry and data files are not anticipated.



**ATTACHMENT B**  
**Schedule of Deliverables**

(The following schedule is based on a Notice to Proceed dated approximately February 24, 2017. It is to be used for planning purposes only.)

February 24	Notice to Proceed
February 27	Phone call to schedule Kick-off Phone Conference (deliver list of needed documents to the City)
March	Ennead begins review of rate study parameters
March	PUMPS (Dr. Bloetscher, P.E.) to schedule meetings with City staff to determine program needs and prioritize capital projects
March	Review single-family residential ERU value
March - April	Prepare list of condominium development parent parcels for use by PUMPS. Set-up aerials and cadastral layer in preparation of digital measurement of condominium developments
April	Review condominium development findings Review sample set of non-residential rate classes and compare to values in Bay County P.A. records
April – May 15	Develop Pro Forma, Prepare Rate Study, schedule presentation of documents to the City



**APPENDIX C**  
**Stormwater Utility Consulting Services**  
**Direct Labor Rates for Municipal Clients**

Team Member Title	Direct Labor Hourly Rate (*)
Project Director/Senior Programmer	\$150.00
Professional Engineer	\$225.00
Technical Support, GIS Digitizing, Clerical	\$60.00

(\*) Direct labor hourly rates effective through December 31, 2017; rates may be adjusted by five percent (5%) annually for invoices rendered after December 1 of each year thereafter until project completion or as mutually agreed between parties.



**APPENDIX D  
Agreement**

**Work Order Agreement between PANAMA CITY BEACH and ENNEAD LLC**  
(Public Utility Management and Planning Services, Inc.  
is a Florida Corporation and Sub-contractor to Ennead LLC)

**Panama City Beach Stormwater NAV Assessment Program Review and Rate Study**

This Agreement is based on the Scope of Services and Estimated Fees (Attachment A) and Ennead LLC's Hourly Fee Schedule (Attachment C). The Not-to-Exceed Fee of \$29,500.00 includes all work as described in Tasks 1 through 6. Additional Services would be provided at the City's request, at Ennead's hourly rates, as shown in Attachment C.

Proof of Ennead's insurance coverage will be emailed under separate cover, indicating the City as an additionally insured entity. Again we appreciate the opportunity to submit this proposal to you and look forward to being involved in this important project.

SUBMITTED BY:

ACCEPTED BY:

ENNEAD LLC

PANAMA CITY BEACH

*Camilla Augustine*      2/1/2017  
Camilla A. Augustine, Owner

\_\_\_\_\_ Date  
Title \_\_\_\_\_  
For Panama City Beach

# CONSENT AGENDA ITEM

2



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
Approve the Agreement with Bay County Emergency Management for the AlertFlorida Initiative.

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 County Emergency Management (the "County") has entered a contract with the Florida Division of Emergency Management (the "Division") for the Division to provide countywide alert and mass notification services in support of the AlertFlorida Initiative. The Agreement before the Council between the County and the City of Panama City Beach will provide for the City to use the notification system provided by the County at no cost to the City.

Staff recommends approval of this Resolution.

**RESOLUTION 17-53**

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH BAY COUNTY EMERGENCY MANAGEMENT FOR USE OF THE NOTIFICATION SYSTEM IN SUPPORT OF THE ALERTFLORIDA INITIATIVE; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Bay County Emergency Management relating to the notification system in support of the AlertFlorida Initiative, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

CONSENT  
AGENDA ITEM # 2

**AN AGREEMENT BETWEEN BAY COUNTY EMERGENCY MANAGEMENT AND  
THE CITY OF PANAMA CITY BEACH**

This Agreement (the "Agreement") is made and entered into by the Bay County Emergency Management (hereinafter referred to as the "County") and the City of Panama City Beach (hereinafter referred to as the "Subdivision"). The Florida Division of Emergency Management (hereinafter referred to as the "Division").

WHEREAS Section 252.35(2)(a)6, Florida Statutes (2015), (F.S.), requires the Florida Division of Emergency Management to establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions;

WHEREAS the County has executed contract DEM-16-PG-E4-13-00-22-379 with The Division for the provision of countywide alert and mass notification services in support of the Division's AlertFlorida Initiative, hereinafter referred to as the "notification system;"

WHEREAS the Division is funding and providing the notification system at no local cost to eligible subdivisions for the initial contract and all renewal years (ending on June 30, 2019), contingent upon an annual appropriation by the Florida Legislature;

WHEREAS Section 252.38 F.S. establishes Emergency Management powers of political subdivisions and constructs safeguarding the life and property of its citizens as an innate responsibility of the governing political body of each political subdivision of the state, and;

WHEREAS the Subdivision desires to utilize the notification system provided by the County to transmit alerts, notifications, and other authorized public safety messaging to residents, businesses, and visitors located in or transiting through their political subdivision, while performing its powers under section 252.38 F.S.

NOW, THEREFORE, in consideration of the cooperative effort between the parties contained herein, the parties agree as follows:

**1. TERM OF AGREEMENT**

This agreement is effective on the date of execution by the last-signing party and shall remain in effect for the duration of services provided under contract DEM-16-PG-E4-13-00-22-379, but no later than June 30, 2019.

**2. DUTIES AND RESPONSIBILITIES**

**A. Bay County Emergency Management**

The County:



- I. Has assigned a System Administrator for the notification system who will enforce the performance of the Emergency Notification Plan and serve as a liaison with the Division.
- II. Reserves the right to access any Political Subdivision's Account in the system for purposes of system management, and to monitor system activity and usage.
- III. Will limit the number of personnel with high-level administrative access credentials to the system, and will take reasonable efforts to prevent the unauthorized disclosure of contact information protected under section 119.071(5)(j) F.S.
- IV. Reserves the right to launch a countywide notification to all available "opt-in" contact data in the system resulting from a catastrophic natural or technological disaster, a widespread public health emergency, an imminent or actual attack of a foreign military power, or a similar emergency where a delay to coordinate locally-initiated notifications would endanger the health and safety of the County's population.
- V. Reserves the right to require certain notification subscription options be set to "mandatory" in the public-facing opt-in portal, including:
  - a. Tornado Warnings
  - b. Flash Flood Warnings
  - c. Hurricane Warnings
  - d. Statewide Notifications
  - e. Countywide Notifications
- VI. Will, upon termination of the contract, distribute the system's recipient data to the political subdivision as specified in Minimum Support Requirement number eight of the contract's Scope of Work.

## B. City of Panama City Beach

The Subdivision:

- I. Acknowledges the terms and conditions of County's Mass Notification Standard Operating Procedure (SOP).
- II. Agrees to abide by the Everbridge Acceptable Use Policy, available via <http://www.everbridge.com/aup> and incorporated in the contract as Exhibit "F."
- III. Acknowledges the following authorized uses of the system and agrees to limit use of the system to those uses, defined by the Division as the following categories of notifications:
  - a. Population protective actions, such as evacuation orders, shelter-in-place warnings, boil water notices, and similar actions;
  - b. Emergency preparedness and response information, such as the availability of sand bag stations for flood-fighting efforts, notification of planned or anticipated disruption of municipal services & municipal or commercial utilities, the establishment of emergency shelters, implementation of curfews and other law enforcement security measures, the designation of security zones around specific planned

- events, the establishment of keywords for event-specific messaging, and other similar messaging that conveys a change in the subdivision's steady-state operational posture;
- c. Disaster recovery information, such as the location of disaster recovery centers, availability of voluntary agency or governmental disaster recovery assistance, and updates on debris clearance and the allowance of re-entry into a portion of the subdivision impacted by a disaster;
  - d. Emergency preparedness exercises, including operational tests of notification capability and public notification of functional or full-scale public safety and emergency management exercises occurring within the jurisdiction;
  - e. Law enforcement searches for a missing person or a manhunt for escaped convicts or suspects evading arrest;
  - f. Automated weather warnings provided by the National Weather Service;
  - g. Notification and recall of subdivision employees, contractors, and other response partners that support the activation of the subdivision's Emergency Operations Center or supplement the staffing of existing public safety response and recovery functions, including the staffing of specialty response teams, and;
  - h. Non Weather Messages (NWMs) that the Subdivision is authorized to broadcast via their IPAWS Alerting Authority including a Civil Danger Warning, Civil Emergency Message, Fire Warning, Hazardous Materials Warning, Local Area Emergency, 911 Telephone Outage Emergency, Nuclear Power Plant Warning, Radiological Hazard Warning, and future NWM's that may become available."
- IV. Acknowledges that while the contract provides access to Integrated Public Alert and Warning System (IPAWS) and Emergency Alert System (EAS) initiation features, the Division will NOT approve requests for Collaborative Operating Group (COG) licenses that originate from political subdivisions below the COUNTY level, as the alerting systems accessible through IPAWS are capable of transmitting alerts across jurisdictional boundaries.
- V. Agrees to follow the Emergency Notification Plan that governs access to and use of the notification system within the County, to include, at minimum, the following topics:
- a. Defining the local organization Group Manager(s);
  - b. Defining procedures for requesting Group Manager access within the jurisdiction and the training requirements for granting such access;
  - c. Establishing a message drafting and approval process;
  - d. Ensuring all users are trained according to the Plan.
  - e. Discussing the difference between "opt-in" and "opt-out" contact data, limiting the use of "opt-out" data to imminent or actual life

- threatening emergencies, and considering the time of day when initiating notifications that use "opt-out" data, and;
  - f. Specifying the responsibility and frequency of periodically reviewing all user accounts within the subdivision's organization(s) to validate the continued relationship and need for access of each current user.
- VI. Acknowledges that Everbridge, Inc. provides additional notification system capabilities and services which are not covered under the Division's contract for the notification system (hereafter referred to as "non-covered services"). If the subdivision desires to enhance their notification capabilities by adding non-covered services to their organization(s), then the subdivision will be responsible for any additional costs incurred as a result of adding those services, plus any costs arising from technical support of the non-covered services, payable directly to Everbridge. The subdivision will notify the County who will then notify the Division of its intent to add non-covered services prior to deployment, and will provide an additional notification after deployment, with the intent of maintaining visibility on the vendor's provision of support and maintenance on covered features.

**3. POINTS OF CONTACT**

The parties shall direct all matters arising in connection with the performance of this Agreement to the attention of the respective contact persons named below for resolution or action:

**For the County:**

Chief Mark Bowen, Chief of Emergency Services  
 700 Highway 2300  
 Southport, Florida 32409  
 Telephone: 850-248-6041  
 Email: mbowen@baycountyfl.gov

**For the Subdivision**

Name  
 Address  
 City, State, Zip  
 Telephone:  
 Email:

**4. TERMINATION OF AGREEMENT**

The parties may terminate this Agreement at any time upon thirty days' written notice to the points of contact specified herein.

**5. LIABILITY**

Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of 768.28, F.S. Nothing herein shall be construed as consent by either party to be used by third parties.

**6. ATTACHMENTS**

The following attachments are incorporated hereunto by reference:

- A. Attachment 1 – Definitions
- B. Attachment 2 – Contract DEM-16-PG-E4-13-00-22-379 between the Division and Everbridge, Inc.
- C. Attachment 3- Executed MOA with the Division.
- D. Attachment 4- Alert Bay Standard Operating Procedure.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates appearing beneath their respective signatures.

**Bay County Emergency Services**

**City of Panama City Beach**

By: \_\_\_\_\_  
**Chief Mark Bowen, Chief of  
Emergency Services**

By: \_\_\_\_\_  
**[Name, Title]**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

## Attachment 1 – Definitions

**Account** – An account is the access point to the web-based Everbridge Suite platform. Accounts are segmented into Organizations, and are typically segmented further into numerous groups.

**Contact** - Individuals who may receive notifications from or through the notification system, including any individual person who provides their personal contact information through an opt-in portal.

**Opt-In** – The process whereby a contact subscribes to receive notifications through an organization-specific web portal, or by sending the subdivision’s keyword(s) or zip code(s) to an established SMS short code.

**Opt-Out** – Contact and address point data loaded into the Everbridge Platform by a political subdivision without the intervention of the contact.

**Organization** - In the Everbridge Platform, an organization (“Org”) contains a contact database and the capability to send notifications. Each Org has a mapping feature that allows users to send notifications based on registered locations of contacts. Orgs can be configured with a variety of settings and users can view and create numerous reports.

**User** - Individuals assigned roles and granted permission to manage users, manage contacts and groups, edit settings, and/or send notifications within the Everbridge platform.

# Mass Notification System

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# ALERT BAY

Emergency Notification System

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Alert Bay powered by AlertFlorida was released at the end of Summer 2016. This mass notification system is provided at no cost to all County Emergency Management programs from the State's Division of Emergency Management to alert citizens of emergencies, evacuations, severe weather and other important community alerts. At no cost to you, you are able to choose how you would like to receive your alerts via home, work or cell phone, as well as email, fax, social media or a free downloadable app.

BAY COUNTY EMERGENCY OPERATIONS CENTER

700 HIGHWAY 2300 SOUTHPORT, FL

## What is Alert Bay?

Alert Bay is a mass notification system that allows residents and visitors within all cities and areas of the county to be notified of emergency situations as well as important community alerts.

## How do I receive alerts?

You get to choose! Either by phone, text, email, fax or a free downloadable app for your mobile devices. You can choose 1 method or multiple.

## How do I sign up?

You can register today by going to [www.alertbay.org](http://www.alertbay.org) to create your profile today where you get to decide how you want to be notified and which alerts you'd like to receive.

## Should I call 9-1-1 if I can get an alert?

No, please do not call 9-1-1 our systems are already busy. Please do not call, follow the notification instructions.

## What if my phone number(s) or email(s) change?

Just log back in to your profile at [www.alertbay.org](http://www.alertbay.org) and update your contact information!

## Will my information be shared with others?

No. Your information will only be shared with authorized users of Alert Bay.

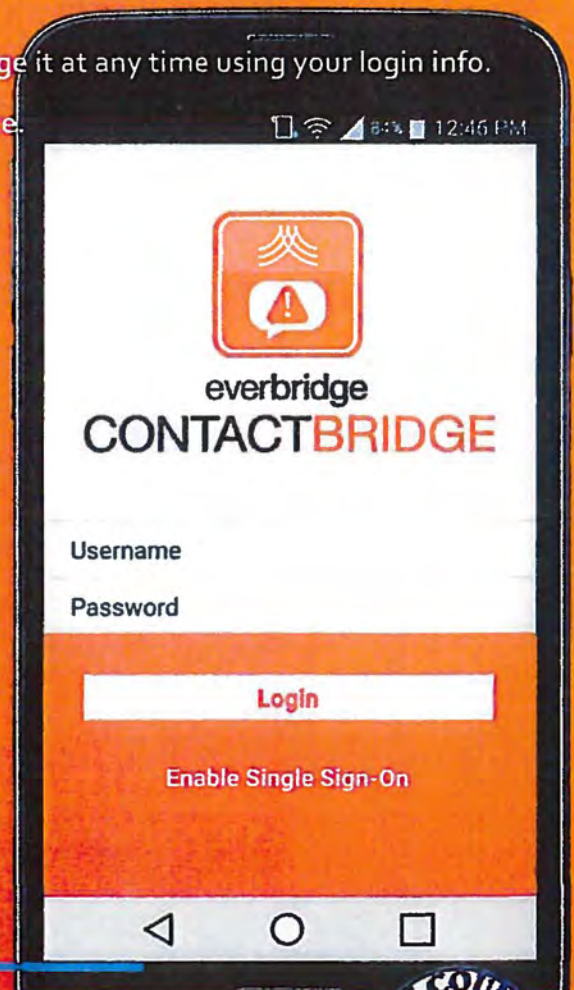
All contact information is protected by Florida Statute 119.07(5)(j). "Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency is exempt from s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution. This exemption applies to information held by an agency before, on, or after the effective date of this exemption."



# EMERGENCY OPERATIONS CENTER

## How to setup your Alert Bay profile and setup the app-

1. Browse to [www.alertbay.org](http://www.alertbay.org)
2. Click "Sign-Up" here.
3. Enter your profile information \*remember to store your username and password in a safe place\*
4. Choose which methods of contact you would like to be reached at. You can enter your email, home number, work number, cell number, and more.
5. Enter your location(s) under My Locations section to receive targeted alerts specifically for your home, work, school or business locations. By providing these locations you will receive alerts that affect only the areas you are concerned about.
6. Choose which alerts you would like to subscribe to including automated weather alerts.
7. Be sure to save your edits when editing each section.
8. Review the information you have input and make sure everything is correct including your location address and contact information.
9. You have successfully setup your profile! You can change it at any time using your login info.
10. Download the ContactBridge APP on your mobile device.
11. Login using your username and password from above.
12. You are now setup to receive alerts via app!
13. You can edit your profile from within the app too!



Bay County Emergency Management  
[www.baycountyfl.gov/emergency/management.php](http://www.baycountyfl.gov/emergency/management.php)  
(850) 248-6040



**MEMORANDUM OF AGREEMENT**  
**BETWEEN THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND**  
**THE BAY COUNTY, FLORIDA BOARD OF COUNTY COMMISSIONERS,**  
**DEPARTMENT OF EMERGENCY SERVICES**

This Memorandum of Agreement (the "Agreement") is made and entered into by the Florida Division of Emergency Management (hereinafter referred to as the "Division") and the Bay County Board of County Commissioners, Department of Emergency Services (hereinafter referred to as the "County").

WHEREAS Section 252.35(2)(a)6, Florida Statutes (2015), (F.S.), requires the Division to establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions;

WHEREAS the Division has executed contract DEM-16-PG-E4-13-00-22-379 with Everbridge, Inc. for the provision of Statewide alert and mass notification services in support of its AlertFlorida Initiative, hereinafter referred to as the "notification system;"

WHEREAS the Division is funding and providing the notification system at no local cost to eligible subdivisions for the initial contract and all renewal years (ending on June 30, 2019), contingent upon an annual appropriation by the Florida Legislature;

WHEREAS Section 252.38 F.S. establishes Emergency Management powers of political subdivisions and constructs safeguarding the life and property of its citizens as an innate responsibility of the governing political body of each political subdivision of the state, and;

WHEREAS the County desires to utilize the notification system provided by the Division to transmit alerts, notifications, and other authorized public safety messaging to residents, businesses, and visitors located in or transiting through their political subdivision, while performing its powers under section 252.38 F.S.

NOW, THEREFORE, in consideration of the cooperative effort between the parties contained herein, the parties agree as follows:

**1. TERM OF AGREEMENT**

This agreement is effective on the date of execution by the last-signing party and shall remain in effect for the duration of services provided under contract DEM-16-PG-E4-13-00-22-379, but no later than June 30, 2019.

**2. DUTIES AND RESPONSIBILITIES**

**A. Division of Emergency Management**

The Division:



- I. Has assigned a contract manager for the notification system pursuant to section 287.057(14) F.S. who will enforce the performance of the contract terms and conditions and serve as a liaison with the contractor, Everbridge Inc.
- II. Reserves the right to access any political subdivision's account or organization in the system for purposes of contract management, and to monitor system activity and usage.
- III. Will limit the number of personnel with high-level administrative access credentials to the system, and will take reasonable efforts to prevent the unauthorized disclosure of contact information protected under section 119.071(5)(j) F.S.
- IV. Reserves the right to launch a statewide notification to all available "opt-in" contact data in the system resulting from a catastrophic natural or technological disaster, a widespread public health emergency, an imminent or actual attack of a foreign military power, or a similar emergency where a delay to coordinate locally-initiated notifications would endanger the health and safety of the State's population.
- V. Reserves the right to require certain notification subscription options be set to "mandatory" in a subdivision's public-facing opt-in portal, including:
  - a. Tornado Warnings
  - b. Flash Flood Warnings
  - c. Hurricane Warnings
  - d. Statewide Notifications
  - e. Countywide Notifications
- VI. Will, upon termination of the contract, distribute the system's recipient contact data to the County as specified in Minimum Support Requirement number eight of the contract's Scope of Work.

## B. Bay County

The County:

- I. Acknowledges the terms and conditions of the contract, which is attached hereunto, and agrees to abide by the applicable terms thereof, including but not limited to the terms of the Everbridge Core Platform Agreement, incorporated in the contract as Exhibit "E."
- II. Agrees to abide by the Everbridge Acceptable Use Policy, available via <http://www.everbridge.com/aup> and incorporated in the contract as Exhibit "F."
- III. Agrees to place a "powered by AlertFlorida" icon that shall encompass no greater or less than 10% the banner image of the County's public-facing opt-in portal(s) for continuity with statewide branding.
- IV. Acknowledges the following authorized uses of the system and agrees to limit use of the system to those uses, defined by the Division as the following categories of notifications:
  - a. Population protective actions, such as evacuation orders, shelter-in-place warnings, boil water notices, and similar actions;

- b. Emergency preparedness and response information, such as the availability of sand bag stations for flood-fighting efforts, notification of planned or anticipated disruption of municipal services & municipal or commercial utilities, the establishment of emergency shelters, implementation of curfews and other law enforcement security measures, the designation of security zones around specific planned events, the establishment of keywords for event-specific messaging, and other similar messaging that conveys a change in the County's steady-state operational posture;
  - c. Disaster recovery information, such as the location of disaster recovery centers, availability of voluntary agency or governmental disaster recovery assistance, and updates on debris clearance and the allowance of re-entry into a portion of the subdivision impacted by a disaster;
  - d. Emergency preparedness exercises, including operational tests of notification capability and public notification of functional or full-scale public safety and emergency management exercises occurring within the jurisdiction;
  - e. Law enforcement searches for a missing person or a manhunt for escaped convicts or suspects evading arrest;
  - f. Automated weather warnings provided by the National Weather Service;
  - g. Notification and recall of County employees, contractors, and other response partners that support the activation of the County's Emergency Operations Center or supplement the staffing of existing public safety response and recovery functions, including the staffing of specialty response teams, and;
  - h. Non-Weather Messages (NWMs) that the County is authorized to broadcast via their IPAWS Alerting Authority including a Civil Danger Warning, Civil Emergency Message, Fire Warning, Hazardous Materials Warning, Local Area Emergency, 911 Telephone Outage Emergency, Nuclear Power Plant Warning, Radiological Hazard Warning, and future NWM's that may become available.
- V. Acknowledges that access to the Integrated Public Alert and Warning System (IPAWS) and Emergency Alert System (EAS) initiation features available in the system is contingent on the County:
- a. Acquiring its Collaborative Operating Group (COG) license from the Federal Emergency Management Agency (FEMA), and;
  - b. Registering with the National Weather Service for access to HazCollect.
- VI. Agrees to make a reasonable effort to supply the Division with requested information about any existing or recent local contracts for mass notification services, for the purpose of developing quantitative cost impact and qualitative notification capability measures in support of legislative budget requests for continued funding of the initiative.

- VII. Agrees to develop a written Standard Operating Procedure (SOP) that governs access to and use of the notification system within the County, to include, at minimum, the following topics:
- a. Defining the local organization administrator(s);
  - b. Defining procedures for requesting administrative access within the jurisdiction and the training requirements for granting such access;
  - c. Establishing a message drafting and approval process;
  - d. Discussing the difference between "opt-in" and "opt-out" contact data, limiting the use of "opt-out" data to imminent or actual life threatening emergencies, and considering the time of day when initiating notifications that use "opt-out" data, and;
  - e. Specifying the responsibility and frequency of periodically reviewing all administrative user accounts within the County's organization(s) to validate the continued relationship and need for access of each current user.

The SOP must be developed within 60 days of the effective date of this agreement and is subject to review by the Division at any time during the agreement.

- VIII. Acknowledges that Everbridge, Inc. provides additional notification system capabilities and services which are not covered under the Division's contract for the notification system (hereafter referred to as "non-covered services"). If the County desires to enhance their notification capabilities by adding non-covered services to their organization(s), then the County will be responsible for any additional costs incurred as a result of adding those services, plus any costs arising from technical support of the non-covered services, payable directly to Everbridge. The County will notify the Division of its intent to add non-covered services prior to deployment, and will provide an additional notification after deployment, with the intent of maintaining visibility on the vendor's provision of support and maintenance on covered features.

### 3. POINTS OF CONTACT

The parties shall direct all matters arising in connection with the performance of this Agreement to the attention of the respective contact persons named below for resolution or action:

**For the Division:**

Brian Misner, Special Projects Coordinator  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
Telephone: 850-922-5332  
Email: brian.misner@em.myflorida.com

**For the County:**

Mark Bowen, Chief of Emergency Services  
700 Highway 2300  
Southport, Florida 32409  
Telephone: (850) 248-6040  
Email: mbowen@baycountyfl.gov

### 4. TERMINATION OF AGREEMENT

The parties may terminate this Agreement at any time upon thirty days' written notice to the points of contact specified herein.

**5. LIABILITY**

Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of 768.28, F.S. Nothing herein shall be construed as consent by either party to be used by third parties.

**6. ATTACHMENTS**

The following attachments are incorporated hereunto by reference:

- A. Attachment 1 – Definitions
- B. Attachment 2 – Contract DEM-16-PG-E4-13-00-22-379 between the Division and Everbridge, Inc.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates appearing beneath their respective signatures.

**FLORIDA DIVISION OF  
EMERGENCY MANAGEMENT**

By: *Bryan Koon*  
Bryan Koon, Director

*7/18/16*  
Date

**BAY COUNTY BOARD OF COUNTY  
COMMISSIONERS**

By: *Mike Nelson*  
Mike Nelson, Chairman

*June 22, 2016*  
Date

## Attachment 1 – Definitions

**Account** – An account is the access point to the web-based Everbridge Suite platform. Accounts are segmented into Organizations, and are typically segmented further into numerous groups.

**Contact** - Individuals who may receive notifications from or through the notification system, including any individual person who provides their personal contact information through an opt-in portal.

**Opt-In** – The process whereby a contact subscribes to receive notifications through an organization-specific web portal, or by sending the subdivision’s keyword(s) or zip code(s) to an established SMS short code.

**Opt-Out** – Contact and address point data loaded into the Everbridge Platform by a political subdivision without the intervention of the contact.

**Organization** - In the Everbridge Platform, an organization (“Org”) contains a contact database and the capability to send notifications. Each Org has a mapping feature that allows users to send notifications based on registered locations of contacts. Orgs can be configured with a variety of settings and users can view and create numerous reports.

**User** - Individuals assigned roles and granted permission to manage users, manage contacts and groups, edit settings, and/or send notifications within the Everbridge platform.

**STATE OF FLORIDA  
DIVISION OF EMERGENCY MANAGEMENT**

Contract Number: 16-PG-E4-13-00-22-379

**CONTRACT**

THIS AGREEMENT is entered into by and between the State of Florida, Division of Emergency Management, (hereinafter, "Division"), and Everbridge, Inc., a Delaware Corporation (hereinafter, "Contractor"), an entity duly authorized to conduct business in the State of Florida. For the purposes of this Agreement, the term "Division" includes the Florida Division of Emergency Management ("DEM") as well as the Florida State Emergency Response Team ("SERT"). In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. PURPOSE OF THE AGREEMENT

- A. The purpose of this Agreement is to provide products and/or services as described in the Scope of Work attached hereto as Exhibit "A" and made part hereof.
- B. No work shall commence until both parties have signed the Agreement.
- C. In order of precedence, the parties agree to remain bound by the following:
  - 1) The express terms of this Agreement, minus Exhibits;
  - 2) State of Florida PUR 1000 General Contract Conditions;
  - 3) Exhibit A "Scope of Work";
  - 4) Exhibit B "Price Sheet";
  - 5) Exhibit C "Method of Compensation";
  - 6) Exhibit D "Federal Funding Terms and Conditions";
  - 7) Exhibit E "Core Platform Agreement"; and, then
  - 8) Exhibit F "Acceptable Use Policy."

2. TERM

- A. The term shall begin upon execution of the Agreement by both parties and, unless terminated earlier in accordance with the provisions of section 8 of this Agreement, shall end on June 30th, 2016. If agreed upon by both parties in writing, this Agreement may be renewed subject to the renewal year prices established in Exhibit B. No renewal period shall exceed 12 months, and this Agreement shall not be renewed more than three times. When combined, the three renewal periods shall not exceed 36 months.
- B. If the parties relied upon a State Term Contract in order to enter into this Agreement, then: (1) any renewal or extension shall not exceed the expiration of the underlying State Term Contract by more than twelve (12) months; and, (2) no renewal or

extension shall occur if the underlying State Term Contract expires prior to the effective date of any renewal or extension.

- C. In accordance with section 287.057(13), Florida Statutes, and subject to the limitations outlined above in subparagraph 2.B. of this Agreement, the Division and the Contractor may renew this Agreement, in whole or in part, for a period that may not exceed three (3) years or the term of this Agreement, whichever is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. Additionally, any renewal: must be in writing and signed by both parties; is contingent upon satisfactory performance evaluations; and, is subject to availability of funds.

### 3. PERFORMANCE

- A. Time is of the essence with regard to each and every obligation of the Contractor. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.
- B. The Contractor shall immediately notify the Division in writing if its ability to perform is compromised in any manner during the term of this Agreement.
- C. The Contractor agrees to perform all tasks and provide deliverables as set forth in the Scope of Work and all contractual documents attached to this Agreement. The Division shall be entitled at all times to be advised, at its request, as to the status of work being done by the Contractor and of the details thereof. Coordination shall be maintained by the Contractor with representatives of the Division, or of other agencies interested in the project on behalf of the Division.
- D. The Division reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of the Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
- E. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
- F. If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, then the Contractor shall immediately notify the Division in writing, indicating the specific restriction. The Division reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Division.

### 4. COMPENSATION AND PAYMENT

- A. The total funding amount of this Agreement for the purchase of commodities or the performance of services as described in Exhibit "A" of this agreement is shown in Exhibit "C".
- B. As required by section 287.0582, Florida Statutes, if this Agreement binds the Division for the purchase of services or tangible personal property for a period in excess of one fiscal year, "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."
- C. The parties acknowledge that Agency payments required pursuant to the terms of this Agreement are subject to and contingent upon the review and approval of the Chief Financial Officer pursuant to his authority as set forth in Article IV, Section 4 of the Florida Constitution ("The chief financial officer shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities.") as well as section 17.03, Florida Statutes ("The Chief Financial Officer of this state, using generally accepted auditing procedures for testing or sampling, shall examine, audit, and settle all accounts, claims, and demands, whatsoever, against the state, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon.").
- D. Travel expenses are not reimbursable unless specifically authorized in writing, and shall be reimbursed only in accordance with section 112.061, Florida Statutes.
- E. The Contractor will be paid upon submission of properly certified invoice(s) to the Division after delivery and acceptance of commodities or services is confirmed in writing by the Division. Invoices shall contain detail sufficient for a proper pre-audit and post audit thereof and shall contain any Purchase Order and the Vendor's Federal Employer Identification Number or Social Security Number.
- F. No payment requirements shall start until a properly completed invoice is provided to the Division, inspected, and approved. Invoices that must be returned to the Contractor due to preparation errors will result in a delay in payment.
- G. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages.
- H. The Contractors providing goods and services to the Division should be aware of the following time frames:
  - 1) Pursuant to section 215.422(1), Florida Statutes, an invoice submitted to the Division shall be recorded in the financial systems of the State, approved for payment by the Division, and filed with the Chief Financial Officer not later than 20 days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the invoice recorded in the financial systems of the State shall contain a statement of the dispute and authorize payment only in the amount not disputed.



- 2) Unless the procurement solicitation or this Agreement states otherwise, the Division has five (5) working days to inspect and approve commodities and services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Any resulting increase in cost will be charged against the Contractor.
  - 3) Pursuant to section 215.422(3)(b), Florida Statutes, the Division shall issue payment to the Contractor within forty (40) days after the invoice has been accepted. Failure to issue the warrant within forty (40) days may result in the Division paying interest at the rate established under subsection 55.03(1), Florida Statutes.
- I. Transaction Fee. The State of Florida, through the Department of Management Services (DMS), has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to subsection 287.057 (22), Florida Statutes, all payments shall be assessed a transaction fee of one percent (1%), which the Contractors shall pay to the State. On-line filing is available at <http://dms.myflorida.com/mfmp>. For payments within the State accounting system (FLAIR or its successor), the transaction fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall self-report and pay the transaction fee pursuant to rule 60A-1.031 (2), Florida Administrative Code. By submission of these reports and corresponding payments, the Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee. The Contractor shall receive a credit for any transaction fee paid by the Contractor for the purpose of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of this Agreement. Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. A CONTRACTOR'S DELINQUENCY IN PAYING TRANSACTION FEES MAY RESULT IN BEING EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.
- J. The Contractor shall report and pay the transaction fee on a quarterly calendar basis using the Department of Management Service's Form PUR 3776, which is incorporated by reference. Any misrepresentation shall be punishable under law, including but not limited to: Chapter 817, Florida Statutes.
- K. The Contractor may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Division is responsible for all payments under the Agreement. The Division's failure to pay, or delay in payment, shall not constitute a breach of the Agreement and shall not relieve the Contractor of its obligations to the Division.

- L. A Vendor Ombudsman, whose duties include acting as an advocate for Vendors who may be experiencing problems in obtaining timely payment(s) from an Agency may be contacted at 850-413-5516 or by calling the State Comptroller's Hotline, 1-800-848-3792.
- M. The Division, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Division shall require a statement from the Chief Financial Officer of the Division that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executed only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years.
- N. All refunds or repayments due to the Division under this Agreement shall be made payable to the order of the "Division of Emergency Management" and mailed directly to the attention of: **Cashier, Division Finance, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399**. The Contractor shall also notify the Division Program Manager (identified in section 13. A.) that it has issued a refund to the Division.

5. INDEMNITY AND PAYMENT FOR CLAIMS

- A. INDEMNITY. Subject to Section 5.2 of the Core Platform Agreement (Exhibit "E"), the Contractor shall be fully liable for the actions of its agents, employees, partners, assignees, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Division, and their officers, agents, and employees, from suits, actions, damages, and costs, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the action or inaction of Contractor, its agents, employees, partners, or subcontractors; provided, however, the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Division.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right; provided, however, that the foregoing obligation shall not apply to the Division's misuse or modification of the Contractor's products or the Division's operation or use of the Contractor's products in a manner not contemplated by the Agreement. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Division the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure for the Division the right to continue using the product, the Contractor shall remove the

product, and refund to the Division the amounts paid in excess of a reasonable rental for past use. The Division shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the Division in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

Any Contractor which is a State agency or subdivision, as defined in section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortuous acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any Contractor to which sovereign immunity applies.

Nothing herein shall be construed as consent by a State agency or subcontractor of the State of Florida to be sued by third parties in any matter arising out of any contract.

- B. **LIMITATION OF LIABILITY.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contained in this agreement.

Unless otherwise specifically enumerated in this Agreement or resulting purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

- C. **PAYMENT OF CLAIMS.** The Contractor guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Contractor or any subcontractor, in connection with the Agreement.

- D. **LIABILITY INSURANCE.** The Contractor shall carry and keep in force during the term of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$150,000.00 per person and \$300,000.00 each occurrence, and property damage insurance of at least \$150,000.00 each occurrence, for the services to be rendered in accordance with this Agreement.

Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor liability and obligations under the Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

- E. **WORKERS COMPENSATION.** The Contractor shall maintain Workers' Compensation insurance as required under the Florida Workers' Compensation Law.

6. COMPLIANCE WITH LAWS:

- A. The laws of the State of Florida shall govern this Agreement. The Division and the Contractor submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to this Agreement. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, Florida Statutes, and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those grounded on convenience. The Contractor hereby submits to venue in the county chosen by the Division, to wit: Leon County, Florida.
- B. The Contractor must be registered with the Florida Department of State, Division of Corporations. Online-filing is available at: <http://www.sunbiz.org>.
- C. The Contractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement. In accordance with section 119.0701(2), Florida Statutes, the contractor must:
- 1) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
  - 2) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter 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.
  - 4) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.
- D. Pursuant to section 287.058(1)(c), Florida Statutes, the Division may unilaterally cancel a contract if the vendor refuses to allow public access to all non-exempt documents, papers, letters, or other material made or received by the contractor in conjunction with the contract.
  - E. The Contractor agrees that it shall make no statements, press releases, or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the Division's Contract Manager or the Division's designated contact person and securing prior written consent. The Contractor shall maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to this Agreement and shall comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, Florida Statutes. The Contractor's confidentiality procedures shall be consistent with the most recent version of the Division's security policies, protocols, and procedures. The Contractor shall also comply with any applicable professional standards with respect to confidentiality of information.
  - F. The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor shall comply with Section 247A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Pursuant to Section 287.058(1), Florida Statutes, the provisions of Section 287.058(1)(a)-(c), and (i), Florida Statutes, are hereby incorporated by reference, to the extent applicable.
  - G. The Contractor should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
  - H. If regulated by the Florida Department of Business and Professional Regulation, the Contractor and its employees shall be bound by the standard of conduct provided in applicable Florida Statutes and applicable rules of the Board of Business and Professional Regulation as they relate to work performed under this Agreement.

The Contractor further covenants and agrees that when a former State employee is employed by the Contractor, the Contractor will require strict adherence by a former State employee to section(s) 112.313 and 112.3185, Florida Statutes, as a condition of employment for said former State employee. These statutes will by reference be made a part of this Agreement as though set forth in full. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter for the work performed under this Agreement.

- I. A person or affiliate who has been placed on the convicted Contractor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months following the date of being placed on the convicted Contractor list.
- J. An entity or affiliate who has been placed on the discriminatory Vendor list may not submit a bid, proposal or reply on a contract to provide any goods or service to a public entity, may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a Vendor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.
- K. The Division shall verify the Contractor and any subcontractor's against the Federal Excluded Parties List System to ensure the Contractor or subcontractor is not disbarred or excluded from receiving Federal contracts.
- L. The Contractor shall E-Verify the employment status of all employees and subcontractors to the extent permitted by federal law and regulation. The Division shall consider the employment by any Contractor of unauthorized aliens a violation of section 274A (e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. Furthermore, the Contractor agrees to utilize the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired during the term of this Agreement for the services specified in this Agreement. The Contractor shall also include a requirement in subcontracts that the subcontractor shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement.
- M. Pursuant to section 216.347, Florida Statutes, the Contractor shall not expend any State funds for the purpose of lobbying the State Legislature, the Judiciary, or an Agency.

- N. In accordance with section 20.055(5), Florida Statutes, the Contractor shall cooperate fully with the Inspector General in any investigation, audit, inspection, review, or hearing conducted pursuant to the Inspector General's statutory authority. Additionally, upon request of the Inspector General or any other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Contractor shall retain such records for the longer of: (1) three years after the expiration of the Purchase Order; or, (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.
- O. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

## 7. COPYRIGHT, PATENT AND TRADEMARK

- A. All plans, specifications, computer files, and reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived from them, which are newly developed by Contractor for the Division and which are deemed "public records" under applicable Florida law shall be the exclusive property of the Division without restriction or limitation on their use and shall be made available, upon request, to the Division at any time during the performance of such services and/or upon completion or termination of this Agreement.
- B. The Contractor shall not copyright any material and products or patent any invention developed under this Agreement. Any and all patent rights and any and all copyright accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. If the Contractor brings to the performance of this

Agreement a pre-existing patent or copyright, the Contractor shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

- C. If any discovery or invention arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with this Agreement, which is newly developed by Contractor for the Division and which is deemed a "public record" under applicable Florida law, the Contractor shall refer the discovery or invention to the Division for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Contractor shall notify the Division. Any and all copyrights accruing under or in connection with the performance under this Agreement are transferred by the Contractor to the State of Florida.
- D. Within thirty days (30) of execution of this Agreement, the Contractor shall disclose all intellectual properties relevant to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Contractor shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under subsection C, have the right to all patents and copyrights which occur during performance of the Agreement. As provided in Section 3.3 of the Core Platform Agreement, the Division acknowledges that the products and/or services described in the Scope of Work attached hereto as Exhibit "A" and all intellectual property rights therein are the property of the Contractor.

8. SUSPENSION OF WORK AND TERMINATION OF THE AGREEMENT

- A. **SUSPENSION.** The Division may in its sole discretion suspend any or all activities under this Agreement, at any time, when in the best interests of the State to do so. The Division shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to: budgetary constraints; declaration of emergency; or, other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety (90) days, or any longer period agreed to by the Contractor, the Division shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or, (2) terminate the Agreement. Suspension of work shall not entitle the Contractor to any additional compensation.
- B. **TERMINATION FOR CONVENIENCE.** The Division, by written notice to Everbridge, may terminate the contract in whole or in part when the Division determines in its sole discretion that it is in the State's interest to do so. The contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The contractor shall not be entitled to recover any cancellation charges or lost profits. If



the Division terminates this Agreement for convenience, then the Division shall not be entitled to any pro-rata refund for monies previously paid to the Contractor.

- C. **TERMINATION FOR CAUSE.** The Division may terminate the Agreement if the Contractor fails to: (1) deliver the product within the time specified in the Agreement or any extension; (2) maintain adequate progress, thus endangering performance of the Agreement; (3) honor any term of the Agreement; (4) timely cure a default; or, (5) abide by any statutory, regulatory, or licensing requirement (Rule 60A-1.006 (3), F.A.C., governs the procedure and consequences of default, except that the parties agree that any notices provided by the Division under clause (a) of such Rule shall give the Contractor at least forty five (45) days to correct any default). The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Division. The rights and remedies of the Division in this clause are in addition to any other rights and remedies provided by law or under the Contract.

## 9. REMEDIES

- A. Any dispute concerning performance of this Agreement shall be decided by the Division's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Division a petition for administrative hearing. The Division's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.
- B. In the event the Contractor fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the Division shall, upon forty-five (45) calendar days written notice to the Contractor and upon the Contractor's failure to cure within those forty five (45) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:
- 1) Withhold or suspend payment of all or any part of a request for payment.

- 2) Require that the Contractor refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.
- 3) Exercise any corrective or remedial actions, to include but not be limited to:
  - a) Requesting additional information from the Contractor to determine the reasons for or the extent of non-compliance or lack of performance;
  - b) Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;
  - c) Advising the Contractor to suspend, discontinue or refrain from incurring costs for any activities in question; or,
  - d) Requiring the Contractor to reimburse the Division for the amount of costs incurred for any items determined to be ineligible.
- C. Pursuing any of the above remedies will not keep the Division from pursuing any other rights or remedies which may be otherwise available under law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Contractor, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Contractor.
- D. The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the Contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.
- E. The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Division in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Division. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs,

expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to the Division, in which case the Division may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Division with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

#### 10. EMPLOYEES, ASSIGNMENT, AND SUBCONTRACTS

- A. INDEPENDENT CONTRACTOR. The Contractor and its employees, agents, representatives, assignees, and subcontractors are not employees or agents of the Division and are not entitled to the benefits of State of Florida employees. The Division shall not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, assignees, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under this Agreement.
- B. ALL EMPLOYEES, SUBCONTRACTORS, AND AGENTS. All Contractor employees, assignees, subcontractors, or agents performing work under this Agreement shall be properly trained technicians who meet or exceed any specified training qualifications and shall have all current licenses and permits required for all of the particular work for which they are hired by the Contractor. Upon request, the Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, assignees, subcontractors, or agents performing work under this Agreement must comply with all security and administrative requirements of the Division and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement. If any employee, assignee, subcontractor, or agent furnished by the Contractor requires access to a Division facility in order to perform duties required by this Agreement, then the State may conduct, and the Contractor shall cooperate in, a security background check for such employee, assignee, subcontractor, or agent. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Division's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Agreement. The State may reject and bar from any facility for cause any of the Contractor's employees, assignees, subcontractors, or agents. The Division and the State shall take all actions necessary to ensure that Contractor's employees, assignees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, assignees, subcontractors, and other agents receive benefits and

necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

- C. **CONVICTED AND DISCRIMINATORY VENDORS.** In accordance with sections 287.133 and 287.134, Florida Statutes, an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, sub-contractor, or consultant under this Agreement.
- D. **WARRANTY TO PERFORM.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted or discriminatory vendor lists, or on any similar list maintained by any other state or the federal government.
- E. **ASSIGNMENT.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Agreement without the prior written consent of the Division; provided that no such consent shall be required in the event of an assignment to an affiliate or to a successor-in-interest to the business of the Contractor resulting from a merger, reorganization, or sale of all or substantially all assets. The Division may assign this Agreement with prior written notice to Contractor.
- F. **SUBCONTRACTS.** The Vendor shall not subcontract any work under this Purchase Order without the prior written consent of the Agency. The Vendor is fully responsible for satisfactory completion of all subcontracted work.

#### 11. MODIFICATION OF CONTRACT

This Agreement contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Division and the Contractor. This Agreement may only be modified or amended upon mutual written agreement of the Division and the Contractor. No oral agreements or representations shall be valid or binding upon the Division or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Division. Neither party may unilaterally modify the terms of this Agreement by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the party's order or fiscal forms or other documents forwarded by the Contractor for payment. A party's acceptance of payment or processing of documentation on forms furnished by the other party for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

12. MONITORING

The Contractor agrees to comply and cooperate with any reasonable monitoring procedures/processes deemed appropriate by the Division or its agents, employees, or designee, including the Florida Chief Financial Officer, or Florida Auditor General. In the event the Division determines that a limited scope audit of the Contractor is appropriate, the Contractor agrees to comply with any additional instruction provided by the Division to the Contractor regarding such audit. The Contractor further agrees to comply and cooperate with any inspection reviews, investigation or audits deemed necessary by the Florida Chief Financial Officer or Florida Auditor General.

Records of costs incurred by the Contractor under terms of this Agreement shall be maintained by the Contractor and made available upon request to the Division at all times during the period of this Agreement. Copies of these documents and records shall be furnished to the Division upon request. Records of costs incurred shall include the Contractor's general accounting records and the project records, together with supporting documents and records of the Contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Division for a proper audit of project costs.

13. NOTICE AND CONTACT

A. Pursuant to section 287.057(14), Florida Statutes, the Division's Contract Manager "shall be responsible for enforcing performance of the contract terms and conditions and [shall] serve as liaison with the [C]ontractor." Additionally, the Contract Manager for the Division shall:

- 1) Monitor and document Contractor performance; and,
- 2) Review and document all deliverables for which the Contractor requests payment.

B. The Division's Contract Manager is Brian Misner.

C. All notices required under the Agreement shall be delivered to the following:

For DIVISION (Contract Manager)	For CONTRACTOR
Brian Misner	Elliot Mark
2555 Shumard Oak Boulevard	25 Corporate Drive, 4 <sup>th</sup> Floor
Tallahassee, Florida 32399	Burlington, MA 01803
Telephone: 850-922-5332	Telephone: 781-859-4094
Email: brian.misner@em.myflorida.com	Email: Elliot.Mark@everbridge.com

14. MISCELLANEOUS

A. All services shall be performed by the Contractor to the satisfaction of the Division who shall decide all questions, difficulties and disputes of any nature in accordance

with section 9A that may arise under this Agreement, the prosecution and fulfillment of the services under it and the character, quality, and value thereof, and the decision upon all claims, questions and disputes shall be final and binding upon all parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be subject to mutual agreement of the parties, and Amendments(s) shall be entered into by the parties in accordance with the changes.

- B. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Division at all times during the period of this Agreement and for five (5) years after completion of the work pursuant to this Agreement. Copies of these documents and records shall be furnished to the Division, its agents, employees or designee, including agents of other State agencies or the Federal government upon request. Records of costs incurred shall include the Contractor's general accounting records and the project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Division for a proper audit of project costs.
- C. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
- D. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- E. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.
- F. Should a court determine any provision of this Agreement is invalid, the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the provision held to be invalid.
- G. If this Agreement is the result of a formal solicitation (Invitation to Bid, Request for Proposal or Invitation to Negotiate), the Department of Management Services Form(s) PUR1000 and PUR1001, included in the solicitation, are incorporated herein by reference and made part of the Agreement.

Otherwise, the Contractor is subject to the terms and conditions as outlined in Form PUR 1000, incorporated by reference and made part of this Agreement.

- H. The Division may require the Contractor and its employees, agents, representatives and subcontractors to provide fingerprints and be subject to such background screen as determined by the Agency and conducted by the Florida Department of Law

Enforcement or the Federal Bureau of Investigation. The cost of the background screen(s) shall be borne by the Contractor. The Division may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background screening results.

- I. The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- J. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Division purchases are independent of the agreement between Division and the Contractor, and the Division shall not be a party to any transaction between the Contractor and any other purchaser.

As provided in Section 287.042(16)(a), Florida Statutes, other state agencies may purchase from the resulting contract, provided that the Department of Management Services has determined that the contract's use is cost-effective and in the best interest of the State. Upon such approval, the Contractor may, at its discretion, sell these commodities or services to additional agencies, upon the terms and conditions contained herein.

- K. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- L. The Division may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of this Agreement. The Division may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Division may solicit separate bids to satisfy them.

15. Additional terms required by 2 C.F.R. §200.326

A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clear Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

B. Suspension and Debarment.

- 1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- 2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
  - 3) This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
  - 4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- C. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month and year set forth above.

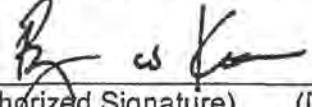
**CONTRACTOR**

By:  3/11/2016  
 (Authorized Signature) (Date)

JAMES W. EWERTSON  
 (Print/Type Name)

Title: CEO

**DIVISION OF EMERGENCY MANAGEMENT**

By:  3/11/2016  
 (Authorized Signature) (Date)

Bryan W Koon  
 (Print/Type Name)

Title: Director

Federal Tax ID# 26-2919312



## EXHIBIT "A"

### SCOPE OF WORK

#### Florida Statewide Emergency Alert and Notification System

##### 1. Purpose

Through this Agreement, the Contractor shall provide the Division with a vendor-hosted, "mass notification" system that will provide statewide alerts for imminent or sudden hazards through the use of:

- Voice telephone calls;
- Text messages;
- Emails;
- Social media; and,
- Telecommunications Device for the Deaf/TeleTYpewriter ("TDD/TTY").

The system shall integrate with the following alert systems:

- The Emergency Alert System ("EAS")<sup>1</sup>; and,
- The Integrated Public Alert and Warning System ("IPAWS")<sup>2</sup>.

Additionally, the system shall include the capability to:

- Automatically disseminate weather warnings issued by the National Weather Service ("NWS"); and,
- Communicate in multiple languages.

##### 2. Background

Section 252.35(2)(a)6., Florida Statutes, requires FDEM to "establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions."

FDEM already has systems in place to communicate emergency response decisions to other state agencies and to the political subdivisions of this State. However, FDEM does not currently possess a comprehensive, interoperable communication system that can alert

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<sup>1</sup> The Emergency Alert System (EAS) is a national public warning system that requires broadcasters, cable television systems, wireless cable systems, satellite digital audio radio service (SDARS) providers, and direct broadcast satellite (DBS) providers to provide the communications capability to the President to address the American public during a national emergency. The system also may be used by state and local authorities to deliver important emergency information, such as AMBER alerts and weather information targeted to specific areas.

<sup>2</sup> The Integrated Public Alert and Warning System (IPAWS) is a modernization and integration of the nation's alert and warning infrastructure that provides public safety officials with a way to alert and warn the public about serious emergencies using the Emergency Alert System (EAS), Wireless Emergency Alerts (WEA), the National Oceanic and Atmospheric Administration (NOAA) Weather Radio, and other public alerting systems from a single interface.

the state's population (both permanent and transient) to the threat posed by an imminent or sudden emergency.

Although some political subdivisions within the State do possess emergency notification and alert systems, significant gaps nonetheless exist that inhibit FDEM's ability to warn significant segments of the population. These gaps include funding, coverage, interoperability, capacity, as well as socioeconomic and cultural gaps.

- Some political subdivisions currently do not possess the financial resources to develop and/or maintain an emergency notification and alert system. As a result of these **funding gaps**, segments of the population who reside within the geographical boundaries of those political subdivisions may not receive adequate or effective warnings about imminent or sudden emergencies.
- For citizens who rely on cellular or smart phones for communication, no service provider can guarantee complete coverage throughout the entire State of Florida; hence, **coverage gaps** may inhibit FDEM's ability to communicate emergency notifications and alerts.
- Not all of the political subdivisions who have a communication system use the same system; consequently, **interoperability gaps** can hinder effective communications.
- Communication service providers may not possess the capacity to allow every customer in the network to receive or transmit messages at the same time; as a result, **capacity gaps** may delay emergency notifications and alerts that are time-sensitive.
- Not every person in the State of Florida speaks English as his or her primary language. Additionally, some communities within the State may not possess meaningful access to the communication systems that other individuals enjoy. Also, some visitors to the State may not communicate through common or traditional communication systems during their stay. Consequently, **socio-economic and cultural gaps** may limit the ability of FDEM to communicate emergency warnings to vulnerable populations.

When combined, these gaps create a significant communication problem that requires a comprehensive solution. Through this Agreement, the Contractor shall provide the Division with a system that closes that communication gap by providing an emergency notification and alert system that can span across the funding, coverage, interoperability, capacity, as well as the socioeconomic and cultural divides that currently inhibit FDEM's ability to warn the State's entire population (both permanent and transient) about imminent and sudden emergencies. Under this Agreement, the Division will maintain account control over the system and political subdivisions will serve as administrators of the system and primary originators of messages.

**The system shall have the following levels of access by definition:**

**System Administrator:** Individuals at the state level that perform account administration and oversight activities, to include creating new jurisdiction-level accounts and monitoring system usage across all lower accounts.

**Jurisdiction Administrator:** Primary user for the jurisdiction, able to create and manage message originator accounts and recipient contact data sources within the

jurisdiction's segment of the system. Also performs the functions of a message originator.

**Message Originator:** An individual authorized to initiate a notification message and monitor the status of other notifications originated within the jurisdiction.

**Recipient:** An end-user contact in the jurisdiction's account; someone who receives a notification.

### 3. Minimum System Requirements

The System shall include the following, minimum requirements:

- 1) System shall provide statewide coverage to an unlimited number of recipients.
- 2) System shall be capable of sending mass notifications for multiple unique simultaneous events.
- 3) The system shall have the following levels of access: administrator, jurisdiction administrator, message originator, and recipient. The system must allow each administrator and message originator to have a unique user name and credential to access the site and launch calls, at no additional cost. System shall have tiered administration to include state, county, and city levels. Administrators shall be able to view system activity of all administrators below their level. There shall be no limit on the number of administrators.
- 4) System shall allow administrators and jurisdiction administrators to create and edit an unlimited number of notification groups and sub-groups. Administrators and jurisdiction administrators shall be able to manage their own user groups. Jurisdiction administrators shall be able to create an unlimited number of message categories that recipients may subscribe to.
- 5) The system shall be web-based and hosted on the vendor's infrastructure, accessible from any internet connection. The vendor will not require additional client- or server-based hardware to be housed on-site by administrators. The web-based system must be compatible with supported versions of industry standard browsers, at a minimum, Internet Explorer, Google Chrome, Apple Safari, and Mozilla Firefox.
- 6) System shall fully interface with the Integrated Public Alert and Warning System (IPAWS) for alerting via Wireless Emergency Alerts (WEA), Emergency Alert System (EAS), and HazCollect NOAA Weather Radio All Hazards. The vendor must be a FEMA IPAWS Alert Origination Software Provider.
- 7) System shall have the ability to accept and utilize E911 phone data at no additional cost, and be able to scrub duplicate information.
- 8) The system shall provide a training/exercise mode which provides full functionality, but is separate from contact data in the "real-world" instances of the system.
- 9) The system shall contain a reporting tool, with the ability for jurisdictions to define reports without vendor assistance and any jurisdiction-defined report format to be generated again in the future. The number of report formats shall be unlimited. The system shall allow for the export of any data in standard delimited format and pdf.
- 10) System shall allow for the creation and storage of pre-scripted scenarios and messages. The system shall be able to store broadcast templates/scenarios with content and recipients for later deployment. The system shall allow jurisdiction administrators and message originators to edit pre-scripted messages and scenarios as needed.
- 11) System shall be capable of voice recording by jurisdiction administrators and message originators. System shall be capable of text-to-speech. Voice recordings and text-to-

speech must be reviewable as part of message origination workflow before message transmission.

- 12) The system shall allow for web-based access for recipients to a jurisdiction-specific subscription portal where they can "opt in" to the system and select the types of alerts they would like to receive and manage contact information.
- 13) System shall allow the public to opt in to the system by registering phone numbers, SMS/MMS numbers, and email addresses. The system will only require the public to enter one selection for the record to be effective. This information shall be updated in real time. Lost password and user name recovery shall be accomplished automatically and without administrator action.
- 14) System shall allow jurisdiction administrators to customize, without vendor intervention, the opt-in page content and banner for custom branding.
- 15) The system shall have the ability for recipients to identify a preferred language.
- 16) The system shall allow citizens to register a minimum of two (2) location points in their recipient profile (example: home, school, work). The system shall provide all of the following methods for recipients to register with it:
  - i) System shall automatically compare addresses against the United States Postal Service data to suggest a correct address, and then automatically geocode the address into the recipient's profile.
  - ii) System shall provide the ability for recipients to manually input latitude/longitude or decimal degree.
  - iii) System shall provide the ability for recipients to access a graphical user interface where they can view their location on a map and select point.
- 17) System shall be able to support a minimum of 2 telephone numbers, 2 SMS numbers, and 2 email addresses per recipient.
- 18) The system shall adhere to the "Common Alerting Protocol" standard specified by FEMA via the Organization for the Advancement of Structured Information Standards (OASIS). As new CAP versions and sources are implemented, the system must be updated to include CAP format changes as part of ongoing system updates.
- 19) System shall support automatically adding and removing recipients at the jurisdiction-level from static and dynamic groups without vendor assistance.
- 20) System shall have the inherit capability to immediately import and export recipient group and sub-group data.
- 21) System shall be capable of accepting, via secured web upload, phone data and mapping updates at no additional cost.

#### 4. Minimum Geographical Information System Requirements

The System shall include the following, minimum GIS requirements:

- 1) System shall offer GIS functionality of administrator drawn geographic/polygon selection of specific areas to transmit messages and generate call lists. Jurisdiction administrators shall be able to choose to use the system's GIS functionality or to import local GIS layers.
- 2) System shall support the ability to search for a geographic location using a contact name, address, street segments, zip code, and latitude/longitude.
- 3) System shall allow for a search of the recipient database using any of the fields contained in the database.
- 4) System shall support the ability to target a region defined by a combination of a contact location, an address point or a landmark, and a radius around that address.

- 5) System shall include the ability to resize, modify, and rotate the shapes after initial drawing or placement.
- 6) System shall include the ability to drag and drop the shapes to a different location on the map.
- 7) System shall include the ability to create both inclusion and exclusion polygons.
- 8) System shall display the number of recipients included within a selected region.

#### 5. Minimum Notification Requirements

The System shall include the following, minimum notification requirements:

- 1) Use of the system shall not be governed by number of minutes, messages, increments, or credits.
- 2) System shall accomplish mass notification of the public via phone (landline, VoIP, and wireless), Native SMS via SMPP and MMS messaging, email, really simple syndication (RSS). The system shall be able to send messages through each of these mediums simultaneously. For notification methods where the sent message exceeds the allowed number of characters (i.e. a Tweet) the system shall intelligently detect and provide an alternate mechanism for the recipient to view the complete message, such as a short-code link.
- 3) All text/SMS messaging shall be Short Message Peer-to-Peer (SMPP) messaging via cellular network gateway providers. To reduce the possibility of notification messages being handled as spam, the vendor must have an established SMPP short code that is whitelisted with the major US commercial cellular carriers (at minimum Verizon, T-Mobile, Sprint, and AT&T). SMTP text messaging, or any portion of the user profile that requires a user to specify their mobile carrier, does not meet this requirement.
- 4) The system shall be able to launch automated Weather alerts for specified Watch, Warning, or Advisory products generated by the National Weather Service. These alerts must be based on the Latitude/Longitude Polygon box provided by the National Weather Service to retain the geographic specificity intended by the issuing Weather Forecast Office, such as a river basin or Storm-Based warning. Weather alerting based on county name or zip code does not meet this requirement. The National Weather Service is the only recognized alerting authority for this requirement.
- 5) System shall be accessed by message originator for the purpose of launch and utilization via a computer with internet connection, smart phone, mobile app and phone to record and schedule calls. Mobile apps shall be designed specifically for their respective device and platform and must support visual GIS map based notifications.
- 6) The system shall enable message originators to specify whether recipients must acknowledge human receipt of a message. If confirmed receipts are requested, the system must continue trying to reach the recipient until positive confirmation has been received with human acknowledgement. Once acknowledgement has been received, the system will cease all further attempts to reach that recipient.
- 7) The system shall allow message originators to enable a timeout option for notifications, at which time notification attempts will cease, even if a user has not been successfully contacted. For weather notifications, this timeout window should default to the expiration of the product issued by the National Weather Service.
- 8) System shall allow jurisdiction administrators to use a system default or create a jurisdiction level caller ID and sent-from email address to outgoing notification recipients.

- 9) System shall allow outgoing notification messages to contain photo, video, audio attachments and links.
- 10) System shall be Americans with Disabilities Act (ADA) compliant to include TDD/TTY capability.
- 11) System shall provide online real time reports detailing success, failure and reason for failure. These reports shall be customizable per jurisdiction administrator.
- 12) The system shall be able to recognize human voice versus an answering machine and wait until the outgoing message from an answering machine or voicemail system has ended prior to leaving the message.
- 13) The system shall allow for voice message throttling, which allows the sender to determine and define desired delivery rate for specific area codes and prefixes so as to not overwhelm a telephone exchange for a given area.

#### 6. Minimum Security Requirements

The System shall include the following, minimum security requirements:

- 1) System shall require a secure login for any administrator or message originator to access the system. The secure login shall be a case-sensitive complex password with the following attributes:
  - i) Minimum 8 characters
  - ii) Maximum 15 characters
  - iii) Allow for upper and lower case letters
  - iv) Allow for numeric and common symbols (i.e. !@#\$%^&\*)
- 2) System shall not allow trivial passwords for login (i.e. username, person's name, people, places, keyboard patterns like "qwerty", dates, or dictionary words).
- 3) System shall encrypt data at rest and in transit.
- 4) System shall create an auditable event log for all account actions to be accessible by system administrator.
- 5) System data centers shall reside in the United States.

#### 7. Minimum Support Requirements

The System shall include the following, minimum support requirements:

- 1) The vendor shall provide 24-hour Helpdesk assistance to support the application's users at all levels, reachable by telephone or email, and with sufficient resources to respond to assistance requests within 30 minutes. Helpdesk assistance must be available in multiple languages and via TTY.
- 2) The vendor shall be able to initiate alert notifications on behalf of administrators and jurisdiction administrators if connectivity with the system is lost.
- 3) The vendor shall provide maintenance of the system to ensure there is no downtime. The system will provide a backup site as redundancy with an automatic flip in the case of site failure.
- 4) The system will provide online user help and assistance. Online help will consist of text-based, contextual help, as well as video and audio assisted help. Help for system use should also be interlaced within the site (i.e. screen-within-a-screen). Training for system use must be web-based.
- 5) The system must have 24-7 technical support available to customer via phone and Internet support.
- 6) The annual maintenance agreement will include vendor maintenance, and support shall include all applicable patches released including for any 3<sup>rd</sup> party system components.

- 7) There must be a 9 month period to test system functionality to allow for the event that users determine additional requirements or fixes to fulfill the intended and need use of the system. The vendor will meet these needs if they are determined within the testing period.
- 8) The system's recipient data, including opt-in or jurisdiction supplied, remains the property of the jurisdiction and/or State of Florida. The data must be exportable from the system at any time and provided to the State of Florida for distribution to jurisdictions upon termination of the contract. Data shall only be used by the vendor for the sole-purpose of initiating notifications through the system and may not be used for marketing purposes. The data may not be sold or rented to any third party.

#### 8. Tasks

Section 287.058(1)(d), Florida Statutes, requires that the type of contract contemplated by this RFP specify "a scope of work that clearly establishes all tasks the contractor is required to perform."

- 1) No later than March 31, 2016, the Contractor shall deliver a system that, for the duration of this Agreement, satisfies all of the minimum requirements outlined in the Scope of Work. For the purposes of this Task, the term "minimum requirements" includes Minimum System Requirements, Minimum Geographical Information System Requirements, Minimum Notification Requirements, Minimum Security Requirements, and Minimum Support Requirements.
- 2) No later than May 1, 2016, the Contractor shall enhance the system by providing administrators with the ability to select the languages with which they would like to communicate. At a minimum, the list of languages must include English, Spanish, and Haitian Créole. The system shall allow for a separate message body text box and separate manual recording field for each dialect. The system shall have the ability for recipients to identify a preferred language. The system shall also allow for web-based access for recipients to a jurisdiction-specific subscription portal where they can "opt in" to the system and select the types of alerts they would like to receive and manage contact information. The user interface for the subscription portal must be available in aforementioned languages.
- 3) No later than June 15, 2016, the Contractor shall:
  - A. Enhance the system by providing message origination through Windows, iOS, and Android mobile device platforms. All features of the regular desktop browser version must be functional on those platforms. The applications must be "native" mobile device applications and not simply a "skin" that loads mobile-formatted webpages. There shall be no pop-up or banner advertising inside the application. All features in the application must be free for any user and the application must not require the user to consent to any type of future "in-app purchase" before installing the application.
  - B. Enhance the system by providing administrators with the ability to communicate mass notification to the public via phone (landline, VoIP, and wireless), Native SMS via SMPP and MMS messaging, email, really simple syndication (RSS),

and social media (at a minimum Facebook and Twitter). The system shall be able to send messages through each of these mediums simultaneously. For notification methods where the sent message exceeds the allowed number of characters (i.e. a Tweet), the system shall intelligently detect and provide an alternate mechanism for the recipient to view the complete message, such as a short-code link.

- C. Enhance the system by providing administrators with at least one webinar training opportunity a month.
- D. Conduct at least one jurisdiction-level emergency, mass notification test using telephone, SMS, and email data.





**EXHIBIT B  
PRICE SHEET**

**Everbridge MN**

- Community Engagement
- IPAWS
- SMART Weather
- Unlimited Organizations
- Secure Bridge (250 licenses) for one (1) Organization
- Contact Bridge
- Scheduling for one (1) Organization
- Everbridge API for one (1) Organization

**Implementation**

- Professional Service hours – 2 FTEs – through June 2017
- Everbridge CARES Program
- Instructor Led On-Site Training
- Customized Online Training Courses
- 90 Day On-Site System Review

**Total – Initial Period**

March 2016 through June 2016 **\$1,500,000**

**Renewal Year 1 (all of the above services)**

July 1, 2016 through June 30, 2017 **\$3,500,000**

**Renewal Year 2 (all of the above services, excluding implementation)**

July 1, 2017 through June 30, 2018 **\$3,500,000**

**Renewal Year 3 (all of the above services, excluding implementation)**

July 1, 2018 through June 30, 2019 **\$3,500,000**

**EXHIBIT C  
METHOD OF COMPENSATION**

**PURPOSE:**

This Exhibit defines the limits of compensation to be made to the Contractor for the services and commodities set forth in Exhibit "A" and the method by which payments shall be made.

**COMPENSATION:**

For the satisfactory performance of services detailed in Exhibit "A", the contractor shall be paid a Total Contract Amount of \$1,500,000.

**PAYMENTS:**

The Contractor shall submit three invoices (3 copies of each) as detailed in this Method of Compensation (Exhibit "C") in a format acceptable to the Division.

Invoices shall be submitted to and approved by:

Florida Division of Emergency Management  
Brian Misner  
2555 Shumard Oak Blvd.  
Tallahassee, Florida 32399-2100

**DETAILS OF COST AND FEES:**

Details of the Contractor's fee amounts for these services are listed in Exhibit "B," the Vendor Price Sheet, and have been pro-rated for the actual period of performance.

<b>INVOICE</b>	<b>DELIVERABLE</b>	<b>INVOICE AMOUNT</b>
#1	The successful completion of Task #1	\$1,000,000
#2	The successful completion of Task #2 by May 1, 2016	\$250,000
#3	The successful completion of Task #3 by June 15, 2016	\$250,000

**FINANCIAL CONSEQUENCES:**

For task 1, the Contractor shall reimburse the Division \$100 for every five (5) minute period that the Division and its authorized users are unable to access the platform, other than for reasons outside of the Contractor's control or as otherwise described in Section 9.E, after an initial grace period of fifteen (15) minutes and up to a maximum of \$10,000 per occurrence.

For task 2, payment will be reduced by 1% for each day commencing on the fifteenth (15<sup>th</sup>) day after the due date until the deliverable is provided to the Division, up to a maximum of 10% of the task 2 payment. For task 3, payment will be reduced by 1% for each day commencing on the fifth (5<sup>th</sup>) day after the due date until the deliverable is provided to the Division, up to a maximum of 10% of the task 3 payment.

**METHOD OF PROCUREMENT:**

This contract resulted from a competitive solicitation under Request for Proposal #: **RFP-DEM-15-16-037**.

**EXHIBIT D**  
**FEDERAL FUNDING TERMS AND CONDITIONS**

Since this Agreement involves the use of funds under a Federal award, the Contractor agrees to comply with 2 CFR Part 200, as applicable, to include Appendix II as quoted below:

APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER  
FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public

Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier

above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

#### Required Terms

- 1) Contract breach – see paragraphs 8 and 9 of this Agreement.
- 2) Termination for cause and convenience – see paragraphs 8.C and 8.B of this Agreement, respectively.
- 3) Equal Employment Opportunity – N/A because this Agreement does not involve construction.
- 4) Davis-Bacon Act – N/A because this Agreement does not involve construction.
- 5) Copeland Anti-Kickback Act – N/A because this Agreement does not involve construction.
- 6) Contract Work Hours and Safety Standards Act – N/A because this Agreement does not involve the employment of mechanics or laborers.
- 7) Rights to Inventions Made under a Contract or Agreement – see paragraph 7 of this Agreement.
- 8) Clean Air Act and the Federal Water Pollution Control Act – see paragraph 15.A of this Agreement.
- 9) Debarment and Suspension – see paragraph 15.B of this Agreement.
- 10) Byrd Anti-Lobbying Amendment – see paragraph 15.C of this Agreement.
- 11) Recovered Materials – N/A because this Agreement does not involve recovered materials.

**Exhibit "E"**  
**Everbridge Core Platform Agreement**

**1. SERVICES.**

**1.1 Definitions.** Contractor shall provide Division access to its proprietary interactive communication solutions(s) (the "**Solution(s)**") subject to the terms and conditions set forth in the Agreement and the description of services and pricing provided in the applicable quote or other ordering document (e.g., statement of work) (the "**Quote**"). If applicable, Contractor shall provide the training and professional services ("**Professional Services**") set forth in the Quote. Collectively, the Solutions and Professional Services are referred to as the "**Services**". Contractor shall provide Division with login and password information for each User (as defined below) and will configure the Solutions based on the maximum number of Contacts, (as defined below), households or Users, as applicable depending on the Solutions ordered.

**2. RESPONSIBILITIES.**

**2.1 Users.** If Division has purchased Mass Notification or Incident Communications, Division shall in its discretion authorize certain of its employees and contractors to access that Service as Users. If Division has purchased any other Solution, Division shall authorize the number of Users set forth on the Quote as applicable to that Service. Collectively, Division's employees and contractors who access any Solution as provided in this subsection are referred to as "**User(s)**". A "**Contact**" is any individual person that Division contacts through the Solutions and/or provides their personal contact information to Contractor, including through an opt-in portal, as applicable. Division shall undergo the initial setup and training as set forth in the Onboarding Inclusion sheet provided with the Quote.

**2.2 Division Data.** "Division Data" is all electronic data Division transmits to Contractor to or through the Solutions. Division shall retain all ownership rights in Division Data. Division shall have sole responsibility for the accuracy, quality, integrity, and legality of all Division Data. By ordering the Solutions, Division represents that it has the right to authorize and hereby does authorize Contractor and its Solution Providers to collect, store and process Division Data including Contact data subject to the terms of the Agreement. "**Solution Providers**" shall mean communications carriers, data centers, colocation and hosting services providers, short messaging services ("**SMS**") providers and content and data management providers that Contractor uses in providing the Solutions. Division shall maintain a copy of all Division Contact data it provides to Contractor. Division acknowledges that the Solutions are a passive conduit for the transmission of Division Data and any data submitted by Contacts, and Contractor has no obligation to screen, preview or monitor content, and shall have no liability for any errors or omissions or for any defamatory, libelous, offensive or otherwise unlawful content in any Division Data or data submitted by Contacts, or for any losses, damages, claims, or other actions arising out of or in connection with any data sent, accessed, posted or otherwise transmitted via the Solutions by Division or Contacts.

**2.3 Limitations on Use.** Division is responsible for all activity occurring under Division's account(s) and shall comply with all applicable Privacy Laws (as defined below) and all other applicable laws and regulations in connection with Division's use of the Services, including its provision of Division Data to Contractor. Where applicable, Division shall obtain the required consent of Contacts to send communications through the Solutions. Division shall use the Service in accordance with Contractor's then applicable Acceptable Use Policy posted on [www.everbridge.com](http://www.everbridge.com). Division shall promptly notify Contractor of any unauthorized use of any password or account or any other act

or omission that would constitute a breach or violation of the Agreement.

**2.4 Security of Services.** Contractor's IT security and compliance program includes the following industry standards generally adopted by U.S. based SaaS providers: (i) reasonable and appropriate technical, organizational and security measures against the destruction, loss, unavailability, unauthorized access or alteration of Division Data in the possession or under the control of Contractor, including to ensure the availability of information following interruption to, or failure of, critical business processes; and (iii) a third party audit of its security controls as provided in the "Privacy and Security Compliance" link on [www.everbridge.com](http://www.everbridge.com). "**Privacy Laws**" means all United States federal and state laws and regulations regarding consumer and data protection and privacy.

**3. PROPRIETARY RIGHTS.**

**3.1 Grant of License.** Subject to the terms and conditions of the Agreement, Contractor hereby grants to Division, during the term of the Agreement, a limited, non-exclusive, non-transferable, non-sublicensable right to use the Solutions

**3.2 Restrictions.** Division shall use the Solution solely for its internal business purposes and shall not make the Solution available to, or use the Solution for the benefit of, any third party except as expressly set forth in the Agreement. Division shall not (i) sell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Solution except as expressly set forth herein; (ii) modify or make derivative works based upon the Solution; (iii) reverse engineer the Solution; (iv) remove, obscure or alter any proprietary notices or labels on the Solution or any materials made available by Contractor; (v) use, post, transmit or introduce any device, software or routine (including viruses, worms or other harmful code) which interferes or attempts to interfere with the operation of the Solution; (vi) defeat or attempt to defeat any security mechanism of any Solution, or (vii) access the Solution for purposes of monitoring Solution availability, performance or functionality, or for any other benchmarking or competitive purposes; provided, however, that this subpart (vii) shall not preclude Division's ability to issue test messages.

**3.3 Reservation of Rights** The Solutions (including all associated computer software (whether in source code, object code, or other form), databases, indexing, search, and retrieval methods and routines, HTML, active server pages, intranet pages, and similar materials) and all intellectual property and other rights, title, and interest therein (including copyrights, trade secrets, and all rights in patents, compilations, inventions, improvements, derivative works, modifications, extensions, enhancements, configurations, discoveries, processes, methods, designs and know-how pertaining to any of the foregoing) (collectively, "**IP Rights**"), whether conceived by Contractor alone or in conjunction with others, constitute Confidential Information and the valuable intellectual property, proprietary material, and trade secrets of Contractor and its licensors and are protected by applicable intellectual property laws of the United States and other countries. Contractor owns (i) all feedback and other information (except for Division Data) provided to Contractor by Users, Division or Contacts in conjunction with the Services, and (ii) all transactional, derivative, performance data and metadata generated in connection with the Solutions. Except for the rights expressly granted to Division in the Agreement and IP which is newly developed by Contractor for Division and which is deemed a "public record" under applicable Florida law, all rights in and to the

Solutions and all of the foregoing elements thereof (including the rights to any work product resulting from Professional Services and those to any modification, extension, improvement, enhancement, configuration or derivative work of the Solutions or any the foregoing elements thereof) are and shall remain solely owned by Contractor and its respective licensors, and Division hereby assigns any such rights to Contractor. Contractor may use and provide Solutions and Professional Services to others that are similar to those provided to Division hereunder, and Contractor may use in engagements with others any knowledge, skills, experience, ideas, concepts, know-how and techniques used or gained in the provision of the Solutions or Professional Services to Division, provided that, in each case, no Division Data or Division Confidential Information is disclosed thereby.

#### 4. CONFIDENTIAL INFORMATION.

**4.1 Definition; Protection.** As used herein, "Confidential Information" means all information disclosed by one party ("Discloser") to the other party ("Recipient"), whether orally, electronically, in writing, or by inspection of tangible objects (including, without limitation, documents or prototypes), that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation, all Division Data, all Contractor technology, and either party's business and marketing plans, technology and technical information, product designs, reports and business processes. Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to Recipient prior to its disclosure by Discloser without breach of any obligation owed to Discloser; (iii) was independently developed by Recipient without breach of any obligation owed to Discloser; or (iv) is received from a third party without breach of any obligation owed to Discloser. Recipient shall not disclose or use any Confidential Information of Discloser for any purpose other than performance or enforcement of the Agreement without Discloser's prior written consent. If Recipient is compelled by law to disclose Confidential Information of Discloser, including under the Freedom of Information Act or other public information request (i.e., "state sunshine" laws) it shall provide Discloser with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Discloser's cost, if Discloser wishes to contest the disclosure. Recipient shall protect the confidentiality of Discloser's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). Recipient shall retain Confidential Information in accordance with its standard records and data retention policies. Recipient shall promptly notify Discloser if it becomes aware of any breach of confidentiality of Discloser's Confidential Information.

**4.2 Upon Termination.** Upon any termination of the Agreement, Recipient shall continue to maintain the confidentiality of Discloser's Confidential Information and, upon request and to the extent practicable, destroy all materials containing such Confidential Information. Notwithstanding the foregoing, either party may retain a copy of any Confidential Information if required by applicable law or regulation, in accordance with internal compliance policy, or pursuant to automatic computer archiving and back-up procedures, subject at all times to the continuing applicability of the provisions of the Agreement.

#### 5. WARRANTIES; DISCLAIMER.

**5.1 Contractor Warranty.** Contractor shall provide the Solutions in material compliance with the functionality and

specifications set forth on the relevant Solution system inclusion sheet. Contractor shall provide 24X7X365 customer support in accordance with its most recently published Support Services Guide. Professional Services shall be performed in a professional manner consistent with industry standards. THE FOREGOING REPRESENT THE ONLY WARRANTIES MADE BY CONTRACTOR HEREUNDER AND CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**5.2 Disclaimer.** NEITHER CONTRACTOR NOR ITS LICENSORS OR SERVICE PROVIDERS WARRANT THAT THE SOLUTION WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL CONTRACTOR HAVE ANY LIABILITY FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE ARISING FROM FAILURE OF THE SOLUTION TO DELIVER AN ELECTRONIC COMMUNICATION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**5.3 SMS Transmission.** DIVISION ACKNOWLEDGES AND AGREES THAT THE USE OF SMS SERVICES, ALSO KNOWN AS SMS MESSAGING OR TEXT MESSAGING, AS A MEANS OF SENDING MESSAGES INVOLVES A REASONABLY LIKELY POSSIBILITY FROM TIME TO TIME OF DELAYED, UNDELIVERED, OR INCOMPLETE MESSAGES AND THAT THE PROCESS OF TRANSMITTING SMS MESSAGES CAN BE UNRELIABLE AND INCLUDE MULTIPLE THIRD PARTIES THAT PARTICIPATE IN THE TRANSMISSION PROCESS, INCLUDING MOBILE NETWORK OPERATORS AND INTERMEDIARY TRANSMISSION COMPANIES. DIVISION FURTHER UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT IT ASSUMES ALL RISK ASSOCIATED WITH ANY SUCH DELAY, LACK OF DELIVERY OR INCOMPLETENESS.

#### 6. MISCELLANEOUS.

**6.1 Non-Solicitation.** As additional protection for Contractor's proprietary information, for so long as the Agreement remains in effect, and for one year thereafter, Division agrees that it shall not, directly or indirectly, solicit, hire or attempt to solicit any employees of Contractor; provided, that a general solicitation to the public for employment is not prohibited under this section.

**6.2 Limitations.** Final delivery of information to recipients is dependent on and is the responsibility of the designated public and private networks or carriers. Division acknowledges and agrees that territories outside the U.S. and Canada may have territorial restrictions resulting from applicable law, telecommunications or internet infrastructure limitations, telecommunications or internet service provider policies, or communication device customizations that may inhibit or prevent the delivery of certain SMS, text or other notifications, or restrict the ability to place or receive certain calls such as outbound toll free calls. Contractor shall have no liability to the extent such restrictions impede the Solution.

**6.3 Notices.** All legal notices shall be delivered as set forth in the Agreement. Contractor may provide all other notices to Division's billing contact on the Client Registration Form or, with respect to availability, upgrades or maintenance of the Solutions, to the Everbridge Support Center.



**6.4 U.S. Government End-Users.** The Solutions and related documentation are "commercial items" as defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, U.S. government customers and end-users acquire licenses to the Solutions and related documentation with only those rights set forth herein.

**Exhibit "F"**  
**Everbridge Acceptable Use Policy**

## Acceptable Use Policy

Everbridge has prepared this Acceptable Use Policy ("AUP") as a guide for its clients to understand the intended and permissible uses of our service. This AUP sets forth guidelines for acceptable use of the applicable Everbridge service(s) (the "Service(s)") by Client and its users.

The Services must be used in accordance with the guidelines for each Service. The guidelines for each Service product are set forth within the applicable Product Inclusion Sheet and the Support Services Guide.

### Prohibited Uses

You may use the Service only for lawful purposes and in accordance with this AUP. You may not:

- Use the Service in any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries)
- Use the Service for the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise
- Use the Service to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter", "spam" or any other similar solicitation
- Impersonate or attempt to impersonate Everbridge, an Everbridge employee, another user or any other person or entity, including by utilizing another user's identification, password, account name or persona without authorization from that user
- Use the Service in any manner that could disrupt, disable, overburden, damage, or impair the Service for you or others (including the ability to send timely notifications through the Service), via various means including overloading, "flooding," "mailbombing," "denial of service" attacks, or "crashing"
- Use any robot, spider or other automatic device, process or means to access the Service for any purpose, including monitoring or copying any of the material
- Use any manual process to monitor or copy any of the material made available through the Service or for any other unauthorized purpose without our prior written consent
- Use any device, software or routine, including but not limited to, any viruses, trojan horses, worms, or logic bombs, that interfere with the proper working of the Service or could be technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Service, the server on which the Service is stored, or any server, computer or database connected to the Service.
- Attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without Everbridge's express written consent.
- Take any action in order to obtain services to which such client is not entitled

- Attempt any action designed to circumvent or alter any method of measuring or billing for utilization of the Service
- Otherwise attempt to interfere with the proper working of the Service

#### **Everbridge Rights and Remedies**

If Client becomes aware of any content or activity that violates this AUP, Client shall take all necessary action to prevent such content from being routed to, passed through, or stored on the Everbridge network and shall promptly notify Everbridge. Client's failure to comply with this AUP may result in Everbridge taking action anywhere from a warning, to a suspension or termination of Service. Everbridge will endeavor to provide notice to Customer prior to any suspension or termination of Service, but may immediately suspend or terminate in instances where continued provision of Service may cause significant harm to Everbridge, the Service or other clients.

#### **Changes to the Terms of Use**

Everbridge reserves the right to modify this AUP from time-to-time, in its sole discretion, effective upon posting a revised copy of the Acceptable Use Policy on <http://www.everbridge.com/aup>. Any use of Everbridge network and Services after such modification shall constitute acceptance of such modification. Any violation shall be sent to <http://www.everbridge.com/contact-us>.

#### **Equal Employment Opportunity**

Everbridge, Inc., is a government contractor and is subject to the requirements of Executive Order 11246, the Rehabilitation Assistance Act and VEVRAA. Pursuant to these requirements, the Equal Opportunity Clauses found at 41 Code of Federal Regulations sections 60-1.4(a) (1-7), sections 60-250.4(a-m), sections 60-300.5 (1-11) and sections 60-741.5 (a) (1-6) are incorporated herein by reference as though set forth at length, and made an express part of this Agreement.

**CONSENT AGENDA**

**ITEM**

**3**



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

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

Utilities Department - Al Shortt, Utilities Director

**2. MEETING DATE:**

February 9, 2017

**3. REQUESTED MOTION/ACTION:**

Approve the purchase of a parcel of land as a future lift station site for the Utilities Department from Hermann and Judith Irene Bohn in the amount of \$50,000.

**4. AGENDA**

PRESENTATION  
PUBLIC HEARING  
CONSENT  
REGULAR

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

**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)**

The utility department needs to acquire sites for future sewer lift stations as part of a long range plan to provide sewer service in the residential area south of Grand Lagoon and north of Thomas Drive. A master plan for the project has been developed and staff has identified potential sites on currently vacant lots that are conducive for allowing a gravity sewer system to be constructed in a cost effective manner. The owner of a vacant parcel at 6919 S. Lagoon Drive has agreed to sell to the City at a price that is within the appraisal range of values. Legal counsel has prepared and obtained the necessary signatures from both parties to contract for the purchase, contingent upon the City Council approving the transaction. This parcel would serve Basin #3 of 7 total basins in the project area.

Attached is a copy of the proposed Vacant Land Contract. Staff has reviewed the contract, and recommends Council approval of the purchase of the parcel from Hermann and Judith Irene Bohn in the amount of \$50,000.

The land acquisitions for future lift stations, and expansion of existing stations, are currently budgeted and the proposed expenditure is within budget.

WHY - To allow the City Manager to contract to purchase vacant land for a future lift station site.

WHAT - Allow the Utility department to acquire a suitable site prior to it being developed.

**RESOLUTION 17-49**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF VACANT LAND FOR \$50,000 FROM HERMANN AND JUDITH IRENE BOHN, CO-TRUSTEES OF THE HERMANN AND JUDITH BOHN REVOCABLE TRUST, AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Hermann and Judith Irene Bohn, co-trustees of the Hermann and Judith Bohn Revocable Trust, relating to the purchase of vacant land located at 6919 S. Lagoon Drive, in the basic amount of Fifty Thousand Dollars (\$50,000), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_ day of \_\_\_\_\_, 2017.

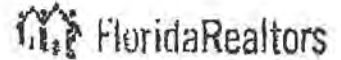
**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

Vacant Land Contract  
FLORIDA ASSOCIATION OF REALTORS®



1. **Sale and Purchase:** Hermann & Judith Irene Bohn, Co Trustees of the Hermann & Judith Bohn Rev Trust ("Seller")  
and CITY OF PANAMA CITY BEACH ("Buyer")  
(the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")  
described as:  
Address: 8919 S. Lagoon Drive, Panama City, FL 32408  
Legal Description:  
Lot 12, Block T of Holiday Beach Unit 10, according to the plat thereof as recorded in Plat Book 10, Page 80, in  
the Office of the Clerk of the Circuit Court of Bay County, Florida

SEC        / TWP        / RNG        of        County, Florida Real Property ID No. 30780-035-000  
including all improvements existing on the Property and the following additional property       

2. **Purchase Price:** (U.S. currency) \$ 50,000.00  
All deposits will be made payable to "Escrow Agent" named below and held in escrow by:  
Escrow Agent's Name: Harrison Sale McCloy  
Escrow Agent's Contact Person: Kevin D. Obos  
Escrow Agent's Address: 304 Magnolia Avenue, Panama City, Florida 32401  
Escrow Agent's Phone: 850-769-3434  
Escrow Agent's Email: kobos@hsmclaw.com

(a) Initial deposit (\$0 if left blank) (Check if applicable)        \$         
 accompanies offer  
 will be delivered to Escrow Agent within        days (3 days if left blank)  
after Effective Date         
(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)        \$         
 within        days (10 days if left blank) after Effective Date  
 within        days (3 days if left blank) after expiration of Feasibility Study Period        \$         
(c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage)        \$         
(d) Other        \$         
(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)  
to be paid at closing by wire transfer or other Collected funds        \$ 50,000.00

(f)  (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The  
unit used to determine the purchase price is  lot  acre  square foot  other (specify)         
prorating areas of less than a full unit. The purchase price will be \$        per unit based on a  
calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in  
accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the  
calculation:       

3. **Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy  
delivered to all parties on or before February 3, 2017 this offer will be withdrawn and Buyer's deposit, if  
any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is  
delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer  
has signed or initialed and delivered this offer or the final counter offer.

4. **Closing Date:** This transaction will close on on or before March 9, 2017 ("Closing Date"), unless specifically  
extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,  
but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,  
Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business  
day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property  
insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If  
this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and  
other items.

Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is 1 of 7 pages  
VAC 10 Rev 9/14 © Florida Association of Realtors®

CONSENT  
AGENDA ITEM # 3

51 5. Financing: (Check as applicable)

52 (a)  Buyer will pay cash for the Property with no financing contingency.  
53 (b)  This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s)  
54 specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective  
55 Date, whichever occurs first, if left blank) ("Financing Period") Buyer will apply for Financing within \_\_\_\_\_  
56 days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,  
57 and other information required by the lender. If Buyer after using diligence and good faith, cannot obtain the  
58 Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be  
59 returned

60 (1)  New Financing: Buyer will secure a commitment for new third party financing for \$ \_\_\_\_\_  
61 or \_\_\_\_\_% of the purchase price at (Check one)  a fixed rate not exceeding \_\_\_\_\_%  an  
62 adjustable interest rate not exceeding \_\_\_\_\_% at origination (a fixed rate at the prevailing interest rate  
63 based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully  
64 informed of the loan application status and progress and authorizes the lender or mortgage broker to  
65 disclose all such information to Seller and Broker.

66 (2)  Seller Financing: Buyer will execute a  first  second purchase money note and mortgage to  
67 Seller in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_% and payable as  
68 follows:

69 The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow  
70 forms generally accepted in the county where the Property is located; will provide for a late payment fee  
71 and acceleration at the mortgagee's option if Buyer defaults, will give Buyer the right to prepay without  
72 penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on  
73 conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to  
74 keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller  
75 to obtain credit, employment, and other necessary information to determine creditworthiness for the  
76 financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not  
77 Seller will make the loan.

78 (3)  Mortgage Assumption: Buyer will take title subject to and assume and pay existing first mortgage to

79 \_\_\_\_\_  
80 L# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at  
81 \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a  
82  fixed  other (describe) \_\_\_\_\_  
83 interest rate of \_\_\_\_\_% which  will  will not escalate upon assumption. Any variance in the  
84 mortgage will be adjusted in the balance due at closing with no adjustment to purchase price Buyer will  
85 purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_% of  
86 the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess,  
87 failing which this contract will terminate, and Buyer's deposit(s) will be returned. If the lender disapproves  
88 Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.

89 6. Assignability: (Check one) Buyer  may assign and thereby be released from any further liability under this  
90 contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

91 7. Title: Seller has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
92 deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,  
93 and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants,  
94 restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any  
95 other matters to which title will be subject) \_\_\_\_\_  
96 provided there exists at closing no violation of the foregoing.

97 (a) Title Evidence: The party who pays for the owner's title insurance policy will select the closing agent and  
98 pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.  
99 Seller will deliver to Buyer, at  
100 (Check one)  Seller's  Buyer's expense and  
101 (Check one)  within 10 days after Effective Date  at least \_\_\_\_\_ days before Closing Date  
102 (Check one)

103 (1)  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
104 discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the  
105 amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is  
106 paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to  
107 Buyer within 15 days after Effective Date

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- 108 \* (2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
109 existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy  
110 acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy  
111 will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy  
112 effective date and certified to Buyer or Buyer's closing agent together with copies of all documents  
113 recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller  
114 then (1) above will be the title evidence.
- 115 \* (b) Title Examination: After receipt of the title evidence, Buyer will, within \_\_\_\_\_ days (10 days if left blank)  
116 but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable  
117 to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and  
118 Seller cures the defects within \_\_\_\_\_ days (30 days if left blank) ("Cure Period") after receipt of the notice. If  
119 the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice  
120 of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured  
121 within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after  
122 receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept  
123 title subject to existing defects and close the transaction without reduction in purchase price.
- 124 \* (c) Survey: Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to  
125 Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any  
126 encroachments on the Property, encroachments by the Property's improvements on other lands, or deed  
127 restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a  
128 title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 7(b).
- 129 (d) Ingress and Egress: Seller warrants that the Property presently has ingress and egress.

130 8. Property Condition: Seller will deliver the Property to Buyer at closing in its present "as is" condition, with  
131 conditions resulting from Buyer's Inspections and casualty damage, if any, excepted. Seller will not engage in or  
132 permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

- 133 (a) Inspections: (Check (1) or (2))
- 134 \* (1)  Feasibility Study: Buyer will, at Buyer's expense and within \_\_\_\_\_ days (30 days if left blank)  
135 ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine  
136 whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer  
137 may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and  
138 investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the  
139 Property's engineering, architectural, and environmental properties; zoning and zoning restrictions;  
140 subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities,  
141 consistency with local, state, and regional growth management plans; availability of permits, government  
142 approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be  
143 rezoned, Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all  
144 documents Buyer is required to file in connection with development or rezoning approvals. Seller gives  
145 Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the  
146 Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its  
147 agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will  
148 indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature,  
149 including attorneys' fees, expenses, and liability incurred in application for rezoning or related  
150 proceedings, and from liability to any person, arising from the conduct of any and all inspections or any  
151 work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien  
152 being filed against the Property without Seller's prior written consent. If this transaction does not close,  
153 Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and  
154 return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller  
155 all reports and other work generated as a result of the Inspections.

156 Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's  
157 determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice  
158 requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is"  
159 condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to  
160 Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

- 161 \* (2)  No Feasibility Study: Buyer is satisfied that the Property is suitable for Buyer's purposes, including  
162 being satisfied that either public sewerage and water are available to the Property or the Property will be  
163 approved for the installation of a well and/or private sewerage disposal system and that existing zoning

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3

- 164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency
- 165 growth management, and environmental conditions, are acceptable to Buyer. This contract is not
- 166 contingent on Buyer conducting any further investigations.
- 167 (b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's
- 168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has
- 169 expired or if Paragraph 8(a)(2) is selected
- 170 (c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government
- 171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply
- 172 to improving the Property and rebuilding in the event of casualty.
- 173 (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as
- 174 defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required
- 175 by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The
- 176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that
- 177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach
- 178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida
- 179 Department of Environmental Protection, including whether there are significant erosion conditions associated
- 180 with the store line of the Property being purchased.
- 181  Buyer waives the right to receive a CCCL affidavit or survey.

182 **9. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be

183 conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title

184 binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds

185 to Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to

186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, Seller and Buyer will pay the

187 costs indicated below.

- 188 (a) **Seller Costs:**
- 189 Taxes on deed
- 190 Recording fees for documents needed to cure title
- 191 Title evidence (if applicable under Paragraph 7)
- 192 Other: Seller to pay NO closing costs
- 193 (b) **Buyer Costs:**
- 194 Taxes and recording fees on notes and mortgages
- 195 Recording fees on the deed and financing statements
- 196 Loan expenses
- 197 Title evidence (if applicable under Paragraph 7)
- 198 Lender's title policy at the simultaneous issue rate
- 199 Inspections
- 200 Survey
- 201 Insurance
- 202 Other: Buyer to pay ALL closing costs

203 (c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real

204 estate taxes (including special benefit tax liens imposed by a COD), interest, bonds, assessments, leases,

205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be

206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 (d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, Seller

208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount

209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but

210 has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be

211 paid in installments,  Seller  Buyer (Buyer if left blank) will pay installments due after closing. If Seller is

212 checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a

213 Homeowners' or Condominium Association.

214 (e) **PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**



215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**

216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**

217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**

218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**

219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

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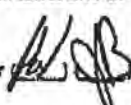
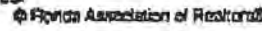
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- 220 (f) **Foreign Investment In Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by  
221 FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at  
222 closing
- 223 (g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with  
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will  
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,  
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing  
227 will not be contingent upon, extended, or delayed by the Exchange
- 228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday  
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. Time is of the essence in  
232 this contract.
- 233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
234 or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
235 proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may  
236 terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification,  
237 and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and  
238 receive all payments made by the governmental authority or insurance company, if any
- 239 **12. Force Majeure:** Seller or Buyer will not be required to perform any obligation under this contract or be liable to  
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
241 prevented by an act of God or force majeure. An "act of God or force majeure" is defined as hurricanes,  
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
243 within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is  
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for  
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force  
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to  
247 the other, and Buyer's deposit(s) will be returned.
- 248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
249 electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by  
250 this contract, regarding any contingency will render that contingency null and void, and this contract will  
251 be construed as if the contingency did not exist. Any notice, document, or item delivered to or received  
252 by an attorney or licensee (including a transactions broker) representing a party will be as effective as if  
253 delivered to or received by that party.
- 254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between Seller and Buyer.  
255 Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker  
256 unless incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed  
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be  
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If  
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be  
262 fully effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract.  
263 This contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular  
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
265 permitted, of Seller, Buyer and Broker
- 266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
267 closing or termination of this contract.
- 268 (a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer  
269 may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting  
270 from Seller's breach and may seek to recover such damages or seek specific performance. Seller will also  
271 be liable for the full amount of the brokerage fee

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272 (b) **Buyer Default:** If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer  
276 will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in  
277 equity to enforce Seller's rights under this contract.



278 16. **Escrow Agent; Closing Agent:** Seller and Buyer authorize Escrow Agent and closing agent (collectively  
279 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
280 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
281 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
282 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
283 person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful  
284 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
285 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
286 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.  
286

287 17. **Professional Advice; Broker Liability:** Broker advises Seller and Buyer to verify all facts and representations  
288 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
289 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
290 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
291 property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside  
292 in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller  
293 representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and  
294 government agencies for verification of the Property condition and facts that materially affect Property  
295 value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
296 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
297 from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold  
298 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
299 damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or  
300 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
301 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
302 performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475,  
303 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
304 products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each  
305 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
306 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
307 This Paragraph will survive closing.

308 18. **Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
309 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
310 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
311 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
312 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

313 19. **Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
314 Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
315 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
316 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
317 MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

318 (a) N/A (Seller's Broker)  
319 will be compensated by  Seller  Buyer  both parties pursuant to  a listing agreement  other  
320 (specify): \_\_\_\_\_  
321 (b) N/A (Buyer's Broker)  
322 will be compensated by  Seller  Buyer  both parties  Seller's Broker pursuant to  a MLS offer of  
323 compensation  other (specify): \_\_\_\_\_

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324 20. Additional Terms:

325 Seller will pay no closing costs. Seller to not \$50,000.00 from the closing. If the title search reflects no  
326 liens, mortgages or encumbrances.

327 This Agreement and purchase is wholly contingent upon the Panama City Beach Council voting to approve this  
328 Contract on or before February 8, 2017. If the decision is "yes" this Contract shall continue in full force and effect.  
329 If the decision is "no" Sellers shall return the Escrow Deposit to the Purchaser and this Contract shall terminate  
330 and neither party shall have any further obligations hereunder.  
331 \_\_\_\_\_  
332 \_\_\_\_\_  
333 \_\_\_\_\_  
334 \_\_\_\_\_  
335 \_\_\_\_\_  
336 \_\_\_\_\_  
337 \_\_\_\_\_  
338 \_\_\_\_\_  
339 \_\_\_\_\_  
340 \_\_\_\_\_

341 This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before  
342 signing.

343 Buyer:  Date 1-26-17

344 Print name: BY: Mario Gisbert, Its City Manager

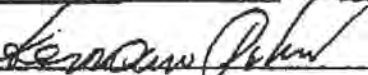
345 Buyer:  Date: 1-26-17

346 Print name: Attested To By: Diane Fowler, City Clerk

347 Buyer's address for purpose of notice:

348 Address 110 South Arnold Road, Panama City Beach, FL 32413

349 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

350 Seller:  Date: 1/26/17

351 Print name: Hermann Bohn, CoTrustee of the Hermann and Judith Bohn Revocable Trust

352 Seller:  Date: 1-26-17

353 Print name: Judith Irene Bohn, CoTrustee of the Hermann and Judith Bohn Revocable Trust



354 Seller's address for purpose of notice:

355 Address: 310 Moonlight Bay Drive, Panama City Beach, FL 32407

356 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

357 **Effective Date:** \_\_\_\_\_ **(The date on which the last party signed or initialed and delivered the**  
358 **final offer or counter offer.)**

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AGENDA ITEM # 3

# CONSENT AGENDA ITEM

4



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

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

Utilities Department - Al Shortt, Utilities Director

**2. MEETING DATE:**

February 9, 2017

**3. REQUESTED MOTION/ACTION:**

Approve the purchase of a parcel of land as a future lift station site for the Utilities Department from Nonnie Lee M. Kinner in the amount of \$46,000.

**4. AGENDA**

PRESENTATION  
PUBLIC HEARING  
CONSENT  
REGULAR

<input type="checkbox"/>
<input type="checkbox"/>
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<input type="checkbox"/>

**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)**

The utility department needs to acquire sites for future sewer lift stations as part of a long range plan to provide sewer service in the residential area south of Grand Lagoon and north of Thomas Drive. A master plan for the project has been developed and staff has identified potential sites on currently vacant lots that are conducive for allowing a gravity sewer system to be constructed in a cost effective manner. The owner of a vacant parcel on Vega Street has agreed to sell to the City at a price that is within the appraisal range of values. Legal counsel has prepared and obtained the necessary signatures from both parties to contract for the purchase, contingent upon the City Council approving the transaction. This parcel would serve Basin #2 of 7 total basins in the project area.

Attached is a copy of the proposed Vacant Land Contract. Staff has reviewed the contract, and recommends Council approval of the purchase of the parcel from Nonnie Lee M. Kinner in the amount of \$46,000.

The land acquisitions for future lift stations, and expansion of existing stations, are currently budgeted and the proposed expenditure is within budget.

WHY - To allow the City Manager to contract to purchase vacant land for a future lift station site.

WHAT - Allow the Utility department to acquire a suitable site prior to it being developed.

CONSENT  
AGENDA ITEM # \_\_\_\_\_

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**RESOLUTION 17-54**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF VACANT LAND FOR \$46,000 FROM NONNIE LEE M. KINNER, AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Nonnie Lee M. Kinner, relating to the purchase of vacant land located at Lot 7 in Block 13 of Holiday Beach Unit 15, in the basic amount of Forty Six Thousand Dollars (\$46,000), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

CONSENT  
AGENDA ITEM # \_\_\_\_\_  
Res 17-54

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1. **Sale and Purchase:** Nonie Lee M. Kinner ("Seller")  
 and CITY OF PANAMA CITY BEACH ("Buyer")  
 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")  
 described as  
 Address Lot on Vega Street, Panama City Beach, FL  
 Legal Description \_\_\_\_\_  
Lot 7 in Block 13 of Holiday Beach Unit Fifteen, a Subdivision of a portion of Section 8, Township 4 South,  
Range 15 West, per plat recorded in Plat Book 11, at Page 22 in the Public Records of Bay County, Florida.  
 \_\_\_\_\_  
 SEC \_\_\_/TWP \_\_\_/RNG \_\_\_ of \_\_\_\_\_ County, Florida Real Property ID No.: 30808-316-000  
 including all improvements existing on the Property and the following additional property: \_\_\_\_\_  
 \_\_\_\_\_

2. **Purchase Price:** (U.S. currency)..... \$ 46,000.00  
 All deposits will be made payable to "Escrow Agent" named below and held in escrow by  
 Escrow Agent's Name: Harrison Sale McCloy  
 Escrow Agent's Contact Person: Kevin D. Obos  
 Escrow Agent's Address 304 Magnolia Avenue, Panama City, Florida 32401  
 Escrow Agent's Phone 850-769-3434  
 Escrow Agent's Email: kobos@hsmclaw.com

(a) Initial deposit (\$0 if left blank) (Check if applicable)  
 accompanies offer  
 will be delivered to Escrow Agent within \_\_\_\_\_ days (3 days if left blank)  
 after Effective Date ..... \$ \_\_\_\_\_

(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)  
 within \_\_\_\_\_ days (10 days if left blank) after Effective Date ..... \$ \_\_\_\_\_  
 within \_\_\_\_\_ days (3 days if left blank) after expiration of Feasibility Study Period ..... \$ \_\_\_\_\_

(c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage)..... \$ \_\_\_\_\_  
 (d) Other: \_\_\_\_\_ \$ \_\_\_\_\_

(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)  
 to be paid at closing by wire transfer or other Collected funds ..... \$ 46,000.00

(f)  (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price ) The  
 unit used to determine the purchase price is  lot  acre  square foot  other (specify) \_\_\_\_\_  
 prorating areas of less than a full unit. The purchase price will be \$ \_\_\_\_\_ per unit based on a  
 calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in  
 accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the  
 calculation \_\_\_\_\_

3. **Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy  
 delivered to all parties on or before February 3, 2017, this offer will be withdrawn and Buyer's deposit, if  
 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is  
 delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer  
 has signed or initialed and delivered this offer or the final counter offer.

4. **Closing Date:** This transaction will close on or before March 9, 2017 ("Closing Date"), unless specifically  
 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,  
 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,  
 Sunday, or national legal holiday, it will extend to 5.00 p.m. (where the Property is located) of the next business  
 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property  
 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If  
 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and  
 other items

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51 **5. Financing: (Check as applicable)**  
 52 (a)  Buyer will pay cash for the Property with no financing contingency.  
 53 (b)  This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s)  
 54 specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective  
 55 Date, whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within \_\_\_\_\_  
 56 days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,  
 57 and other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the  
 58 Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be  
 59 returned.  
 60 (1)  **New Financing:** Buyer will secure a commitment for new third party financing for \$ \_\_\_\_\_  
 61 or \_\_\_\_\_ % of the purchase price at (Check one)  a fixed rate not exceeding \_\_\_\_\_ %  an  
 62 adjustable interest rate not exceeding \_\_\_\_\_ % at origination (a fixed rate at the prevailing interest rate  
 63 based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully  
 64 informed of the loan application status and progress and authorizes the lender or mortgage broker to  
 65 disclose all such information to Seller and Broker.  
 66 (2)  **Seller Financing:** Buyer will execute a  first  second purchase money note and mortgage to  
 67 Seller in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_ % and payable as  
 68 follows:  
 69 The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow  
 70 forms generally accepted in the county where the Property is located; will provide for a late payment fee  
 71 and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without  
 72 penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on  
 73 conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to  
 74 keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller  
 75 to obtain credit, employment, and other necessary information to determine creditworthiness for the  
 76 financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not  
 77 Seller will make the loan.  
 78 (3)  **Mortgage Assumption:** Buyer will take title subject to and assume and pay existing first mortgage to  
 79 \_\_\_\_\_  
 80 LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at  
 81 \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a  
 82  fixed  other (describe) \_\_\_\_\_  
 83 interest rate of \_\_\_\_\_ % which  will  will not escalate upon assumption. Any variance in the  
 84 mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will  
 85 purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_ % or  
 86 the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess,  
 87 failing which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves  
 88 Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.

89 **6. Assignability: (Check one)** Buyer  may assign and thereby be released from any further liability under this  
 90 contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

91 **7. Title: Seller has the legal capacity to and will convey marketable title to the Property by**  statutory warranty  
 92 deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,  
 93 and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants,  
 94 restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any  
 95 other matters to which title will be subject) \_\_\_\_\_,  
 96 provided there exists at closing no violation of the foregoing.

97 (a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and  
 98 pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.  
 99 Seller will deliver to Buyer, at  
 100 (Check one)  Seller's  Buyer's expense and  
 101 (Check one)  within 10 days after Effective Date  at least \_\_\_\_\_ days before Closing Date,  
 102 (Check one)  
 103 (1)  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
 104 discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the  
 105 amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is  
 106 paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to  
 107 Buyer within 15 days after Effective Date.

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 AGENDA ITEM # 4

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(2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, Buyer will, within \_\_\_\_\_ days (10 days if left blank) but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and Seller cures the defects within \_\_\_\_\_ days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 7(b).

(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

8. **Property Condition:** Seller will deliver the Property to Buyer at closing in its present "as is" condition, with conditions resulting from Buyer's Inspections and casualty damage, if any, excepted. Seller will not engage in or permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

(a) **Inspections:** (Check (1) or (2))

(1)  **Feasibility Study:** Buyer will, at Buyer's expense and within \_\_\_\_\_ days (30 days if left blank) ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be rezoned, Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals. Seller gives Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien being filed against the Property without Seller's prior written consent. If this transaction does not close, Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller all reports and other work generated as a result of the Inspections.

Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

(2)  **No Feasibility Study:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning

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- 164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,  
 165 growth management, and environmental conditions, are acceptable to Buyer. This contract is not  
 166 contingent on Buyer conducting any further investigations.
- 167 (b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's  
 168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has  
 169 expired or if Paragraph 8(a)(2) is selected.
- 170 (c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government  
 171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply  
 172 to improving the Property and rebuilding in the event of casualty.
- 173 (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as  
 174 defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required  
 175 by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The  
 176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that  
 177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach  
 178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida  
 179 Department of Environmental Protection, including whether there are significant erosion conditions associated  
 180 with the shore line of the Property being purchased.
- 181  Buyer waives the right to receive a CCCL affidavit or survey.

182 9. **Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be  
 183 conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title  
 184 binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds  
 185 to Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to  
 186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, Seller and Buyer will pay the  
 187 costs indicated below.


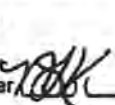
- 188 (a) **Seller Costs:**  
 189 Taxes on deed  
 190 Recording fees for documents needed to cure title  
 191 Title evidence (if applicable under Paragraph 7)  
 192 Other: Seller will pay NO closing costs

- 193 (b) **Buyer Costs:**  
 194 Taxes and recording fees on notes and mortgages  
 195 Recording fees on the deed and financing statements  
 196 Loan expenses  
 197 Title evidence (if applicable under Paragraph 7)  
 198 Lender's title policy at the simultaneous issue rate  
 199 Inspections  
 200 Survey  
 201 Insurance  
 202 Other: Buyer will pay ALL closing costs

203 (c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real  
 204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,  
 205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be  
 206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 (d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, Seller  
 208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount  
 209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but  
 210 has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be  
 211 paid in installments,  Seller  Buyer (Buyer if left blank) will pay installments due after closing. If Seller is  
 212 checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a  
 213 Homeowners' or Condominium Association.

214 (e) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT  
 215 PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO  
 216 PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY  
 217 IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN  
 218 HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT  
 219 THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

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220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by  
221 FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at  
222 closing.  
223 (g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with  
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will  
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,  
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing  
227 will not be contingent upon, extended, or delayed by the Exchange.

228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday  
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. Time is of the essence in  
232 this contract.


233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
234 or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
235 proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may  
236 terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification,  
237 and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and  
238 receive all payments made by the governmental authority or insurance company, if any.

239 **12. Force Majeure:** Seller or Buyer will not be required to perform any obligation under this contract or be liable to  
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
241 prevented by an act of God or force majeure. An "act of God or force majeure" is defined as hurricanes,  
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
243 within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is  
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for  
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force  
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to  
247 the other; and Buyer's deposit(s) will be returned.

248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
249 electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by  
250 this contract, regarding any contingency will render that contingency null and void, and this contract will  
251 be construed as if the contingency did not exist. Any notice, document, or item delivered to or received  
252 by an attorney or licensee (including a transactions broker) representing a party will be as effective as if  
253 delivered to or received by that party.

254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between Seller and Buyer.  
255 Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker  
256 unless incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed  
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be  
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If  
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be  
262 fully effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract.  
263 This contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular  
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
265 permitted, of Seller, Buyer, and Broker.

266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
267 closing or termination of this contract.  
268 (a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer  
269 may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting  
270 from Seller's breach and may seek to recover such damages or seek specific performance. Seller will also  
271 be liable for the full amount of the brokerage fee.

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272 (b) **Buyer Default:** If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer  
276 will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in  
277 equity to enforce Seller's rights under this contract.

278 **16. Escrow Agent; Closing Agent:** Seller and Buyer authorize Escrow Agent and closing agent (collectively  
279 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
280 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
281 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
282 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
283 person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful  
284 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
285 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
286 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

287 **17. Professional Advice; Broker Liability:** Broker advises Seller and Buyer to verify all facts and representations  
288 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
289 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
290 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
291 property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside  
292 in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller  
293 representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and  
294 government agencies for verification of the Property condition and facts that materially affect Property  
295 value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
296 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
297 from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold  
298 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
299 damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or  
300 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
301 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
302 performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475,  
303 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
304 products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each  
305 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
306 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
307 This Paragraph will survive closing.

308 **18. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
309 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
310 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
311 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
312 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

313 **19. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
314 Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
315 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
316 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
317 MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

318- (a) N/A (Seller's Broker)  
319- will be compensated by  Seller  Buyer  both parties pursuant to  a listing agreement  other  
320- (specify): \_\_\_\_\_  
321- (b) N/A (Buyer's Broker)  
322- will be compensated by  Seller  Buyer  both parties  Seller's Broker pursuant to  a MLS offer of  
323- compensation  other (specify): \_\_\_\_\_

Buyer (Signature) and Seller (Signature) acknowledge receipt of a copy of this page, which is 6 of 7 pages.  
VAC-10 Rev 8/14

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324- 20. Additional Terms: \_\_\_\_\_  
 325 This Agreement and purchase is wholly contingent upon the Panama City Beach Council voting to approve this  
 326 Contract on or before February 9, 2017. If the decision is "yes" this Contract shall continue in full force and effect.  
 327 If the decision is "no", Sellers shall return the Escrow Deposit to the Purchaser and this Contract shall terminate  
 328 and neither party shall have any further obligations hereunder.  
 329 \_\_\_\_\_  
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 340 \_\_\_\_\_

341 This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before  
 342 signing.

343- Buyer: CITY OF PANAMA CITY BEACH Date: 1-26-17

344- Print name: BY: Mario Gisbert, Its City Manager

345- Buyer: Diane Fowler Date: 1-26-17

346- Print name: Attested To By: Diane Fowler, City Clerk

347 Buyer's address for purpose of notice:

348- Address: 110 South Arnold Road, Panama City Beach, FL 32413

349- Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

350- Seller: Nonie Lee M. Kinner Date: 1-31-17

351- Print name: Nonie Lee M. Kinner

352- Seller: \_\_\_\_\_ Date: \_\_\_\_\_

353- Print name: \_\_\_\_\_

354 Seller's address for purpose of notice:

355- Address: 230 S. Glades Trail, Panama City Beach, FL 32407

356- Phone: 850-832-3110 Fax: 850-233-0525 Email: 3vshady@gmail.com

357- Effective Date: \_\_\_\_\_ (The date on which the last party signed or initialed and delivered the  
 358 final offer or counter offer.)

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Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is 7 of 7 pages.  
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ALTA STAR  
 CONSENT  
 AGENDA ITEM # 4

# CONSENT AGENDA ITEM

5\*





# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

CRA/Kelly Jenkins

2. MEETING DATE:

02/09/2017

3. REQUESTED MOTION/ACTION:

Approve agreement for third party geotechnical testing with Southern Earth Sciences (SES) - Front Beach Road CRA Segment 2 in the amount not to exceed \$56,000.00.

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)

The Front Beach Road Segment 2 project includes reconstruction of Front Beach Road from west of Richard Jackson Blvd. east to the South Thomas Drive intersection a total distance of 1.05 miles. Construction has commenced on this project and as part of the construction inspection staff needs to have third party geotechnical testing available to verify material compliance and installation.

The City has a Master Services Agreement with Southern Earth Sciences (SES) as a consultant for Professional Geotechnical Testing Services. Staff requested and has received a proposed Task Order 2017-1 (see exhibits w/ attachments) from SES to provide these services for this project. The proposed work is in an amount not to exceed \$56,000 throughout the duration of the construction project. This work was budgeted and the CRA has adequate funds.

**RESOLUTION 17-55**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING TASK ORDER #2017-1 TO THE MASTER SERVICES AGREEMENT WITH SOUTHERN EARTH SCIENCES, INC. FOR GEOTECHNICAL TESTING SERVICES FOR FRONT BEACH ROAD CRA SEGMENT 2 CONSTRUCTION MATERIALS TESTING, IN THE AMOUNT OF \$56,000; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Task Order #2017-1 to the Master Services Agreement between the City and Southern Earth Sciences, Inc., for geotechnical testing services for Front Beach Road CRA Segment 2 Construction, in the basic amount of Fifty Six Thousand Dollars (\$56,000), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

Resolution 17-55  
CONSENT  
AGENDA ITEM # 5

7500 McElvey Rd, Suite A  
Panama City Beach, FL 32408

Tel: (850) 769-4773  
Fax: (850) 872-9957  
[www.soeearth.com](http://www.soeearth.com)



Geotechnical, Environmental & Construction Materials Testing

FL Certificate of Authorization #3737

The City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, FL 32413

February 2, 2017  
Proposal No.: P17026.01A

**ATTENTION:** Ms. Kelly Jenkins, P.E.

**SUBJECT:** Construction Materials Testing  
Front Beach Road Reconstruction Segment 2  
Bay County, FL

Dear Ms. Jenkins:

Southern Earth Sciences, Inc. (SESI) appreciates the opportunity to provide this proposal for construction materials testing services for the above referenced project. We have estimated quantities and associated fees for our services as follows:

A. Engineering Technician Time On Site (\$55/hr); est; 160 days	\$	22,000.00
B. Engineering Technician Standby Time (\$40/hr); est; 160 days	\$	3,200.00
C. Engineering Technician Travel Time (\$25/trip); est; 160 days	\$	4,000.00
D. Limerock Bearing Ratio (\$335/ea); est 20 (SSG)	\$	6,700.00
E. Modified Proctor (\$120/ea); est 10 (Limerock)	\$	1,200.00
F. Standard Proctor (\$120/ea); est 12 (Embankment)	\$	1,440.00
F. Modified Proctor (\$120/ea) est; 2 (RAP)	\$	240.00
H. Grain Size Analysis (\$85/ea) est; 12 (SSG)	\$	1,020.00
J. Grain Size Analysis (\$85/ea) est 12 (Embankment)	\$	1,020.00
K. Organic Contents (\$48/ea) est; 12 (Embankment)	\$	576.00
L. Atterberg Limits (\$90/ea) est; 12 (SSG)	\$	1,080.00
M. pH Analysis (\$25/ea) est; 20 - (Topsoil)	\$	500.00
N. Organic Contents (\$48/ea) est; 20 (Topsoil)	\$	960.00
O. Concrete Cylinder Set (\$120/ea) est; 10	\$	1,200.00
P. Asphalt Cores (Density & Thickness) (\$50/ea) est; 20	\$	1,000.00
Q. Engineering review, reports, mailing, etc. (10%)	\$	4,614.00
<b>ESTIMATED RANGE</b>	<b>\$</b>	<b>51,000 - 56,000</b>

5

We have included a fee schedule, in the event additional tests are required beyond what is listed above. Also, we have included our standard Terms & Conditions. If this proposal is acceptable, please sign, date, and return a copy of the attached Work Authorization Sheet. Also, our Laboratory is CMEC accredited in accordance with AASTO R-18 as well as FDOT certified.

We appreciate the opportunity to team with you on this project. If additional information is needed or you have any questions, please feel free to contact me.

Yours Very Truly,

**SOUTHERN EARTH SCIENCES, INC.**



Scott J. Mitchell  
Construction Department Coordinator

**ALABAMA**

Mobile  
 P.O. Box 160745  
 Mobile, AL 36616  
 tel: 251-344-7711  
 fax: 251-341-9488

Summerdale  
 P.O. Box 155  
 Summerdale, AL 36580  
 tel: 251-989-7726  
 fax: 251-989-6722

Montgomery  
 1412 I-85 Parkway  
 Montgomery AL 36106  
 tel: 334-260-8227  
 fax: 334-260-8229

**FLORIDA**

Panama City  
 1438 Balboa Ave.  
 Panama City, FL 32401  
 tel: 850-769-4773  
 fax: 850-872-8967

Tallahassee  
 870-3 Blountstown Hwy.  
 Tallahassee, FL 32304  
 tel: 850-576-4652  
 fax: 850-576-4710

Destin  
 150 Industrial Park Road  
 Suite 6  
 Destin, FL 32541  
 tel: 850-837-8988  
 fax: 850-837-9987

**LOUISIANA**

Baton Rouge  
 11638 Sun Belt Court  
 Baton Rouge, LA 70809  
 tel: 225-751-1727  
 fax: 225-752-1467

1855 Mason Ave.  
 Baton Rouge, LA 70805  
 tel: 225-358-4355  
 fax: 225-358-0519

New Orleans  
 P.O. Box 19172  
 New Orleans, LA 70179  
 tel: 504-488-6595  
 fax: 504-488-6598

Mandeville  
 1933 Surgl Drive  
 Suite A  
 Mandeville, LA 70448  
 tel: 985-826-1314



Geotechnical, Environmental & Construction Materials Testing

**CORPORATE OFFICES**

P.O. Box 160745  
 Mobile, AL 36616  
 tel: 251-344-7711  
 fax: 251-345-9453

**WORK AUTHORIZATION SHEET**

<b>Billing Name</b>	City of Panama City Beach		
<b>Address</b>	110 South Arnold Road		
<b>City</b>	Panama City Beach	<b>State</b> FL	<b>Zip</b> 32413
<b>Phone</b>	850 233-5054	<b>Fax</b>	<b>Cell</b>
<b>Email</b>	<a href="mailto:kjenkins@pcbgo.com">kjenkins@pcbgo.com</a>		
<b>Project Name</b>	Front Beach Road Reconstruction Segment 2		
<b>Location</b>	Panama City Beach, FL		
<b>Additional Reports</b>			
<b>Address</b>			
<b>City</b>		<b>State</b>	<b>Zip</b>
<b>Phone</b>		<b>Fax</b>	<b>Cell</b>
<b>email</b>			

Attached are our Terms & Conditions, which should be considered an integral part of our proposal. In order to authorize us to proceed with our services, please execute this document by signing below and returning a copy to us.

Prepared by:

  
 For Southern Earth Sciences, Inc.

2/1/2017  
 Date

Scott J. Mitchell  
 Print or Type Name of Representative

Authorized by:

\_\_\_\_\_  
 Signature of Client Representative

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print or Type Name of Representative



Geotechnical, Environmental & Construction Materials Testing

## TERMS AND CONDITIONS

**Project:** Front Beach Road Reconstruction Segment 2

**Client:** City of Panama City Beach

**Proposal No:** P17026.01A

### Section 1 - RIGHT OF ENTRY

1.1 The client will provide right of entry for SESI and all necessary equipment in order to complete the work.

1.2 While SESI will take reasonable precautions to minimize any damage to the property, the client must understand that in the normal course of work some damages may occur, the correction of which is not part of this agreement.

### Section 2 - UTILITIES

2.1 In the execution of this work, SESI will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. The owner agrees to hold SESI harmless for any damages to subterranean structures, which are not called to our attention and correctly shown on the plans furnished.

### Section 3 - SAMPLES

3.1 Test specimens will be disposed of immediately upon completion of tests. Drilling samples will be disposed of thirty (30) days after submission of our report. Upon written request, we will retain test specimens or drilling samples for a mutually accepted storage charge.

### Section 4 - INVOICES

4.1 The outlined scope of services will be accomplished in a timely, workmanlike, and professional manner by employees of SESI, at the fees quoted. If during the execution of the work we are required to stop operations as a result of changes in the scope of work, such as requests by the owner or requirements of third parties, additional charges will be applicable.

4.2 SESI will submit monthly invoices to the client and a final bill upon the completion of services.

4.3 Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. The client agrees to pay a finance charge of one and a half (1 1/2) percent per month, or the maximum rate allowed by law, on past due accounts, plus reasonable attorney's fees and expenses of collection.

### Section 5 - OWNERSHIP OF DOCUMENTS

5.1 All reports, borings logs, field notes, laboratory test data, calculations, estimates, and other documents prepared by SESI, as instruments of service, shall remain property of SESI. These documents will be held to be confidential, and will not be available to any other entity unless express consent is obtained from the client.

5.2 The client agrees that all reports and other work furnished to the client and his agents, which are not paid for, will be returned upon demand and will not be used by the client for any purpose whatsoever.

5.3 SESI will retain all pertinent records relating to the services performed for a period of five (5) years following the submission of the report, during which period the records will be made available to the client at all reasonable times.

### Section 6 - DISPUTES

6.1 In an effort to resolve any conflicts that arise during the design or construction of the project, the Client and SESI agree that all disputes between them arising out of or relating to this Agreement shall be submitted for mediation, unless the parties mutually agree otherwise.

6.2 In the event that a dispute should arise relating to performance of services provided under this agreement, and should that dispute result in litigation, it is agreed that SESI shall be entitled to recover all reasonable costs incurred in the defense of the claim, including staff time, court costs, attorney's fees, and other claim-related expenses if SESI prevails in the claim.

### Section 7 - STANDARD OF CARE

7.1 Services performed by SESI under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by professionals currently practicing under similar conditions. No other warranty, expressed or implied, is made.

7.2 Field tests and boring locations described in our report or shown on our sketches are based on specific information furnished to us by our technicians. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in the report.

7.3 The client recognizes that conditions may vary from those encountered at the locations, where borings, sampling, surveys, or explorations are made by SESI, and that the data, interpretations, and recommendations of SESI are based solely on the information available to us. SESI will be responsible for the data, interpretations, and recommendations, but shall not be responsible for the interpretations by others of the information developed.

7.4 When requested by the client, SESI will adhere by guidelines, specifications, plans, drawings, and the like which are provided to SESI by the client; however, SESI shall not be responsible for any liability due to any adverse outcome which results from the adherence to the plans, guidelines, specifications, drawings and the like.

### Section 8 - RISK ALLOCATION

8.1 There are a variety of risks which potentially affect SESI by virtue of entering into an agreement to perform professional services on the client's behalf. One of these risks stems from SESI's potential for human error. For additional consideration of \$10.00, receipt of which is hereby acknowledged, the client agrees that SESI's liability, and that of its officers, directors, employees, agents, and subcontractors, to client or any third party due to any negligent professional acts, errors or omissions or breach of contract by SESI or any of its officers, directors, employees, agents or subcontractors, will be limited to the aggregate of \$50,000.00 or SESI's total charges, whichever is greater. If client prefers to have higher limits of professional liability (not breach of contract) SESI agrees to increase the aggregate limit to a maximum of \$1,000,000.00 upon client's written request at the time of accepting our proposal, providing that client agrees to pay an additional consideration of ten (10) percent of SESI's total charges, or \$500.00, whichever is greater. The additional charge for the higher liability limit is because of the greater risk assumed by SESI and is not a charge for additional professional liability insurance. This limitation shall not apply to the extent prohibited by law. In no event however, shall the liability of SESI exceed the amount of its applicable insurance coverage for the type claim involved.

8.2 Limitations of liability and indemnities in this agreement are business understandings between the parties and shall apply to all the different theories of recovery, including breach of contract or warranty, tort including negligence, strict or statutory negligence, or any other causes of action, except for willful misconduct or gross negligence. Parties mean the client and SESI and their officers, employees, agents, affiliates and subcontractors. The parties also agree that the client will not seek damages in excess of the limitations indirectly through suits with other parties who may join SESI as third party defendants.

8.3 Both the client and SESI agree that they will not be liable to each other, under any circumstances, for special, consequential, or punitive damages, arising out of or related to this agreement.

### Section 9

#### DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIAL

9.1 Client warrants that a reasonable effort to inform SESI of known or suspected hazardous materials on or near the project site has been made.

9.2 Hazardous materials may exist at the site where there is no reason to believe that they could or should be present. SESI and the client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating renegotiation of the scope of work or termination of services. SESI and the client agree the discovery of hazardous materials may also make it necessary for SESI to take immediate measures to protect health and safety. Client agrees to compensate for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

9.3 SESI agrees to notify the client when unanticipated hazardous materials or suspected hazardous materials are encountered. The client agrees to make any disclosure required by law to the appropriate governing agencies. The client also agrees to hold SESI harmless for any or all consequences of disclosure made by SESI which are required by governing law. In the event the project site is not owned by the client, client recognizes that it is the client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

9.4 Notwithstanding any other provision of the agreement, the client waives any claim against SESI, and to the maximum extent permitted by the law, agrees to defend, indemnify, and save SESI harmless from any claim, liability, and/or defense costs for injury or loss arising from SESI's discovery of unanticipated hazardous materials including any cost associated with possible reduction of the property's value.

9.5 The client will be responsible for ultimate disposal of any samples secured by SESI, which are found to be contaminated.

### Section 10 - SITE RESPONSIBILITY

10.1 If services include construction testing the client agrees that SESI will be expected to make on-site observations appropriate to the construction stage. The client further agrees that SESI will not assume responsibility for the contractor's means, methods, techniques, sequences or procedures of construction, and it is understood that the field services provided by SESI will not relieve the contractor of his responsibilities for performing the work in accordance with the plans and specifications. The words "supervision", "inspection", or "control" are used to mean periodic observation of the work and the conduction of tests by geotechnical consultant to verify substantial compliance with the plans, specifications and design concepts. Continuous monitoring by SESI employees does not mean that our company is monitoring the placement of all materials.

10.2 Client agrees that the contractor(s) will be solely responsible for working conditions on the job site, including security and safety during performance of the work, and compliance with client safety requirements and OSHA regulations. It is agreed that SESI is not responsible for job or site safety or security, other than for SESI employees, and that SESI does not have the right or duty to stop the work of others.

### Section 11 - SAMPLING AND TEST LOCATION

11.1 Unless otherwise stated, the fees in this proposal do not include costs associated with the surveying of the site for the accurate horizontal and vertical locations of the tests. Field tests or boring locations described in a report or shown in sketches are based upon information furnished by others or estimates made in the field by our representatives. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated. If the client specifies the test or boring location, we reserve the right to deviate a reasonable distance from the location specified.

### Section 12 - INSURANCE

12.1 SESI represents and warrants that it and all its agents, staff, and consultants employed by it are protected by Worker's Compensation insurance and that SESI has such coverage under public liability and property damage insurance policies which SESI deems to be adequate. Certificates for all such policies of insurance can be provided to client upon written request. Within the limits and conditions of such insurance, SESI agrees to indemnify and save client harmless from and against any loss, damage or liability arising from any negligent acts by SESI, its agents, staff and consultants employed by it. SESI shall not be responsible for any loss, damage, or liability beyond the amounts, limits and conditions of such insurance. SESI shall not be responsible for any loss, damage, or liability arising from any acts by client, staff, or any other consultants employed by it.

### Section 13 - TERMINATION

13.1 This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before the expiration of the period specified in the written notice. In the event of termination, SESI shall be paid for services performed to the termination notice date plus reasonable termination expenses.

### Section 14 - ASSIGNS

14.1 Neither the Client nor SESI may delegate, assign, sublet or transfer his duties or interest in this Agreement without the written consent of the other party.

### Section 15 - ENTIRE AGREEMENT

15.1 This Agreement constitutes the entire Agreement and the terms set forth above supersede all previous correspondence and Agreements.

### Section 16 - EQUAL OPPORTUNITY EMPLOYER

16.1 SESI prohibits discrimination because of race, color, religion, handicap, sex, or national origin. SESI promotes equal opportunity in employment through continuing programs of affirmative action in its operations.

5

**EXHIBIT A**  
COMBINED TASK ORDER AND  
NOTICE TO PROCEED

TASK ORDER NO. 2017-01

DATE February 09, 2017

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND Southern Earth Sciences, Inc. RELATING TO GEOTECHNICAL TESTING SERVICES dated February 2, 2017, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Engineer agrees to perform the specific tasks set forth upon incorporated **Exhibit A Attachments, Scope of Services**, relating to the **Front Beach Road CRA Segment 2 Construction Materials Testing**.

**Engineer's total compensation** shall be (check one):

- a stipulated sum of \$ \_\_\_\_\_; or  
 a stipulated sum of \$ \_\_\_\_\_ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his designee, Allowance of \$ \_\_\_\_\_ for \_\_\_\_\_, and Allowance of \$ \_\_\_\_\_ for \_\_\_\_\_; or  
 a fee determined on a time-involved basis at the rates set forth upon incorporated **Attachments, Hourly Fee Breakdown (if applicable)**, with a maximum cost of \$ **\$56,000.00**;

and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on \_\_\_\_\_, 2017, and shall be completed within 2 calendar years. The date of completion of all work is therefore \_\_\_\_\_, 201\_\_\_\_. Liquidated delay damages, if any, are set at the rate of \$0 per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Engineer and City, Engineer is directed to proceed.

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

Witness:

Southern Earth Sciences, Inc.

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

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

CITY OF PANAMA CITY BEACH, FLA.

ATTEST:

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

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



# REGULAR AGENDA

## ITEM

1



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION/LEGAL

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
ADOPT ORDINANCE REQUIRING REMOVAL OF UNUSED CABLES FROM TOWERS AND POLES IN CITY ROW

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)

The City has experienced problems with above-ground cables, conduits, ducts and fiber optics, particularly those related to communications facilities and services, being left in place after they have been cut or have been replaced. This has resulted in visual clutter that negatively impacts the aesthetics of the City, creates potential safety hazards, and causes concern to citizens who do not know which cables are live or capable of carrying dangerous levels of voltage. The City is entitled under its home rule authority to pass regulations related to health, safety and welfare except where prohibited by law. Florida Statute 337.01 confirms that the City may adopt reasonable regulations generally applicable to all providers of communications services relating to the placement or maintenance of communications facilities in its roads or rights-of-way.

Florida Statute 337.01 requires that, in addition to any other notice requirements, a municipality must provide to the Secretary of State, at least ten days prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. Pursuant to this statute, the City has timely provided a copy of this ordinance to the Secretary of State for review.

Council approved the first reading of this ordinance on January 12, 2017. This ordinance is available for adoption following second reading and public hearing on February 9, 2017.

ORDINANCE NO.1394

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REQUIRE ABOVE-GROUND CABLES LOCATED IN WHOLE OR IN PART WITHIN A RIGHT-OF-WAY TO BE REMOVED AND DISPOSED OF IMMEDIATELY WHEN CUT OR REPLACED AND TO BE REMOVED WITHIN 14 DAYS OF WHEN IT IS NO LONGER IN USE; REPEALING ORDINANCES TO THE EXTENT OF ANY CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach ("City") regulates Facilities in its Right-of-ways and defines Facility broadly to include items such as electric and communications cables or conduit, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, and hand holes; and

WHEREAS, the City has experienced problems with above-ground cables or conduit, ducts and fiber optic, particularly those related to communications services or facilities, being left in place after they have been cut or have been replaced, and

WHEREAS, this has resulted in visual clutter that negatively impacts the aesthetics of the City, creates potential safety hazards, and causes concern to citizens who do not know which cables are live or capable of carrying dangerous levels of voltage; and

WHEREAS, the City is entitled under its home rule authority to pass regulations related to health, safety and welfare except where prohibited by law; and

WHEREAS, Section 337.401, Florida Statutes, confirms that the City may adopt reasonable regulations generally applicable to all providers of communications services relating to the placement or maintenance of communications facilities in its roads or rights-of-way; and

WHEREAS, Section 337.401, Florida Statutes, requires that, in addition to any other notice requirements, a municipality must provide to the Secretary of State, at least ten days prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way; and

WHEREAS, the City has provided a copy of this ordinance to the Secretary of State for review at least ten days prior to consideration on first reading.

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

SECTION 1. From and after the effective date of this ordinance Section 19-159 of the Code of Ordinances of the City of Panama City Beach, related to duties associated with right-of-way permits is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

**Sec. 19-159. - Abandoned facilities.**

- A. Upon abandonment of a Facility owned by a Permittee in a Right-of-way, the Permittee shall notify the City within 90 days.
- B. The City may direct the Permittee by written notice to remove all or any portion of such abandoned Facility at Permittee's sole expense if the City determines that the Facility compromises safety for a Right-of-way user; prevents another from locating Facilities in that portion of Right-of-way when alternative locations not available; or creates a disruptive maintenance condition. If Permittee fails to remove all or any portion of an abandoned Facility as directed by the City within the reasonable time period required by the City under the circumstances, the City may perform such removal and charge the cost of the removal against the Permittee.
- C. In the event that the City does not direct the removal of the abandoned Facility, the Permittee, by its notice of abandonment to the City, shall be deemed to consent to the alteration or removal of all or any portion of the Facility by the City or another person at such third person's cost.
- D. **Notwithstanding the forgoing, the following more specific rules apply to all above-ground cables, conduits, ducts, fiber optics or poles located in whole or in part within a right-of-way:**
  - a. **Any communication cable, conduit, duct or fiber optic which is attached to a pole or tower and which has been cut shall be removed and disposed of immediately.**
  - b. **Any communication cable, conduit, duct or fiber optic shall be removed from a pole or tower and disposed of at the time a new or alternate cable has been attached for a similar purpose and the old cable is no longer in use.**
  - c. **In all other cases, a communication cable, conduit, duct, fiber optic or pole shall be removed and disposed of within 14 days following the date that it is no longer in use or has been disconnected from service.**
  - d. **The duty to remove unused facilities falls first to the owner of the unused or abandoned facilities, their successors or assigns, and if no such person or entity exists, to the entity owning or controlling the use of the pole or tower on which the unused or abandoned cable, conduit, duct or fiber optic is located.**

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such

publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2017.

# REGULAR AGENDA

## ITEM

2



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION/LEGAL

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
ADOPT ORDINANCE ESTABLISHING PROCESS FOR ISSUANCE OF TRESPASS WARNINGS ON PUBLIC PROPERTY

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)  
The City has found that the presence of individuals who have violated City ordinances or State law on public property, including municipal parks and beach access, creates a threat to the safety and welfare of the citizens and visitors of the City as well as the City property and facilities. The City administration and Police Department desire a method to allow for the issuance of trespass warnings for individuals committing violations of City ordinances, rules or regulations, or State law on public property.  
  
This ordinance authorizes officers of the Police Department to issue a trespass warning to any individual who violates any city ordinance, rule or regulation, or state law, which violation was committed while on or within any city facility, building, or outdoor area, including municipal parks, and including beach access. A person to whom a trespass warning is issued under this section shall have the right to appeal the issuance of the trespass warning.  
  
Council approved the first reading of this ordinance on January 26, 2017. This ordinance is available for adoption following second reading and public hearing on February 9, 2017.

ORDINANCE NO. 1407

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES TO CREATE A NEW SECTION 16-11 RELATING TO TRESPASS WARNINGS ON PUBLIC PROPERTY; ESTABLISHING A PROCESS FOR THE ISSUANCE OF TRESPASS WARNINGS ON PUBLIC PROPERTY; PROVIDING NOTICE REQUIREMENTS FOR TRESPASS WARNINGS; ESTABLISHING AN APPEAL PROCESS FOR TRESPASS WARNINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach may lawfully designate the use of City facilities for activities consistent with their purpose and the City Council seeks to maintain a safe and orderly environment of City property; and

WHEREAS, the Council seeks to discourage unlawful, unsafe, destructive, harassing or otherwise prohibited activity on City property that interferes with the designated use of City property; and

WHEREAS, the Council finds that the presence of individuals who have violated City ordinances, rules or regulations, or State law on public property or on private property for which the City has a public access easement creates a threat to the safety and welfare of the citizens and visitors of the City as well as the City property and facilities and therefore deem this ordinance to promote such public safety, public welfare and protection of property; and

WHEREAS, the Council desires to provide for a method to allow for the issuance of trespass warnings for individuals committing violations of City ordinances, rules or regulations, or State law, followed by the opportunity for a hearing to address the alleged deprivation of any constitutionally protected liberty interest of such individual;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, the Code of Ordinances of the City of Panama City Beach, Chapter 16 - Offenses, Article I, is amended by the creation of Section 16-11 entitled "Trespass Warnings on Public Property", which shall read as follows:



Sec. 16-11. Trespass Warnings on Public Property.

(a) Officers of the City Police Department are authorized to issue a trespass warning to any individual who violates any city ordinance, rule or regulation, or state law, which violation was committed while on or within any city facility, building, or outdoor area, including municipal parks, and including beach access as that term is defined in Section 16-3 (but excluding other public rights-of-way). The trespass warning shall be limited to the specific property where the violation occurred.

(b) Trespass warnings shall be in writing and issued for a period of one (1) year.

(c) A copy of the trespass warning shall be provided by mail or hand delivery to the individual given the warning. The written trespass warning shall advise of the right to appeal and the location at which to file the appeal.

(d) Any person found on or within any city facility, building, or outdoor area, including municipal parks, and beach access, in violation of a trespass warning issued in accordance with this section may be arrested for trespassing, except as otherwise provided in this section.

(e) The City Manager, or his/her designee, may upon request, authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.

(f) This section shall not be construed to limit the authority of any officer of the City Police Department to issue a trespass warning to any person for any lawful reason for any city property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the officer; nor shall this section be construed to limit the authority of any officer of the City Police Department to arrest or cite individuals for violating any section of the City Code or the Florida Statutes.

(g) *Appeal of trespass warning.* A person to whom a trespass warning is issued under this section shall have the right to appeal the issuance of the trespass warning as follows:

(1) An appeal of the trespass warning must be filed, in writing, within 20 days of the issuance of the warning, and shall include the appellant's name, address and phone number, if any. No fee shall be charged for filing the appeal.

(2) Appeals shall be heard by the City Council at a regularly scheduled City Council meeting.

(3) Within five (5) days following the filing of the appeal, the City Clerk or his/her designee shall schedule a hearing. Notice of the hearing shall be provided to the appellant in one of three ways:

a. By providing the appellant a copy of the notice of hearing in person at the time he or she files the appeal. When it is not reasonably practical or possible to provide notice in this manner, the appellant shall be informed that notice of the hearing will be provided in accordance with either paragraph b. or c. below;

b. By posting the notice at city hall; or

c. By telephone if a telephone number has been provided and mailing when a mailing address has been provided.

- (4) In no event shall the hearing be held sooner than seven (7) days following the filing of the appeal or later than 30 days from the filing of the appeal except that the appellant may request that the scheduled hearing be postponed up to an additional 30 days during the appeal period.
- (5) Copies of documents in the city's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.
- (6) The appellant shall have the right to attend with an attorney, to testify and to call witnesses, cross examine witnesses and present evidence. The appellant shall have the right to bring a court reporter, at appellant's own expense.
- (7) The City Council shall consider the testimony, reports or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.
- (8) The city shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the criteria of this section.
- (9) If the appellant fails to attend a scheduled hearing, the City Council shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.
- (10) Within ten (10) days of the hearing, the City Council shall issue a written decision on the appeal which shall be mailed to the appellant at the address provided.
- (11) The decision of the City Council shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law.
- (12) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2017.

# REGULAR AGENDA

## ITEM

3



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
Panama City Beach Police Department

2. MEETING DATE:  
February 9, 2017

3. REQUESTED MOTION/ACTION:  
Budget amendment for the purchase of vinyl fencing (approx. 814 ft.)

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)  
The Panama City Beach Police Department is seeking approval to purchase approximately 814 ft. of vinyl fencing to surround the existing police impound lot. This fence will help beautify the exterior of the property and provide a visual barrier from the public. A basic white vinyl fence would cost \$18,722. The fence comes with a 5 year installation warranty, 30 year material warranty and a category 3 hurricane rating. There are color options available, if required, which would raise the total to \$22,905 and would also include all warranties and ratings.

**RESOLUTION 17-56**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA APPROVING THE PURCHASE OF VINYL FENCING FOR POLICE DEPARTMENT IMPOUND LOT FROM SIGNATURE DECKS & FENCES IN THE BASIC AMOUNT OF \$22,905; AUTHORIZING A BUDGET AMENDMENT TO FUND THIS PURCHASE; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

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

1. The appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and the Signature Decks & Fences relating to the purchase of vinyl fencing for Police Department impound lot, in the total amount of Twenty Two Thousand Nine Hundred Five Dollars (\$22,905), on substantially the terms and conditions set forth in the quote attached hereto as Exhibit A and presented to the Council today, draft dated January 30, 2017, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.
2. The following budget amendment (# 18) is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2016, and ending September 30, 2017, as shown in and in accordance with the attached and incorporated Exhibit B, to reflect the receipt and expenditure for the purposes stated herein.
3. This Resolution shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 9th day of February, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

AGENDA ITEM # 3



# PROPOSAL

850-596-6161

David@SignatureFences.com

1025 W. 19th St.

#18A

Panama City, FL 32405



- o **Attention:** Captain Maddox c/o Panama City Beach Police Department
- o **Address:** 17115 Panama City Beach Parkway
- o **Phone:** 850-258-8266
- o **Email:** [wmaddox@beachpolice.org](mailto:wmaddox@beachpolice.org)
- o **Date:** 12 January 2017
- o **Project Description:** INSTALL 6' TALL FENCE

Description or Style	Quantity	Unit Price	Cost
White vinyl privacy, 9 foot post, 160LBS. of concrete on each post, <b>ALUMINUM RAIL</b> in every bottom rail. <b>Category 3 Hurricane</b> wind resistant, 30 year material warranty and a <b>5 YEAR INSTALLATION WARRANTY!</b>	814	\$ 23.00	\$18,722.00
<b>SUB TOTAL</b>			<b>\$ 18,722</b>
		Total	<b>\$ 18,722</b>

**With Payments as Follows: \$9,361 DOWN and \$9,361 DUE UPON COMPLETION**

- 1) Any alteration or deviation from the specifications involving extra costs will be executed only upon written order, and will become an additional charge over and above this contract amount.
- 2) **Unusual Conditions - Additional Charges:** I agree that Signature has the right to charge an additional fee for unforeseeable underground pipes, large roots, foundations, rocks, and other similar obstacles.
- 3) The above prices, specifications, conditions are satisfactory and are hereby accepted. You are authorized to do the work specified and payments will be made as outlined above.

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

Testimonials: <http://bit.ly/2cqZAhz> <http://www.angieslist.com> <http://www.signaturedf.com>

Exhibit A

AGENDA ITEM # 2



# PROPOSAL



850-596-6161  
David@SignatureFences.com

1025 W. 19th St.  
#18A  
Panama City, FL 32405

- o Attention: Captain Maddox c/o Panama City Beach Police Department
- o Address: 17115 Panama City Beach Parkway
- o Phone: 850-258-8266
- o Email: wmaddox@beachpolice.org
- o Date: 30 January 2017
- o Project Description: Install 6' TALL MULTI COLOR VINYL FENCE

Description or Style	QUANTITY	Cost
Mixed color with Tan Post, Tan Post Caps and White Pickets(Body of Fence) or Mixed color White Post, White Post Caps and Tan Pickets(body of Fence)	814	\$ 22,905.00
9 FOOT POST, 160 LBS. CONCRETE EACH POST, ALUMINUM RAIL IN EVERY BOTTOM RAIL, CATEGORY 3 HURRICANE WIND RESISTANT, 30 YEAR MATERIAL WARRANTY AND A 5 YEAR INSTALLATION WARRANTY.		
<b>SUB TOTAL</b>		<b>\$ 22,905</b>
	<b>TOTAL</b>	<b>\$ 22,905</b>

**With Payments as Follows: \$15,466 down and \$7,439 at completion**

- 1) Any alteration or deviation from the specifications involving extra costs will be executed only upon written order, and will become an additional charge over and above this contract amount.
- 2) **Unusual Conditions - Additional Charges:** I agree that Signature has the right to charge an additional fee for unforeseeable underground pipes, large roots, foundations, rocks, and other similar obstacles.
- 3) The above prices, specifications, conditions are satisfactory and are hereby accepted. You are authorized to do the work specified and payments will be made as outlined above.

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

Testimonials: <http://bit.ly/2cqZAhz> <http://www.angieslist.com> <http://www.signaturesdf.com>

AGENDA ITEM # 3





# PROPOSAL

850-596-6161

David@SignatureFences.com

1025 W. 19th St.

#18A

Panama City, FL 32405



- o **Attention: Captain Maddox c/o Panama City Beach Police Department**
- o **Address: 17115 Panama City Beach Parkway**
- o **Phone: 850-258-8266**
- o **Email: wmaddox@beachpolice.org**
- o **Date: 30 January 2017**
- o **Project Description: Install 6' TALL MULTI COLOR VINYL FENCE**

Description or Style	QUANTITY	Cost
Mixed color with STONE or CLAY Post, STONE or CLAY Post Caps and White Pickets(Body of Fence) or Mixed color White Post, White Post Caps and STONE or CLAY Pickets(body of Fence)	814	\$ 24,552.00
9 FOOT POST, 160 LBS. CONCRETE EACH POST, ALUMINUM RAIL IN EVERY BOTTOM RAIL, CATEGORY 3 HURRICANE WIND RESISTANT, 30 YEAR MATERIAL WARRANTY AND A 5 YEAR INSTALLATION WARRANTY.		
<b>SUB TOTAL</b>		<b>\$ 24,552</b>
	<b>TOTAL</b>	<b>\$ 24,552</b>

**With Payments as Follows: \$17,094 down and \$7,458 at completion:**

- 1) Any alteration or deviation from the specifications involving extra costs will be executed only upon written order, and will become an additional charge over and above this contract amount.
- 2) **Unusual Conditions - Additional Charges:** I agree that Signature has the right to charge an additional fee for unforeseeable underground pipes, large roots, foundallons, rocks, and other similar obstacles.
- 3) The above prices, specifications, conditions are satisfactory and are hereby accepted. You are authorized to do the work specified and payments will be made as outlined above.

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

Testimonials: <http://bit.ly/2cqZAhz> <http://www.angleslist.com> <http://www.signaturedf.com>

AGENDA ITEM # 3



# PROPOSAL

2019 North East Ave  
Panama City, FL 32405

DATE : 2/1/17

**CUSTOMER ADDRESS 17115 PCB Parkway, Panama City Beach, FL**

<b>CUSTOMER:</b>	PCB Police Department	<b>CONTRACTOR:</b>	
<b>NAME:</b>	Wayne Maddox	<b>NAME:</b>	
<b>ADDRESS:</b>	17115 PCB Parkway	<b>ADDRESS:</b>	
<b>CITY/STATE/ZIP:</b>	Panama City Beach FL	<b>CITY/STATE/ZIP:</b>	
<b>PHONE:</b>	850-258-8266	<b>PHONE:</b>	
<b>EMAIL:</b>	wmaddox@beachpolice.org	<b>EMAIL:</b>	

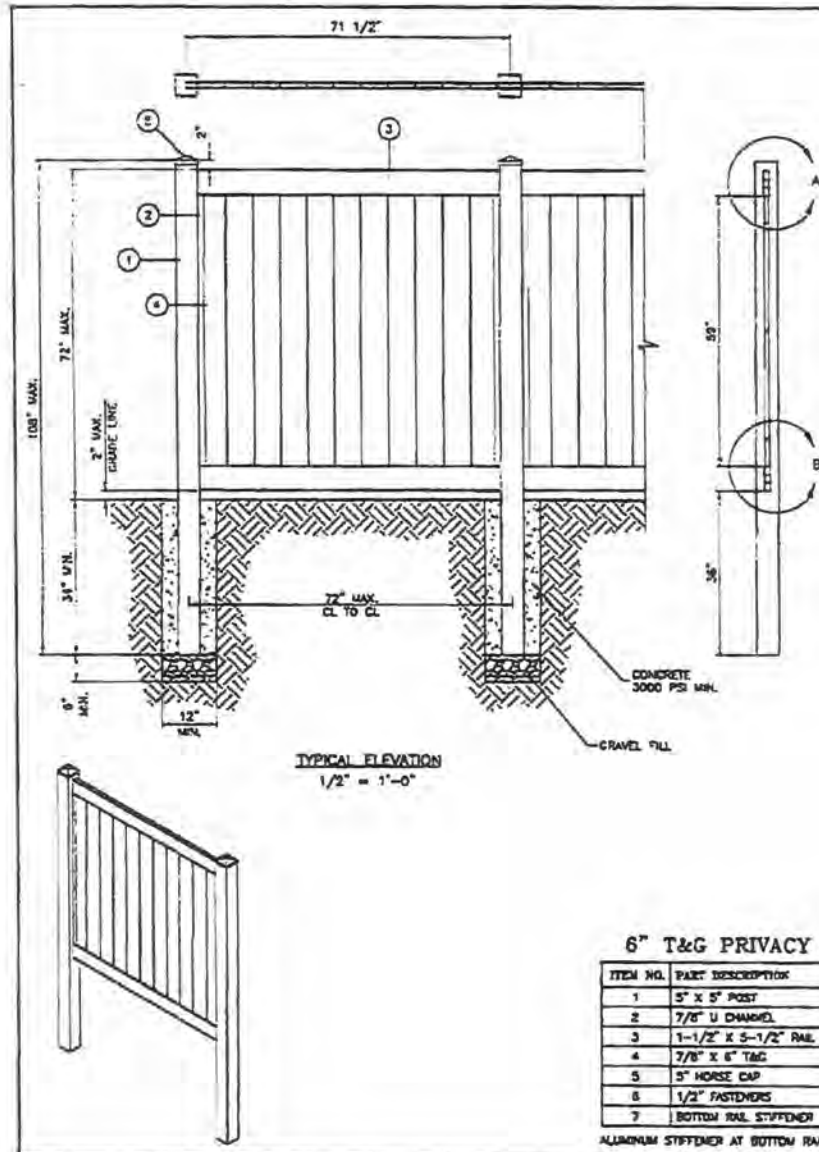
QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	814' of 6' tall white privacy vinyl fence to be placed around existing chain link fence.		\$30,747.00
	Fence Specifications to meet Miami Dade County NOAA specifications. See attachments for warranty and certifications.		
	Customer acknowledges that a permanent GULF FENCE placard will be placed on completed fence.		
	DEPOSIT:		
	AMOUNT DUE UPON COMPLETION:		
	TOTAL:		\$30,747 <sup>00</sup>

50% Deposit required to release material  
 Full payment for this proposal is due upon completion of the work.  
 A 3% processing fee will be added to the totals above for ALL credit card transactions.  
 Make all checks payable to Gulf Fence and Construction, LLC  
 If you have any questions concerning this proposal, contact Burke Denny, [bdenny@gulfencecon.com](mailto:bdenny@gulfencecon.com)

Price does not include clearing or grubbing  
 Price does not include any excavation or grading to compensate for inconsistencies between grade provided and bottom of fence  
 Price assumes that a fence line will be provided within +/-1/10" of final grade.  
 Customer Responsible for locating Property pins

AGENDA ITEM # 3

AGENDA ITEM #

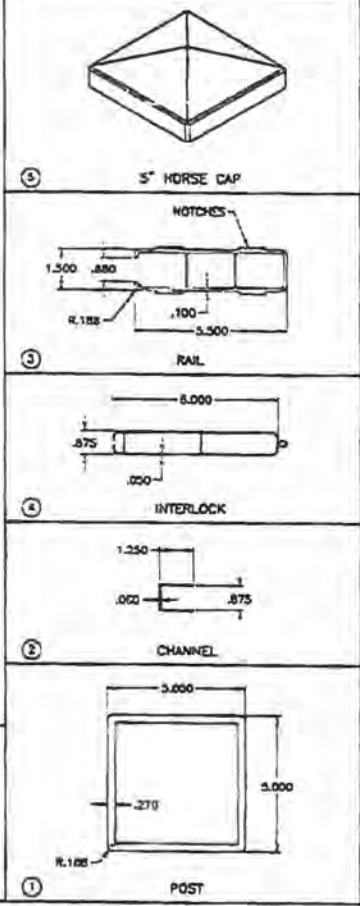
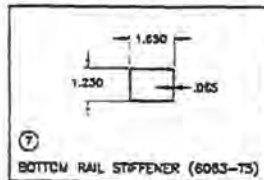
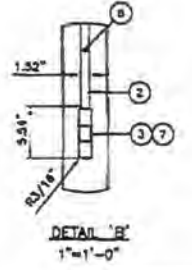
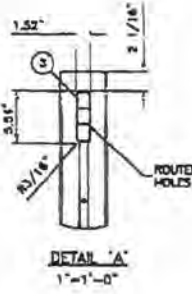


TYPICAL ELEVATION  
1/2" = 1'-0"

6" T&G PRIVACY FENCE

ITEM NO.	PART DESCRIPTION	LENGTH IN.
1	5" X 5" POST	108
2	7/8" U CHANNEL	56-7/8
3	1-1/2" X 5-1/2" RAIL	71-1/2
4	7/8" X 6" TAG	52-1/4
5	5" HORSE CAP	N/A
6	1/2" FASTENERS	N/A
7	BOTTOM RAIL STIFFENER	71-1/2

ALUMINUM STIFFENER AT BOTTOM RAIL ADDED TO REDUCE DOWNWARD DEFLECTION



LEARN JAMES AHEAD  
CALL  
FLA. PC # 10002  
244K 2330

PRODUCT REVISED  
as complying with the Florida  
Building Code  
Adoption No 15-1013, 08  
Expiration Date 12/01/2012  
By: [Signature]  
32 West Orange Street, Coral

**AL-FARODQ CORPORATION**  
ENGINEERS & PRODUCT DEVELOPMENT  
1000 S.W. 87th Ave  
Miami, Florida 33174  
TEL: (305) 264-0000 FAX: (305) 264-0010

**PVC PRIVACY FENCE SYSTEMS**  
**WESTECH BUILDING PRODUCTS, INC.**  
7451 HIGHWAY 62 EAST  
MOUNT VERNON, INDIANA, 47620  
TEL: (812) 905-3020 FAX: (812) 905-2925

REVISIONS:  
NO. DATE BY DESCRIPTION  
A 02/02/14 JEV #18 FROM QUANUS  
B 04/04/12 NO CHANGE TO S SHEET  
C 04/18/14 UPDATED TO 2011 P&C

DATE: 01-07-10  
SCALE: 1/4" = 1'  
DRAWN BY: HUGO  
CHECK BY:

drawing no.  
**10-02**  
sheet 3 of 9



DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES (RER)  
BOARD AND CODE ADMINISTRATION DIVISION

MIAMI-DADE COUNTY  
PRODUCT CONTROL SECTION  
11805 SW 26 Street, Room 208  
Miami, Florida 33175-2474  
T (786) 315-2590 F (786) 315-2599

[www.miamidade.gov/economy](http://www.miamidade.gov/economy)

**NOTICE OF ACCEPTANCE (NOA)**

Westech Building Products, Inc.  
4751 Hwy 62 East  
Mount Vernon, IN 47620

**SCOPE:**

This NOA is being issued under the applicable rules and regulations governing the use of construction materials. The documentation submitted has been reviewed and accepted by Miami-Dade County RER- Product Control Section to be used in Miami Dade County and other areas where allowed by the Authority Having Jurisdiction (AHJ).

This NOA shall not be valid after the expiration date stated below. The Miami-Dade County Product Control Section (in Miami Dade County) and/or the AHJ (in areas other than Miami Dade County) reserve the right to have this product or material tested for quality assurance purposes. If this product or material fails to perform in the accepted manner, the manufacturer will incur the expense of such testing and the AHJ may immediately revoke, modify, or suspend the use of such product or material within their jurisdiction. RER reserves the right to revoke this acceptance, if it is determined by Miami-Dade County Product Control Section that this product or material fails to meet the requirements of the applicable building code.

This product is approved as described herein, and has been designed to comply with the High Velocity Hurricane Zone of the Florida Building Code.

**DESCRIPTION:** Extruded PVC Vinyl Fencing Systems

**APPROVAL DOCUMENT:** Drawing No. 10-02, titled "PVC Privacy Fence systems", sheets 1 through 9 of 9, prepared by Al-Farooq Corporation, dated April 09, 2010, last revision #C dated August 18, 2015, signed and sealed by Javad Ahmad, P.E., bearing the Miami-Dade County Product Control Revision stamp with the Notice of Acceptance number and the expiration date by the Miami-Dade County Product Control Section.

**MISSILE IMPACT RATING:** None

**LABELING:** Each fence section shall bear a permanent label with the manufacturer's name or logo, city, state, and the following statement: "Miami-Dade County Product Control Approved", unless otherwise noted herein.

**RENEWAL** of this NOA shall be considered after a renewal application has been filed and there has been no change in the applicable building code negatively affecting the performance of this product.

**TERMINATION** of this NOA will occur after the expiration date or if there has been a revision or change in the materials, use, and/or manufacture of the product or process. Misuse of this NOA as an endorsement of any product, for sales, advertising or any other purposes shall automatically terminate this NOA. Failure to comply with any section of this NOA shall be cause for termination and removal of NOA.

**ADVERTISEMENT:** The NOA number preceded by the words Miami-Dade County, Florida, and followed by the expiration date may be displayed in advertising literature. If any portion of the NOA is displayed, then it shall be done in its entirety.

**INSPECTION:** A copy of this entire NOA shall be provided to the user by the manufacturer or its distributors and shall be available for inspection at the job site at the request of the Building Official.

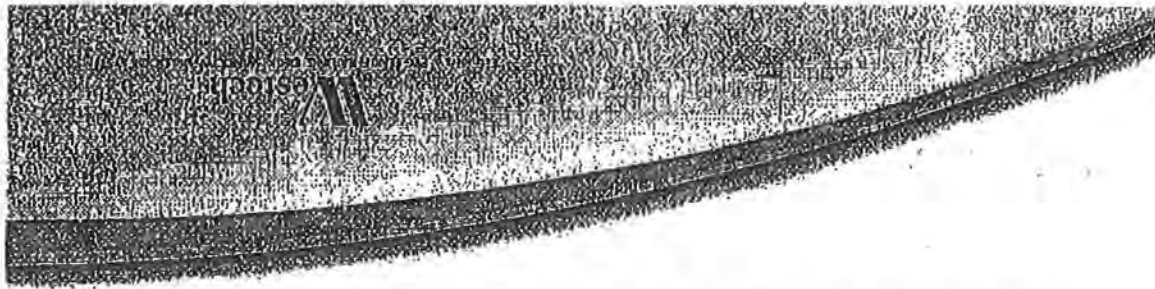
This NOA revises and renews NOA #12-0612.22 and consists of this page 1, evidence submitted pages E-1 & E-2 as well as approval document mentioned above.

The submitted documentation was reviewed by Helmy A. Makar, P.E., M.S.



*Helmy A. Makar*  
06/16/2016

NOA No. 15-1013.08  
Expiration Date: 10/06/2020  
Approval Date: 06/16/2016  
Page 1



LIMITED LIFETIME WARRANTY

WESTTECH  
Quality Vinyl Fence Systems

**CLAIMS AND REMEDIES**

**IMPORTANT!** ALL CLAIMS UNDER THIS WARRANTY MUST BE REPORTED TO WESTTECH IN WRITING WITHIN THIRTY (30) DAYS OF THE DATE THAT THE DEFECT IS FIRST DISCOVERED OR REASONABLY COULD HAVE BEEN DISCOVERED. If you feel that your Westtech product is defective, send your written notice to Westtech at this address:

Westtech Building Products, Inc.  
Attn: Customer Service  
7451 Hwy. 62 E  
Mount Vernon, Indiana 47620  
Fax: (317) 935-2925  
E-mail: [info@westtechbp.com](mailto:info@westtechbp.com)

This notice should include your name and address, the starting date of the original installation of the product, a copy of your original invoice or bill of sale confirming it at the products were manufactured by Westtech, and photographs of the claimed defective products if helpful. Westtech must have a reasonable opportunity to inspect the product before repairs are begun. If your product contains manufacturing defects covered by this Warranty, Westtech will, at its option, repair or replace the defective product, at a cost not to exceed the original purchase price of the product, or refund the original purchase price of the defective product. The Warranty period shall not be extended by any such repair, replacement, or refund settlements. Westtech will not be liable for labor charges or other costs or expenses in connection with the repair, removal or installation of the original or replacement product. Westtech may direct and pay a company, dealer, contractor, applicator or distributor to perform any remedy under this Warranty on Westtech's behalf. Westtech will make a reasonable effort to complete all repair or replacement work within 180 days after notice is received unless adverse weather conditions prevent repair or replacement from being completed within that period.

WESTTECH RESERVES THE RIGHT TO DISCONTINUE OR MAKE CHANGES IN ANY OF ITS PRODUCTS IF THE PRODUCTS COVERED BY THIS WARRANTY ARE NOT AVAILABLE. WESTTECH SHALL HAVE THE RIGHT TO SUBSTITUTE A PRODUCT THAT IN WESTTECH'S SOLE DISCRETION IS OF EQUAL QUALITY OR VALUE.

EXCEPT AS HEREIN STATED, WESTTECH MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER, AND IN NO EVENT SHALL WESTTECH BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WITH RESPECT TO THE PRODUCTS COVERED BY THIS WARRANTY. NOTWITHSTANDING ANY OTHER TERMS OR CONDITIONS HEREON, IN NO EVENT SHALL WESTTECH'S LIABILITY TO ANY PROPERTY OWNER, SUPPLIER, DISTRIBUTOR, CONTRACTOR OR CONSUMER EXCEED THE REPAIR OR REPLACEMENT OF DEFECTIVE PARTS COVERED BY THIS WARRANTY, AT A COST NOT TO EXCEED THE ORIGINAL PURCHASE PRICE OF THE DEFECTIVE PRODUCT, OR THE REFUND OF THE ORIGINAL PURCHASE PRICE OF THE DEFECTIVE PRODUCT, AT THE SOLE DISCRETION OF WESTTECH. THIS SHALL BE THE SOLE AND EXCLUSIVE REMEDY OF ANY PROPERTY OWNER, SUPPLIER, DISTRIBUTOR, CONTRACTOR OR CONSUMER, WHETHER THEIR CLAIMS ARISE OUT OF BREACH OF CONTRACT, WARRANTY, OR THE SOLE OR JOINT NEGLIGENCE OF WESTTECH, OR RESULT IN DAMAGES INCLUDING, BUT NOT LIMITED TO EXEMPLARY, PUNITIVE, ATTORNEY'S FEES, INTEREST OR COSTS.

Some states and countries do not allow limitations on how long an implied warranty lasts, or the exclusion or limitation of incidental or consequential damages, so that the above limitations or exclusions may not apply to you. This Warranty gives you specific legal rights, and you may also have other rights, which vary from state to state or country to country.

Warranty is issued by Westtech Building Products, Inc.

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

PLACE  
POSTAGE  
HERE

**Westtech**

7451 Hwy. 62 E  
Mount Vernon, Indiana 47620

ATTENTION: WARRANTY REGISTRATION DEPT.

**Westech Building Products, Inc.**

**NOTICE OF ACCEPTANCE: EVIDENCE SUBMITTED**

**E. MATERIAL CERTIFICATIONS**

*1. None.*

**F. STATEMENTS**

*1. Letter regarding the compliance with Florida Building Code 2010 and the lack of financial interest, prepared by Al-Farooq Corporation, dated June 06, 2012, signed and sealed by Javad Ahmad, P.E.*

**3. NEW EVIDENCE SUBMITTED**

**A. DRAWINGS**

*1. Drawing No. 10-02, titled " PVC Privacy Fence systems ", sheets 1 through 9 of 9, prepared by Al-Farooq Corporation, dated April 09, 2010, last revision WC dated August 18, 2015, signed and sealed by Javad Ahmad, P.E.*

**B. TESTS**

*1. None.*

**C. CALCULATIONS**

*1. None.*

**D. QUALITY ASSURANCE**

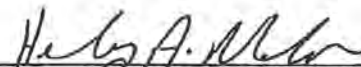
*1. By Miami-Dade County Department of Regulatory and Economic Resources.*

**E. MATERIAL CERTIFICATIONS**

*1. None.*

**F. STATEMENTS**

*1. Letter of compliance with Florida Building Code 2014 Edition and the lack of financial interest, prepared by Al-Farooq Corporation, dated September 24, 2015, signed and sealed by Javad Ahmad, P.E.*



Helmy A. Makar, P.E., M.S.  
Product Control Section Supervisor  
NOA No. 15-1013.08  
Expiration Date: 10/06/2020  
Approval Date: 06/16/2016

E-2

AGENDA ITEM # 2

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

No.      BA # 18

FUND	GENERAL ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED BUDGET	BUDGET ADJUSTMENT	NEW BUDGET BALANCE
TO	001-2101-521.63-10	Improvements	0.00	23,000.00	23,000.00
FROM	001-8100-999.96-00	Reserves Available for Expenditures	12,282,058.00	(23,000.00)	12,259,058.00
		Check Adjustment Totals:	12,282,058.00	0.00	12,282,058.00

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To appropriate funds from unrestricted reserves to provide fence around PCBPD impound yard

ROUTING FOR APPROVAL

\_\_\_\_\_ DEPARTMENT HEAD \_\_\_\_\_ DATE

\_\_\_\_\_ CITY MANAGER \_\_\_\_\_ DATE

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

Exhibit B AGENDA ITEM #

# REGULAR AGENDA

## ITEM

4





# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

Panama City Beach Police Department

2. MEETING DATE:

February 9, 2017

3. REQUESTED MOTION/ACTION:

Budget amendment for the purchase of three (3) Motorola mobile radios

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)

The Panama City Beach Police Department is seeking to purchase three (3) Motorola APX6500 P25 Compliant "mobile" radios for the purpose of facilitating the Department's growth of patrol division employees . These radios are compatible with the upcoming move to a complete digital communication platform. Sealed bids were solicited for two (2) weeks and Motorola Solutions was the only bidder. The price bid per radio is \$4,044.13 for a total purchase price of \$12,132.39. This price includes a three (3) year warranty, shipping, and all programming needs; attached is the bid information submitted.

**RESOLUTION 17-57**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA APPROVING THE PURCHASE OF THREE MOTOROLA MOBILE RADIOS FOR POLICE DEPARTMENT IN THE BASIC AMOUNT OF \$12,132.39; AUTHORIZING A BUDGET AMENDMENT TO FUND THIS PURCHASE; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

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

1. The appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and Motorola Solutions relating to the purchase of three Motorola mobile radios for Police Department, in the total amount of Twelve Thousand One Hundred Thirty Two Dollars and Thirty Nine Cents (\$12,132.39), on substantially the terms and conditions set forth in the quote attached hereto as Exhibit A and presented to the Council today, draft dated January 30, 2017, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.
2. The following budget amendment (# 16) is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2016, and ending September 30, 2017, as shown in and in accordance with the attached and incorporated Exhibit B, to reflect the receipt and expenditure for the purposes stated herein.
3. This Resolution shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 9th day of February, 2017.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_  
Mike Thomas, Mayor

**ATTEST:**

\_\_\_\_\_  
Diane Fowler, City Clerk

**Bid Notice for Police Mobile Radios**

The City of Panama City Beach hereby solicits sealed bids for the following equipment:

Three (3) APX6500 700/800 P25 Compliant "mobile" radios (for police use) with the following requirements:

- Any and all P25 trunking needs, including software
- Astro Digital CAI Operation
- Smartzone Operation APX6500
- APX Control Head
- Dash Mount
- 3 DB Low Profile Antenna
- Palm Microphone
- Increased Audio Power 13W
- Programming fees
- 3 year extended Warranty
- Shipping

Please include a price for individual units in case the funding becomes limited.

Bids must be sealed and will be received until **12:00 p.m. (noon) Central Time, January 30, 2017** at the **City of Panama Beach Police Department, Attn: Captain Wayne Maddox, 17115 Panama City Beach Parkway, Panama City Beach, Florida, 32413**, and will be opened and read publicly immediately thereafter.

The City reserves the right to reject any and all bids and to waive any formality in bids received. All bidders shall comply with all applicable State and local laws concerning licensing, registration, and regulations of businesses in the State of Florida.

All bids shall be firm and for a period of 12 months after opening.

Advertisement Dates: January 16, 2017 begins

\$ 4,044.13 ea  
\$12,132.39

*Exhibit A*



Motorola Solutions, Inc.  
P. O. Box 404059  
Atlanta, GA 30384-4059

(850) 445-7584  
(850) 575-8545  
FEID - 361115800

30-Jan-17 Panama City Beach Police Department RFP NUMBER 013017PD

APX6500 700/800 MOBILE - ANALOG & P25 TRUNKING

	MODEL #	DESCRIPTION	PRICE	QTY	EXTENDED PRICE
1	M2SURS9PW1 N	APX6500 7/800 MHZ MID POWER MOBILE	\$1,645.50	3	\$4,936.50
1a	G806	ADD: ASTRO, DIGITAL CAI OPERATION	\$386.25	3	\$1,158.75
1c	G51	ENH: SMARTZONE OPERATION APX6500	\$900.00	3	\$2,700.00
1d	G361	ADD: P25 TRUNKING SOFTWARE	\$225.00	3	\$675.00
2	G442	ADD: O5 CONTROL HEAD	\$324.00	3	\$972.00
3	G444	ADD: APX CONTROL HEAD SOFTWARE	\$0.00	3	\$0.00
4	G66	ADD: DASH MOUNT	\$93.75	3	\$281.25
5	G174	ADD: 3 DB LOW PROFILE ANTENNA	\$32.25	3	\$96.75
6	W22	ADD: PALM MICROPHONE	\$54.00	3	\$162.00
7	W432	ADD: INCREASED AUDIO POWER 13W	\$53.63	3	\$160.89
8	G24	ENH: 3YR SFS LITE	\$90.75	3	\$272.25
9	SERVICE	PROGRAMMING & INSTALLATION	\$239.00	3	\$717.00
			<b>\$4,044.13</b>		<b>\$12,132.39</b>

Notes: 1. Above pricing from State Contract No. 725-500-12-1  
2. Radios quoted above are equipped to operate on the current 800MHz SmartNet radio system as well as operate on the P25 platform.

AGENDA ITEM #

4

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

No. BA # 16

FUND	GENERAL ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED BUDGET	BUDGET ADJUSTMENT	NEW BUDGET BALANCE
TO	001-2101-521.60-10	Capital Outlay < \$5,000	165,392.00	12,200.00	177,592.00
FROM	001-8100-999.95-00	Reserves Restricted	1,620,191.00	(12,200.00)	1,607,991.00
		Check Adjustment Totals:	1,785,583.00	0.00	1,785,583.00

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To appropriate police impact fees for (3) mobile radios for new officers (2 hired in FY 2017 and 1 in FY 2016)

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

ROUTING FOR APPROVAL

\_\_\_\_\_ DEPARTMENT HEAD \_\_\_\_\_ DATE

\_\_\_\_\_ CITY MANAGER \_\_\_\_\_ DATE

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

Exhibit B AGENDA ITEM #

4

# REGULAR AGENDA

## ITEM

5



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION/LEGAL

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
APPROVE FIRST READING OF ORDINANCE CHANGING MEETING DAYS TO 1ST AND 3RD THURSDAY OF EACH MONTH.

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)  
At its January 26, 2017 council meeting, Council discussed how they lose one meeting per month in November and December due to the holidays. This can be avoided by changing the meeting days from the 2nd and 4th Thursday of the month to the 1st and 3rd Thursday. To fully accomplish the Council's intent, an ordinance is necessary to revise Section 2-16 of the City's Code of Ordinances which codifies the meeting dates and times for regular meetings of the City Council.  
  
Staff recommends approval. If Council approves a first reading of this ordinance, a public hearing and second reading will be scheduled for February 23, 2017.

ORDINANCE NO. 1408

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO MEETING DATES OF THE CITY COUNCIL; REVISING THE MEETING SCHEDULE TO PROVIDE FOR REGULAR MEETINGS OF THE COUNCIL TO BE HELD ON THE FIRST THURSDAY AND THIRD THURSDAY OF EACH MONTH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

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

SECTION 1. From and after the effective date of this ordinance Section 2-16 of the Code of Ordinances of the City of Panama City Beach, related to Council Meetings is amended to read as follows (deleted text ~~stricken~~; new text **bold and underlined**):

**Sec. 2-16. Meetings.**

The regular meetings of the City Council shall be held on the ~~second~~ **first** Thursday of each month beginning at 6:00 p.m. and the ~~fourth~~ **third** Thursday of each month beginning at 9:00 a.m. in the George C. Cowgill Annex adjacent to City Hall, provided however, that the regular meeting of the City Council scheduled for the ~~fourth~~ **third** Thursday in ~~November and~~ December may be cancelled or rescheduled by the City Council.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect beginning in April 2017.



PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2017.

# REGULAR AGENDA

## ITEM

6



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

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

Public Works Department/Kelly Jenkins

**2. MEETING DATE:**

02/09/2017

**3. REQUESTED MOTION/ACTION:**

Approve staff to advertise and fill a permanent full time position for a Public Works Engineer I position.

**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)**

Due to the increased Public Work Departments projects and job duties, we would like to provide an official request for a full time Engineer I. It was proposed in this year's original budget to have a new engineer that the Utility Department would hire and Public Works/CRA would share that engineer for the first year and a half. The idea was to ensure that our department would be able to handle the oversight of the CRA Segment 2 project as well as many other responsibilities that we currently have in the works. We anticipated someone starting in November, but an engineer was not chosen at that time. Public Works staff would like to hire an engineer that would be separate from utilities. It is difficult to share personnel and in this case, our needs could be substantially different from their department. We believe that we need an additional full time Engineer I. We have recently acquired additional tasks which include going after and monitoring grants which have been proven to be very time consuming. We are now obtaining more funds from the TIF for the CRA and we anticipate this will allow moving the CRA projects forward more expeditiously. We also now know that we will be obtaining more funds from the half cent sales tax that will stimulate more demand and oversight of new projects. We do believe that dedicating a full time engineer to our department rather than sharing half of one will be a more efficient and effective way to utilize an engineer this year and in the future. We would like to move forward and start advertising for this position as soon as possible. Please see the attached Exhibit I that breaks down Public Works current office staff and associated work load and job duties.

**CITY OF PANAMA CITY BEACH  
Job Description**

**JOB TITLE: Public Works Engineer I**

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**SALARY RANGE:** \$25.63-\$43.57/hr  
**SHIFT:** Days  
**LOCATION:** 110 S Arnold Road  
**REPORTS TO:** City Engineer  
**PREPARED BY:** City Clerk  
**APPROVED BY:** City Council

**PAY GRADE:** 40  
**DIVISION:** Engineering  
**DEPT:** Public Works  
**FSLA STATUS:** Non-Exempt  
**POSITION:** Permanent Full-Time  
**DATE:**

---

**SUMMARY:**

This is a responsible and skilled engineering position involved in a diverse range of activities including engineering design, plan preparation, drawing, record keeping, and field inspection. Incumbent is also responsible for engineering review of development plans to ensure they comply with the City's Land Development Regulations and Comprehensive Plan. Work is performed under the primary supervision of the City Engineer, with secondary supervision and direction being under the Public Works Director.

This is an essential position that requires performance of emergency duties and action to prepare, repair, and recover the City before, during and after any adverse storm events (hurricane, tornado, ice storm, etc.) or other conditions (natural or manmade).

**ESSENTIAL DUTIES AND RESPONSIBILITIES:**

In addition to the essential duties and responsibilities, other tasks may be assigned:

Direct and review the work of consultants performing engineering studies, evaluation, planning, design and construction surveillance.

Review private and public developments and projects for compliance with state laws and City regulations.

Under the direction of a registered engineer, design, using computer model or other acceptable methods, storm water management systems, design of roadway systems and multi-use trail systems.

Under direction of a registered engineer, prepare engineering drawings for repair, remodeling, and expansion of City owned facilities, i.e., buildings, athletic fields, etc.

Prepare regulatory agencies permit applications and drawings.

Assist the City Engineer and other departments in resolving traffic engineering and transportation related issues.

Prepare cost estimates for modifying, extending, and new construction of utility systems, storm water management systems, streets and multi-use trail systems.

This position, may on occasion, perform limited review of water and sewer infrastructure upon request of the Utilities Director, with the City Engineers approval.

**SUPERVISORY RESPONSIBILITIES:**

None

**COMPETENCIES:**

To perform the job successfully, an individual should demonstrate the following competencies:

Analytical - Synthesizes complex or diverse information; Collects and researches data; Uses intuition and experience to complement data; Designs work flows and procedures.

Problem Solving - Identifies and resolves problems in a timely manner; Gathers and analyzes information skillfully; Develops alternative solutions; Works well in group problem solving situations; Uses reason even when dealing with emotional topics.

Project Management - Develops project plans; Coordinates projects; Communicates changes and progress; Completes projects on time and budget; Manages project team activities.

Technical Skills - Assesses own strengths and weaknesses; Pursues training and development opportunities; Strives to continuously build knowledge and skills; Shares expertise with others.

Customer Service - Manages difficult or emotional customer situations; Responds promptly to customer needs; Solicits customer feedback to improve service; Responds to requests for service and assistance; Meets commitments.

Interpersonal Skills - Focuses on solving conflict, not blaming; Maintains confidentiality; Listens to others without interrupting; Keeps emotions under control; Remains open to others' ideas and tries new things.

Oral Communication - Speaks clearly and persuasively in positive or negative situations; listens and gets clarification; Responds well to questions; Demonstrates group presentation skills; Participates in meetings.

Written Communication - Writes clearly and informatively; Edits work for spelling and grammar; Varies writing style to meet needs; Presents numerical data effectively; Able

to read and interpret written information.

**Teamwork** - Balances team and individual responsibilities; Exhibits objectivity and openness to others' views; Gives and welcomes feedback; Contributes to building a positive team spirit; Puts success of team above own interests; Able to build morale and group commitments to goals and objectives; Supports everyone's efforts to succeed.

**Visionary Leadership** - Displays passion and optimism; Inspires respect and trust; Mobilize others to fulfill the vision; Provides vision and inspiration to peers and subordinates.

**Change Management** - Develops workable implementation plans; Communicates changes effectively; Builds commitment and overcomes resistance; Prepares and supports those affected by change; Monitors transition and evaluates results.

**Delegation** - Delegates work assignments; Matches the responsibility to the person; Gives authority to work independently; Sets expectations and monitors delegated activities; Provides recognition for results.

**Leadership** - Exhibits confidence in self and others; Inspires and motivates others to perform well; effectively influences actions and opinions of others; Accepts feedback from others; Gives appropriate recognition to others.

**Managing People** - Includes staff in planning, decision-making, facilitating and process improvement; Takes responsibility for subordinates' activities; Makes self-available to staff; Provides regular performance feedback; Develops subordinates' skills and encourages growth; Solicits and applies customer feedback (internal and external); Fosters quality focus in others; Improves processes, products and services.; Continually works to improve supervisory skills.

**Quality Management** - Looks for ways to improve and promote quality; Demonstrates accuracy and thoroughness.

**Diversity** - Demonstrates knowledge of EEO policy; Shows respect and sensitivity for cultural differences; educate others on the value of diversity; promotes a harassment-free environment; Builds a diverse work force.

**Ethics** - Treats people with respect; Keeps commitments; inspires the trust of others; Works with integrity and ethically; Upholds organizational values.

**Organizational Support** - Follows policies and procedures; Completes administrative tasks correctly and on time; supports organization's goals and values; Benefits organization through outside activities; Supports affirmative action and respects diversity.

Strategic Thinking - Develops strategies to achieve organizational goals; Understands organization's strengths & weaknesses; Analyzes market and competition; Identifies external threats and opportunities; Adapts strategy to changing conditions.

Judgement - Displays willingness to make decisions; Exhibits sound and accurate judgment; Supports and explains reasoning for decisions; Includes appropriate people in decision-making process; Makes timely decisions.

Motivation - Sets and achieves challenging goals; Demonstrates persistence and overcomes obstacles; Measures self against standard of excellence; Takes calculated risks to accomplish goals.

Planning/Organizing - Prioritize and plans work activities; Uses time efficiently; Plans for additional resources; Sets goals and objectives; Organizes or schedules other people and their tasks; Develops realistic action plans.

Professionalism - Approaches others in a tactful manner; Reacts well under pressure; Treats others with respect and consideration regardless of their status or position; Accepts responsibility for own actions; Follows through on commitments.

Quality - Demonstrates accuracy and thoroughness; Looks for ways to improve and promote quality; Applies feedback to improve performance; Monitors own work to ensure quality.

Quantity - Meets productivity standards; Completes work in timely manner; Strives to increase productivity; Works quickly.

Safety and Security - Observes safety and security procedures; Determines appropriate action beyond guidelines; Reports potentially unsafe conditions; Uses equipment and materials properly.

Adaptability - Adapts to changes in the work environment; Manages competing demands; Changes approach or method to best fit the situation; Able to deal with frequent change, delays, or unexpected events.

Attendance/Punctuality - Is consistently at work and on time; Ensures work responsibilities are covered when absent; Arrives at meetings and appointments on time.

Dependability - Follows instructions, responds to management direction; Takes responsibility for own actions; Keeps commitments; Commits to long hours of work when necessary to reach goals. Completes tasks on time or notifies appropriate person with an alternate plan.

Initiative - Volunteers readily; Undertakes self-development activities; Seeks increased

responsibilities; Takes independent actions and calculated risks; Looks for and takes advantage of opportunities; Asks for and offers help when needed.

Innovation - Displays original thinking and creativity; Meets challenges with resourcefulness; Generates suggestions for improving work; Develops innovative approaches and ideas; Presents ideas and information in a manner that gets others' attention.

**QUALIFICATION REQUIREMENTS:**

Must have comprehensive knowledge of modern principles and practices of Civil Engineering; must have ability to apply knowledge and assist in development of working plans and solve engineering problems; knowledge of computers and able to use Autocad drafting; must have sufficient physical strength to accomplish assigned tasks.

**EDUCATION and EXPERIENCE:**

Must have a Bachelor's degree in Civil Engineering; must have an Engineering Intern (E.I.) certificate or obtain one within nine (9) months; must have word processing, spreadsheets, CAD and personal computer skills.

**LANGUAGE SKILLS:**

Possess effective techniques of written and verbal communication, organization development, team building, leadership and management; ability to learn the materials, methods and practices used in construction and design operations; ability to learn new and more modern construction and design procedures when appropriate; ability to understand and follow oral and/or written instructions; ability to work harmoniously with fellow workers and others.

**MATHEMATICAL SKILLS:**

Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals. Ability to compute rate, ratio, and percent and to draw and interpret bar graphs.

**REASONING ABILITY:**

Ability to solve practical problems and deal with variety of concrete variables in situations where only limited standardization exists. Ability to interpret a variety of instructions furnished in written, oral, diagram, or schedule form.

**OTHER REQUIREMENTS:**

Must have comprehensive knowledge of modern principles and practices of Civil Engineering as applied to City government; must have ability to develop working plans and solve engineering problems; ability to supervise a staff of professional and technical personnel; knowledge of computers and able to use Auto-cad drafting; ability to maintain close liaison and coordinate Public Works activities with other municipal departments; must have a thorough knowledge of City ordinances; must have sufficient physical strength to accomplish assigned tasks.



Must possess a valid Florida driver's license - driving record must be acceptable to the City insurance program.

**PHYSICAL DEMANDS:**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. While performing the duties of this job, the employee is frequently required to use hands to finger, handle, or feel, to reach with hands and arms, talk or hear, stand, walk, stoop, kneel, crouch, or crawl, and sit.

The employee must occasionally lift and move up to 50 pounds. Specific vision abilities required by this job include close vision.

**WORK ENVIRONMENT:**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works near moving mechanical parts, sometimes in inclement weather, is exposed to fumes, airborne particles, and has some risk of electrical shock. The noise level in the work environment is usually moderate.

I hereby acknowledge receipt of the job description and certify that I meet the qualification requirements stated herein and I am able to perform the essential duties and responsibilities of this position. I acknowledge that in addition to the duties outlined above I may be required to perform additional duties.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# PUBLIC WORKS DEPARTMENT PROJECTS & DUTIES

## Current Office Staffing

**Paul Casto – Public Works Director**  
**Kelly Jenkins, P.E. – City Engineer**  
**Kathryn Younce, E.I. – Public Works Engineer I**  
**Don Churchwell – Public Works Inspector III**  
**Charles Silky – (Planner (utilize ½ of his time))**  
**½ Utility/ ½ Public Works Engineer I – Position Not Filled**

## Current Projects and Projects anticipated through 2017:

### CRA PROJECTS

(Estimated total construction cost of projects listed below at full buildout ~ \$65M)

**Front Beach Road Segment 2** – Responsible charge of construction management, contract administration and inspection for 2 year project.

**Front Beach Road Segment 3/Hwy 79** – Right of way acquisition and redesign and permitting services.

**Front Beach Road Segment 4.1** – Start design and permitting with FDOT TRIP funds and City funds.

**Hill Road** – Potential joint agreement for mutual sharing in design and construction of Hill Road Improvements

**Manage and Coordinate recent RFQs for:**

**Capital Improvement Plan for City Facilities, Roadways and CRA**

**CRA Financial Modeling**

**Impact Fee Study**

### STORMWATER PROJECTS

(Estimated total construction cost of projects listed below at full buildout ~\$3M)

**Caladium Circle Drainage Improvements** – Responsible charge of construction management, contract administration and inspection.

**Glades Drainage Basin North – Main Channel** – Design and permitting services underway. Also seeking grant for this project.

**St. Bernadette Church Channel** – Design services underway, plan to bid contract to go to construction.

**Hombre Circle Culvert Cleaning and Improvements** - Design services underway, plan to bid contract to go to construction.

**Gulf Highlands Drainage Basin Improvements** – Proceeding with *HMGP Grant Process* and plan to bid contract to go to construction. Continue with grant monitoring for the project.

**Sea Oats Drive** – Award and start design of drainage project.

**Henley Drive Improvements** – Award and start design of drainage project.

EXHIBIT I, PG 1 OF 3

## **PUBLIC WORKS DEPARTMENT PROJECTS & DUTIES**

**Stormwater Modeling** – Update and provide overall City stormwater masterplan. Implement new projects into this model.

**Stormwater Assessment** – Oversee new stormwater assessment along with mitigation program.

**Outfall Restore Act Project** – Complete all associated Restore Act Treasury paperwork to enable our project to move to the next phase within the BP Grant process. (Potential monitoring of this project and grant)

### **ROADWAY PROJECTS**

(Estimated total construction cost of projects listed below at full buildout ~ \$ 6.3 M)

**Loop Road** – Finalize construction management and inspection.

**Colony Club/Nautilus Roadway Connector** – Responsible charge of construction management, contract administration and inspection.

**Roadway Resurfacing Project** – Design services underway, plan to bid contract to go to construction.

**Lyndell Lane Sidewalk Project** - Responsible charge of construction management, contract administration and inspection.

**Eastern Connection of Gayle's Trails (Connection to Breakfast Point Subdivision)** – Acquiring easements and then preliminary design.

**Seahorse Lake Trail** – Plans completed and intend to bid out project.

## **ASSOCIATED DUTIES AND TASKS INCLUDED FOR THESE DIVISIONS**

**Review and approve commercial and residential site plans, stormwater plans and drainage reports. Coordinate them being implemented into overall stormwater masterplan.**

**Perform final close out and inspections for Certificate of Occupancy (C.O.) for private developments.**

**Review Plats and coordinate departmental plat review comments.**

**Implement and manage new projects created from the ½ cent sales tax.**

**Manage and assist in the National Flood Insurance Program (NFIP)** – This includes monitoring new construction for FEMA program compliance as well as assisting residents and businesses with flood information data.

**Review and approve FEMA Letter of Map Changes (LOMCs) and associated engineered studies or paper work that accompany them.**

## **PUBLIC WORKS DEPARTMENT PROJECTS & DUTIES**

**S.Thomas, Churchwell, R. Jackson, FBR Segment 1** – Coordinate enhanced maintenance of roadways, landscaping and garbage collection oversight, parking meter collection and maintenance, and lighting repair.

**Coordination of right of way maintenance and services** – Including signage, striping, lighting, roadway and sidewalk repairs, litter collection, mowing (r/w, ditches and beach accesses), and yard debris pick up.

**Write Grants for Miscellaneous Roadway, Trail, Sidewalk Improvements (Potentially monitor associated Grants)**

**Coordinate Transportation Projects with FDOT and WFRPC.**

**Coordinate and Apply for Grants for the CRA and stormwater.**

**Local Agency Program (LAP) Certification and Training** – Acquiring and keeping FDOT certification to be able to monitor and manage FDOT grants. *(This is a requirement by FDOT for a municipality to have this certification to be able to be eligible for grants).*

**Annual Reporting for the CRA and Updating and Maintenance of CRA Website.**

**Compliance with the City's Municipal Separate Storm Sewer Systems (MS4s) Program** – Monitor private and public construction for Best Management Practices (BMPs) and City regulations for erosion control.

**Evaluate localized stormwater complaints from citizens** - When required perform minor design and construction projects to help alleviate problems.

**Coordinate Maintenance of Beach Outfalls and Existing Stormwater Infrastructure.**

**Local Mitigation Strategy (LMS)** – Participate with Bay County and municipalities in the identification of potential natural hazards to our residents. These hazards identified include effects of flooding, winds associated with tropical storms/hurricanes, tornados, etc. This provides County wide coordination and is required for our City to be eligible for FEMA Hazard Mitigation Assistance (HMA) Programs.

**Contracts (Debris Management, Landscaping, Pest Control, FDOT signal light contract, Uniform).**

**Daily Interaction with Public and Businesses Addressing Questions and Concerns within our Division.**

# REGULAR AGENDA

## ITEM

7



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION/LEGAL

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
CONSIDER FIRST READING OF ORDINANCE ESTABLISHING REGULATIONS OF  
TRANSPORTATION NETWORK COMPANIES OFFERING VEHICLE FOR HIRE SERVICES

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)

The City has found that the network vehicle for hire companies provide useful services to the citizens of the City and require different regulation than that of traditional vehicle for hire service. The City administration and Police Department desire a method to allow for the issuance of network company licenses which allow those companies to operate within the City subject to oversight by the Chief of Police.

This ordinance authorizes the Chief of Police to issue a license to a network company upon an application that meets the minimum standards for insurance coverage, driver screening, vehicle screening, and online capabilities. Once licensed, network company drivers may operate within the City. The Chief of Police is granted authority to inspect and audit network company records or take other actions as deemed necessary.

Staff recommends approval. If Council approves a first reading of this ordinance, a public hearing and second reading will be scheduled for February 23, 2017.

ORDINANCE NO. 1409

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 24 OF THE CITY CODE OF ORDINANCES RELATED TO VEHICLES FOR HIRE; CREATING DEFINITIONS FOR THE NEW CATEGORIES OF "NETWORK COMPANY," "NETWORK VEHICLE" AND "DESIGNATED DRIVER OPERATION;" DECLARING THESE NEW CATEGORIES OF VEHICLES FOR HIRE PERMISSIBLE; CLARIFYING THAT VEHICLE PERMITS ARE NOT REQUIRED FOR THESE NEW CATEGORIES AND THAT DIVISIONS I AND II OF ARTICLE II ARE INAPPLICABLE EXCEPT THE REQUIREMENTS FOR DISPLAYING DRIVER'S PERMITS AND FOR MAINTAINING DAILY MANIFESTS; ALLOWING ONLINE, DIGITAL OR ELECTRONIC RECORDS TO MEET THE MANIFEST, LOG, AND RECEIPT REQUIREMENTS; CREATING DIVISION III OF ARTICLE II REGULATING LICENSURE OF NETWORK COMPANIES, MINIMUM REQUIREMENTS OF NETWORK COMPANIES, NETWORK DRIVERS, AND NETWORK VEHICLES; REQUIRING DRIVER AND VEHICLE AUTHORIZATION BE DISPLAYED; GRANTING AUTHORITY TO THE CHIEF OF POLICE TO SUSPEND NETWORK DRIVERS OR THE LICENSURE OF ANY NETWORK COMPANY; ALLOWING A METHOD OF APPEAL FOR THE REVOCATION OF A NETWORK COMPANY LICENSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the introduction of new competing models for vehicle for hire services, many of which are provided and marketed on a national or international basis, has significantly altered the vehicle for hire marketplace; and

WHEREAS, the Council wishes to protect the health, safety and welfare of the public, to promote availability and accessibility of cost-effective public transportation, and to allow innovation in the provision of passenger vehicle services; and

WHEREAS, the Council wishes to provide for safe, convenient and efficient transportation for the general public, enhance the image of the City, more effectively serve visitors who are accustomed to using a variety of ride alternative, and eliminate conflict and confusion among users between different types of services; and

WHEREAS, designated driver operations have been introduced into the City's vehicle for hire market that are designed to provide a ride to an inebriated person while he rides as a passenger in his own vehicle, which concurrently is delivered to the location specified by the person; and

WHEREAS, designated driver operations differ from other vehicle for hire services because the passenger rides in his own vehicle and, thus, the City's regulatory interest primarily

is to ensure that the driver for hire meets the Driver's Permit minimum requirements; and

WHEREAS, the City strongly opposes drunk driving and, to the extent that designated driver operations reduce drunk driving, the City does not wish to discourage such operations; and

WHEREAS, a rational basis exists for not applying the same rate requirements to designated driver operations as to other vehicle for hire operations because designated driver operations require additional labor and involve the added service of delivering a customer's vehicle to a location; and

WHEREAS, network companies, such as Uber and often referred to "rideshare" operations were introduced into the City's passenger vehicle market in early 2015, linking passengers with vehicles for hire offering rides for predetermined compensation through electronic networking applications; and

WHEREAS, network vehicles may be ordered by smart phone applications and are not externally marked because they are not visually hailed; and

WHEREAS, a meter is unnecessary for a network vehicle because the network company requires the potential customer to accept the total ride fare prior to entering the network vehicle and, thus, consumers are protected by the free market acceptance of an agreed upon price before the ride begins; and

WHEREAS, the Council wishes to regulate fares differently depending on whether a vehicle is operating as a network vehicle or a traditional taxicab; and

WHEREAS, taxicabs will be required to continue charging a meter fare in compliance with the Code of Ordinances except that any vehicle with a taxicab vehicle permit may operate as a network vehicle as long as the driver and are authorized by a licensed network company and meet the minimum requirements of this Chapter; and

WHEREAS, a rational basis exists for allowing different fares depending on the manner in which a passenger contracts for service; and

WHEREAS, when a person uses a smartphone app to negotiate a price, the passenger and driver reach an agreement before the passenger enters the vehicle and the requirement that the fixed price be contracted electronically ensures the existence of a record of the agreement; and

WHEREAS, thus, in the event of a dispute, the combination of the pre-ride fixed price agreement, ability of GPS tracking, and the electronic record of the agreement protects consumers and, in contrast, when a consumer hails a Taxicab on the street or calls a taxicab by telephone, the consumer is not similarly protected; and



WHEREAS, a rational basis exists for regulating vehicle appearance requirements differently for network vehicles and traditional taxicabs, because traditional taxicabs need visible markings to enable prospective passengers hailing a taxicab to identify a vehicle as a licensed taxicab, to encourage the use of taxicabs, and to promote confidence and public safety; and

WHEREAS, on the other hand, Network Operations are structured so as to permit a customer to request a ride through his smartphone application, the Network Operation connects the customer to a particular driver, enables the customer to access the driver's and vehicle's information after selecting the driver and after the completion of the ride, provides the customer the ability to review and provide the network immediate feedback on that driver and vehicle, and payment is made by credit card directly through the application; and

WHEREAS, network vehicles are exempt from these requirements because visible markings are unnecessary when a passenger arranges a ride via a smartphone app, because most passengers using network companies have an ongoing relationship with the company, and because passengers are aware that the company will connect them with a network driver; and

WHEREAS, the Council wishes to express its findings of fact and legislative intent developed during the prior and instant hearings on the subjects covered by this ordinance, and to summarize the legislative grounds upon which this law is made.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH,

SECTION 1. From and after the effective date of this ordinance, ARTICLES I and II of Chapter 24, VEHICLES FOR HIRE, of the Panama City Beach Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

## ARTICLE I. - IN GENERAL

### Sec. 24-1. Definitions.

As used in this Chapter:

(a) *Taxicab* shall mean a chauffeur-driven, passenger vehicle engaged in the business of transporting passengers for hire or other compensation, to persons not on regular schedules with the routes traveled or the destination determined by the passengers. Taxicabs generally provide service at all times to all parts of the City, base the fare charged the passenger on the use of the vehicle without regard to the number of passengers carried; determine the fare by a meter or other device that calculates miles or time traveled; and provide transportation services in an automobile, station wagon or van that is capable of comfortably seating at least four adult passengers up to a maximum of six adult passengers, including the driver.

(b) *Limousine* shall mean a chauffeur-driven passenger vehicle, built or modified for the

purpose, leased, rented or charged upon for a minimum time period of one hour; with the fare determined on an hourly basis and not by a meter or mileage for the use of the vehicle; and which is pre-arranged or arranged through a third party. Limousine services may be provided in extended or longer than ordinary sedans or SUVs seating fifteen passengers or less including the driver; passenger vehicles recognized by the industry as full-size luxury passenger vehicles seating a maximum of eight passengers including the driver, including vintage or classic passenger vehicles; or full-sized, customized (not assembly-line produced) van type passenger vehicles outfitted with luxury amenities, as recognized by the industry.

(c) *Shuttle* shall mean a chauffeur-driven passenger vehicle engaging in the transportation of passengers for hire with the intent to receive compensation for transporting such passengers from predetermined points of origin within the corporate limits of the City to any destination; with the fare determined on a per capita basis and not by a meter or mileage; and whose transportation services are generally provided in vans with a minimum seating capacity of seven persons and a maximum capacity of fifteen persons, including the driver. Shuttles may or may not be pre-arranged or arranged through a third party.

(d) *Driver* shall mean any person who has been issued a Driver's Permit pursuant to this Chapter to operate a vehicle for hire within the city limits of the City of Panama City Beach.

(e) *Owner or Applicant* shall mean any every company, business proprietor or individual agent, employee or person acting on behalf of such company or business, who makes application to the City for a vehicle for hire permit or a driver permit to operate a vehicle for hire within the city limits of the City of Panama City Beach.

(f) *Vehicle for hire* shall mean any passenger vehicle engaged in the transportation of persons from or entirely within the corporate limits of the City of Panama City Beach with the intent to receive direct or indirect compensation for providing such transportation, including providers which only accept gratuities or tips.

(g) ~~*Permit* shall mean Driver's Permit or Vehicle Permit.~~

**(g) Network Company means a transportation company or business that uses an online, digital or electronic platform that automatically documents to passengers transactions and connects passengers with Network Vehicles that are being operated as vehicles for hire and that has been approved by the City under Article II Division III and meets the requirements stated therein.**

**(h) Network vehicle means a passenger vehicle operated as a vehicle for hire under contract service arranged through an approved network company.**

**(i) Designated driver operation means a transportation company or business that goes to a customer and the customer's vehicle and then drives the customer's vehicle to the location specified by the customer while the customer rides as a passenger in his own vehicle.**

#### **24-2. Purpose and Intent.**

The City Council recognizes that the operation of private vehicles for hire may significantly impact public safety and an economy that is strongly dependent on them for tourism. Therefore, it is necessary to regulate private transportation services provided to the general public.

**Secs. 24-3--24-14. Reserved.**

## **ARTICLE II. TAXICABS, LIMOUSINES AND SHUTTLES**

### **DIVISION 1. GENERALLY**

**Sec. 24-15. Vehicle Permit required.**

(a) It shall be unlawful for any owner or operator of a taxicab, limousine or shuttle to operate or allow to be operated such vehicle for hire within the city unless:

(1) Such operation is pursuant to a valid and current vehicle permit issued to the owner of that vehicle pursuant to this section by the Chief of Police or his designee upon payment of a permit fee in the amount of \$100.00 or \$25.00 for each vehicle, whichever is greater, and the furnishing of:

(i) A copy of the certificate of title and the certificate of registration of every vehicle to be operated under the permit bearing the owner or business name. No lease vehicles bearing rental companies as owners will be permitted; and

(ii) A sworn Affidavit of Compliance Form from the owner of the vehicle and notarized by the Chief of Police or his designee that the owner is familiar, and will comply, with the provisions of this chapter; and

(iii) A certificate or policy of the insurance required for such vehicle by this chapter; and

(iv) A copy of the rate card to be posted in a conspicuous location in the vehicle, which card complies with this chapter; and

(v) Application from the Panama City Beach Police Department approved by the Chief of Police. The application shall contain all of the following information:

1. the name of the applicant;
2. the name of the applicant's business and trade name under which the business will operate;
3. if the business is to be a partnership, whether general or limited, the partnership instrument or certified copy thereof, and the business address of the partnership;
4. if the business is a corporation, the certificate of incorporation or certified copies thereof, and the business address of the corporation;
5. if the business is to be conducted under another name than that of the applicant, a copy of the fictitious name certificate, if required;
6. applicant's business location;
7. applicant's business mailing address;
8. applicant's business phone number;
9. applicant's home address and home phone number;
10. the number and type of permits requested;
11. the seating capacity, make, model, year of manufacture, mileage, equipment and amenities for each vehicle to be permitted;
12. any other information required, as deemed appropriate by the Chief

of Police; and

(vi) proof of current occupational license(s) including a business tax receipt issued by the City of Panama City Beach, or if the business is not based in the City of Panama City Beach, the business tax receipt from the city or county in which the business is based.

Vehicle permits shall be issued only to the owner of the vehicle and are not transferrable. The term for all vehicle permits issued pursuant to this section shall begin on January 1st and expire on December 31st of the applicable year. Permit fees shall not be prorated.

(2) Such vehicle has passed an inspection conducted by the Police Department certifying that the vehicle meets minimum safety and equipment standards set forth in section 24-23 and appearance standards set forth in Section 24-20. Every vehicle permit holder shall repair or replace any equipment or parts of the vehicle found as a result of the

inspection to be worn out, defective, or creating a safety hazard.

(3) If the vehicle to be permitted is a taxicab, such taxicab is equipped with a mechanical or electronic device for registering the fare to be charged. Each taxicab meter shall be inspected and approved by the Chief of Police or his designee.

(4) A copy of the valid and current vehicle permit issued under this section is permanently affixed in the upper left or lower left rear window of that vehicle; and

(5) Such operation is in full compliance with this chapter.

(b) Violation of any provision of this chapter by the owner or operator of a taxicab, limousine or shuttle shall constitute grounds to suspend or revoke the vehicle permit to operate taxicabs, limousines or shuttles within the city.

(c) Whenever there is reasonable cause to believe that there may be grounds to suspend or revoke the vehicle permit to operate taxicabs, limousines or shuttles within the city, the City Manager or his designee shall serve notice by certified mail or hand delivery to the owner of the taxicabs, limousines or shuttles indicated on the vehicle permit application. Such notice shall require the owner or its designee to contact the City Manager or his designee to arrange an informal hearing to be held within forty-eight (48) hours. If the owner does not arrange such hearing and the forty-eight (48) hour time period expires, the right to such informal hearing is waived. After the informal hearing is held or waived, the City Manager or his designee shall suspend the vehicle permit, revoke the vehicle permit or take no action on the vehicle permit. If the vehicle permit is suspended or revoked, such action takes effect upon receipt of notice by certified mail or hand delivery to the owner or the person representing the owner during the informal hearing.

(d) Any owner whose vehicle permit is revoked or suspended by the City Manager or his designee may appeal such decision to the City Council. Such appeal shall be taken by filing written notice with the City Manager within five (5) days after the decision of the City Manager or his designee. Notice of the appeal shall contain the grounds for appeal. The City Council shall hear the appeal, de novo, at its earliest reasonable opportunity. The filing of a notice of appeal will not delay the effectiveness of any suspension or revocation. An unfavorable decision by the City Council may only be reviewed by writ of certiorari in the Circuit Court.

(e) It shall be the responsibility of the vehicle permit holder to remove and surrender to the Chief of Police, all permits from vehicles should they be wrecked, traded or cease to operate as a taxicab, limousine or shuttle within the City.

(f) The operation of all taxicabs, limousines or shuttles shall be in full compliance with this chapter and Florida State Statute 316.610, and the Chief of Police or his designee reserves the right to spot check vehicles at any time for violations of state and local law.

#### **Sec. 24-16. Occupational license required.**

No person shall operate a taxicab, limousine or shuttle business out of a permanent business location or branch office within the city without first paying the occupational license tax set forth in section 14-29(198), and thereby receiving an occupational license therefor.

#### **Sec. 24-17. Liability insurance required of owner.**

No vehicle permit shall be issued or continued in effect to operate any taxicab, limousine, or shuttle within the city unless the vehicle permit holder possesses, in full force and effect, public liability insurance and property damage insurance issued by an insurance company who is authorized to do business as such in the State of Florida, covering each taxicab, limousine or shuttle to be operated under the permit and covering the owner and driver thereof. The coverage for each such vehicle, including the driver, shall be issued, at a minimum, in the amounts of:

(a) 1. ~~\$100,000~~ **\$125,000** because of bodily injury to, or death of, one person in any accident;

2. Subject to such limits for one person, in the amount of ~~\$300,000~~ **\$250,000** because of bodily injury to or death of, two or more persons in any one accident; and

3. In the amount of \$50,000 because of injury to, or destruction of, property of others in any one accident; or

~~(b) A sum of not less than \$300,000 for a policy of insurance providing for bodily liability and property damage liability.~~

The policy shall name the city as an additional insured and contain a provision that neither the policy nor any provision thereof may be cancelled without giving the city at least ten (10) days written notice of cancellation. A certificate or policy in proof of which shall be filed with the Chief of Police or his designee before the permit is issued.

**State Law References:** Minimum insurance required, Section 324.024 **324.032**; Definition of "commercial motor vehicle", Section 627.732; Liability insurance coverages, Section 627.742.

**Sec. 24-18. Rate cards to be posted.**

No person shall operate a taxicab, limousine or shuttle within the city unless there is displayed therein in a conspicuous manner in full view of the passengers of the taxicab, limousine or shuttle a printed and clearly legible rate card listing the amount and manner of calculating all rates to be charged.

**Sec. 24-19. Display of state license, city driver's permit required.**

No person shall operate a taxicab, limousine, shuttle within the city unless there is displayed therein in a conspicuous manner in full view of the passengers of the taxicab, limousine, or shuttle valid and current state required license and a valid and current city driver's permit for such person.

**Sec. 24-20. Vehicle color design; identification; signs.**

(a) Every taxicab, limousine or shuttle operated in the city shall bear the owner's trade name, monogram or insignia, together with a company vehicle number and the owner's telephone number permanently affixed upon the exterior metal portion or window area on each side of the taxicab, limousine or shuttle and the company vehicle number and owner's telephone number permanently affixed on the outside rear panel of the taxicab, limousine or shuttle. All lettering required in this subsection shall be not less than two and one-quarter (2-1/4) inches in height and not less than five-sixteenths inch stroke.

(b) Limousines are exempt from Section 24-20(a) if the sole purpose of the limousine is engaging in private or contracted, predetermined transportation of persons for hire and the limousine is not used as a taxicab or shuttle. The limousine shall have affixed to the front license plate bracket the name or monogram bearing the owner's trade name.

(c) All taxicabs, limousines or shuttles permitted and operated in the City shall be mechanically sound with well-maintained paint and must be maintained inside with a clean and professional appearance.

(d) It shall be unlawful for any person soliciting patronage from any taxicab, limousine or shuttle to represent by word, sign or insignia that the vehicle for which he is soliciting such patronage is a vehicle owned or operated by anyone other than the actual owner thereof.

**Sec. 24-21. Daily manifests required; preservation.**

(a) The owner of every taxicab, and limousine, **and shuttle, and drivers for designated driver operations** operated within the City shall maintain or cause to be maintained, and safely preserve for at least one year a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip, number of passengers and amount of fare. The forms for each such manifest shall be approved by the Chief of Police. **An online,**

**digital or electronic manifest accessible from the vehicle, such as a manifest maintained by a smart phone app, meets the requirements of this paragraph.**

(b) The owner of every taxicab, ~~and~~ limousine, **and shuttle, and drivers for designated driver operations** operated within the City shall make such manifests available to the City Manager and the Chief of Police or his designee upon request.

**Sec. 24-22. Rates generally.**

The Panama City Beach City Council may by resolution set and adjust rates and charges for transportation of persons and their baggage within the corporate limits of the City.

**Sec. 24-23. Vehicle Safety and Equipment Standards.**

Every Vehicle-for-Hire, **including network vehicles**, shall meet the following minimum safety and equipment standards:

- (1) *Tires.* Tires shall be of the size appropriate for the Vehicle-for-Hire and with no mismatched tires. There shall be no cuts into the tire cord or sidewall area or localized worn spots that expose the ply. No tire is permitted with less than 2/32 inches remaining when measured in any two (2) grooves at three (3) equally spaced intervals around the circumference of the tire, or when the tire has tread wear indicators that are visible.
- (2) *Operational Horn.* The Vehicle-for-Hire shall be equipped with an operational horn with the actuating button mounted in the location designated by the vehicle manufacturer and operated in the manner designed and assembled by the vehicle manufacturer.
- (3) *Windows.* The windshield, side and rear windows shall operate as designed and be assembled with no breakage, cracks or pits that may impair visibility or hinder the safety of passengers. No windows on Vehicles-for-Hire shall be composed of, covered by, or treated with, any material which would cause the vehicle to be in violation of Florida Statutes § 316.295.
- (4) *Doors.* All doors must have operating handles that allow opening from the inside and outside. Handles, knobs and armrests are to be free of breaks and must be securely mounted. Door hinges and hold stops must function correctly. Door seals and gaskets must be intact and operating to seal water and odors from entering the passenger compartment from outside. All door panels must be intact to prevent accidental injuries on door and window mechanisms.
- (5) *Interior Condition.*
  - (a) *General Condition.* All standard interior equipment shall be complete and intact, including, but not limited to interior lights, headliner, dashboard, head rests, window cranks, and gear shifts.
  - (b) *Seat Condition.* Seat covers shall be permanently attached or fixed to all seats in the Vehicle-for-Hire, and have no exposed wire or sharp edges either from metal or hardened vinyl. The rear seat must be of a type, size and mounting approved by the vehicle manufacturer. No broken springs, sagging or horizontal slippage is allowable in any seat.
  - (c) *Floor Condition.* Floor covering material shall be secure and contain no rips or loose folds. The floor board of the Vehicle-for-Hire shall be free of rust and holes.
  - (d) *Loose Objects.* No loose or moving objects or externally mounted speakers shall be placed on the deck behind the rear seat, or on the front dash board. No decorations or other objects will be permitted to hang from permanently mounted fixtures in a Vehicle-for-Hire.
- (6) *Seat Belts.* Each Vehicle-for-Hire shall have seat belts available for passengers in all seats except jump seats, spaces designed to accommodate wheelchairs or where the seat belts are not required by law. Seat belts shall be provided in operating condition and easily accessible by all passengers. Seat belts shall also be clean and free of grease and other objectionable

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substances. For the purpose of this section, seat belts which are placed under the seat or between the lower and upper portions of the seat are deemed not easily accessible.

(7) *Windshield Wipers.* Each Vehicle-for-Hire shall have standard operational windshield wipers for the entire front windshield which shall be controlled electronically or by vacuum and operated from the interior of the Vehicle-for-Hire. The wiper blades shall be in such a condition as to make firm contact with the windshield when operational, and shall not be torn or badly worn.

(8) *Brakes.* Each Vehicle-for-Hire shall contain an operational parking brake and a primary brake system which acts on all four (4) vehicle wheels. There shall be no visible leaks in the brake line, wheel cylinder or any part of the brake system and no frayed cables. All primary brake systems shall demonstrate a reasonable total braking force when tested, using the "quick stop method" and with the Vehicle-for-Hire operating at a speed of at least twenty (20) miles per hour. Brake linings and/or disc pads, when measured at the thinnest point shall not be less than one-sixteenth (1/16) of an inch. Brake linings and/or pads shall also be firmly attached to the brake shoe and/or disk coupler. Disc brake rotors and brake drums shall be of a size and type appropriate for the vehicle, with no cracks or other damage which change or impair the functional surface.

(9) *Headlights, Turn Signals, Brake Lights and Tail Lamps.* Every Vehicle-for-Hire shall be equipped with operational State of Florida-approved headlights, and turn indicating lamps or devices on the front and rear of the vehicle and a foot brake activated stop light on the rear of the Vehicle. Each Vehicle-for-Hire shall also have a tail lamp so situated on the vehicle as to illuminate the rear license plate with a white light and render it clearly legible.

(10) *Steering Mechanisms.* Steering mechanisms shall neither be worn or jammed, nor shall there be more than two (2) inches play to the left or right of center, measured at the steering wheel rim with the road wheels in a straight ahead position, on wheels up to eighteen (18) inches in diameter, or three (3) inches of play on wheels over eighteen (18) inches.

(11) *Exhaust Systems.* There shall be no leakage of exhaust gas at the manifold gasket, manifold and exhaust line gasket, muffler and muffler connections or at any other point in the exhaust system as determined through a visual and audible inspection. The tail pipe shall discharge exhaust from the rear or sides of the passenger and luggage compartment. No part of the exhaust system shall pass through or leak into the part of the Vehicle-for-Hire occupied by passengers, as determined by visual inspection.

(12) *Air Conditioning and Heating.* Every Vehicle-for-Hire, except for Residential Shuttles, shall be equipped with an adequately operating air conditioning and heating system, and windshield defrost or defogging system, which controls the temperature of the interior of the vehicle between 68 and 78 degrees Fahrenheit.

**Secs. 24-30--24-35. Reserved.**

## **DIVISION 2. DRIVER'S PERMIT**

### **Sec. 24-36. Required; state driver's license prerequisite to issuance thereof.**

(a) No person shall operate a taxicab, limousine, or shuttle upon the streets of the city, and no person who owns or controls any such vehicle shall permit it to be so driven, and no such vehicle permitted by the city shall be so driven unless the driver thereof shall have first obtained and shall have then in force a valid driver's permit issued by the city.

(b) No driver's permit shall be issued by the city to the driver of any taxicab, limousine, or shuttle, or designated driver operation until any such driver demonstrates possession of a valid state of Florida's driver's license.

(Code 1973, § 24-9; Ord. No. 442, § 1, 3-23-95; Ord. No. 1194, § 1, 1-13-2011)

**Sec. 24-37. Application.**

(a) Any person being eighteen years of age or older may apply to the city for a driver's permit to operate a taxicab, limousine, or shuttle, by first paying an application fee of \$10.00 and filing with the police department, upon forms approved and supplied by the Chief of Police, an application containing the following information:

- (1) The applicant's name, address, date of birth, phone number, social security number, race, sex, weight, hair color, eye color and any aliases or former legal names used during the preceding five years of applicant;
- (2) A copy of the applicant's social security card;
- (3) the name, address and phone number of the vehicle permit holder, if applicable, for which the applicant is working or intends to work;
- (4) A listing of the applicant's convictions, if any, in the courts of any state of the United States or in any United States court. This will be obtained from the Florida Department of Law Enforcement by the Police Department, and the applicant is responsible for all fees necessary to obtain this criminal history check from the Florida Department of Law Enforcement prior to filing the application; ;
- (5) The "Endorsement of Owner for the Driver Form" provided by the Police Department, must be completed and notarized by the owner by whom he is to be employed as a driver;
- (6) Information regarding the health, mentality, character and experience of the applicant as may be necessary or desirable to enable the chief of police to ascertain the applicant's qualifications, this will include a current drug screen; and
- (7) A color copy of the applicant's current and valid driver license issued by the State of Florida. All applicants must provide a three year driving history if from the State of Florida. All applicants coming from other states must provide a three year driving history from that state and a current and valid Florida driver's license. Temporary Florida Driver's License will not be accepted;
- (8) Such other information as the Chief of Police shall deem necessary to implement this chapter.

(b) The applicant must sign a "Driver Affidavit of Compliance Form" provided by the Police Department acknowledging that he or she has received a copy, read, understands and agrees to comply with the provisions of this chapter relating to taxicabs, limousines, and shuttles and submit that statement with the application.

(c) Upon filing the application, the applicant must be photographed by the police department.

**Sec. 24-38. Persons eligible.**

(a) No driver's permit shall be issued pursuant to this article to any applicant who is not of good moral character.

(b) The phrase "good moral character" shall be construed to mean the propensity on the part of the applicant to serve the public in the city in a fair, honest and open manner.

(c) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself as proof of an applicant's lack of good moral character. It may be used as evidence in the determination, and when so used the applicant shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability to, and is likely to serve the public in a fair, honest and open manner, that he is rehabilitated, or that the substance of the former offense is not reasonably related to driving taxicabs, limousines or shuttles.

(d) The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:



- (1) Records of an arrest not followed by a conviction;
  - (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction;
  - (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the applicant's likelihood to serve the public in a fair, honest and open manner; or
  - (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.
- (e) A driver's permit shall not be issued if the applicant, within the 5 years immediately preceding application, has been convicted of, or had adjudication withheld on, or have pending charges for, any of the following:
- (1) Driving under the influence of drugs or alcohol
  - (2) Vehicular manslaughter;
  - (3) Reckless driving;
  - (4) Murder, manslaughter, armed robbery, assault with a deadly weapon, aggravated assault;
  - (5) Any crime which is designated a felony;
  - (6) Any crime involving the sale of a controlled substance as defined by Section 893.03, Florida Statute;
  - (7) The Florida RICO act;
  - (8) Exposure of the sexual organs and any crime under Chapter 796 or
  - (9) "Prostitution" as defined in Chapter 796, pertaining to prostitution or assignation or loitering for prostitution.
- (f) If an applicant is found to be unqualified for a license because of a lack of good moral character, or similar criteria, he shall be furnished by the police department with a statement to this effect. The statement shall contain a complete record of the evidence upon which the determination was based. The applicant shall be entitled, as of right, to a rehearing on the issue before the police department if he has relevant evidence not previously considered regarding his qualifications.

**Sec. 24-39. Issuance.**

- (a) The chief of police shall, upon consideration of the application, and after investigation thereof, approve or reject the application, based on the applicant's eligibility under section 24-38. Upon the approval of an application, the chief of police or his designee shall issue a driver's permit to the applicant which shall bear the name and photograph of the applicant, date of expiration of the permit and the name of the owner or Company for which the driver is authorized to operate a vehicle for hire subject to this article. Any such permit shall be valid only so long as the driver continues in the employment of such owner. Upon the changing of the driver's employment, the driver shall immediately give the Chief of Police or his designee notice, in person and the new employing owner shall complete a new affidavit of compliance form for said driver.
- (b) Upon the termination of the driver's employment, the owner by whom the driver has been employed shall immediately give the chief of police written notice of the termination and the reasons therefor, and shall forthwith surrender the terminated employee's driver's "Endorsement of Owner for Driver form" relieving said owner of responsibility for said driver. The Chief of Police or his designee will make contact with said driver and a determination will be made if the permit will remain valid or invalid.
- (c) Permits shall be issued only to the applicant and are not transferrable. Each permit shall expire on the December 31 next following issuance, regardless of the date of issuance.

**Sec. 24-40. Revocation or suspension.**

- (a) A ~~taxicab, limousine or shuttle~~ driver's permit may be suspended by the Chief of Police for



a period of not more than ten (10) days, or revoked by the Chief of Police for any of the following reasons and for other proper reasons:

- (1) Proof that the permittee is not of good moral character, as defined in section 24-38(b), has been convicted of a felony, or addicted to the use of narcotics or intoxicants;
  - (2) Suspension or revocation of his state operator's or chauffeur's license;
  - (3) Proof that the permittee has been convicted of three (3) or more misdemeanors within the preceding year;
  - (4) Proof that the permittee is a poor or reckless driver;
  - (5) Proof that information on the driver's permit application is false;
  - (6) Failure to conspicuously display the driver's permit in the taxicab, limousine, or shuttle while the taxicab, limousine or shuttle is in operation; or
  - (7) Violation of any of the provisions of this chapter.
- (b) Notice of any such suspension or revocation shall be sent to the permittee and to his employer, together with the reason for the action taken, and suspension or revocation shall become effective immediately upon delivery of the notice. The permittee shall have the right to demand a public hearing before the city council upon such suspension or revocation. The person whose permit was revoked shall not operate a taxicab, limousine, tour bus or tram, within the city unless the city council shall vote at a public hearing to rescind the revocation or unless a new permit shall subsequently be issued to him. No refund of permit shall be given to a person whose driver's permit has been suspended or revoked.

**Sec. 24-41. Working hours for drivers; log required.**

It shall be unlawful for the operator of a taxicab, limousine, or shuttle, network vehicle, or driver in a designated driver operation within the City to operate any ~~taxicab, limousine or shuttle, or both~~ combination of vehicles for hire for more than twelve (12) hours within any twenty-four-hour period. Each operator of a taxicab, limousine, or shuttle, network vehicle, or person driving as part of a designated driver operation within the city shall at all times keep about his or her person a driver's log showing hours of operation and identifying the taxicab, limousine or shuttle operated for a period of at least four weeks prior to the present time. An online, digital or electronic log accessible from the vehicle, such as a log maintained by a smart phone app, meets the requirements of this paragraph.

**Sec. 24-42. Property left in taxicabs, limousines or shuttles.**

All drivers of taxicabs, limousines or shuttles shall promptly deliver to the police department all property left in their vehicles by passengers. When articles left in any such vehicles are delivered to the police department, the police officer on duty shall make an entry of the fact in a book provided for that purpose and shall keep all such articles until claimed by the owner, or disposed of pursuant to resolution of the city council.

**Section 24-43. Receipts.**

Drivers, including network drivers, must furnish receipts to passengers upon request. An online, digital or electronic receipt that is sent to the customer prior to the vehicle leaving the customer meets the requirements of this paragraph.

**Sec. 24-44. Failure to pay fare.**

It shall be unlawful for any passenger, customer or patron using the service of a vehicle for hire to fail or refuse to pay the lawful charge or rate therefor upon request of the operator of such vehicles for hire after the use of such vehicle for hire. (Statutory reference: 817.52(2))

**Sec. 24-45. Passengers to be received, discharged on sidewalk or at curb.**

Drivers of vehicles for hire shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk, to the extreme right hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right-hand or left-hand sidewalk, or the extreme side of the roadway in the absence of a sidewalk.

**Sec. 24-46. Destroying, defacing or altering.**

It shall be unlawful for any person holding a driver's permit to willfully alter, deface, obliterate or destroy the same or to cause or permit it to be altered, defaced, obliterated or destroyed.

**Sec. 24-47. Use of tobacco.**

It shall be unlawful for the driver of any vehicle for hire operated within the City upon the public streets of the City to use any tobacco products while the vehicle is occupied by a passenger.

**Sec. 24-47.5. Inapplicability to network companies, network vehicles, and designated driver operations.**

**Unless expressly stated elsewhere in this Chapter, Divisions I and II of Article II shall not apply to network companies, network vehicles, network drivers, and designated driver operations.**

State law references: Municipal authority to regulate taxicabs, F.S. § 323.054.

**DIVISION III – Network Companies**

**Sec. 24-48. Network Company License**

**It shall be unlawful for any Network Company to provide vehicle for hire service within the corporate limits of the City without obtaining an annual license issued by the Chief of Police. A company shall pay the annual license fee set by resolution of the City Council at the time of application for the license and thereafter each year. A company license is valid until 11:59 p.m. (CST) December 31 of the year of issuance regardless of the date of issuance and is non-transferable.**

**Sec. 24-49. Minimum Requirements for Approval – In order to qualify for a network company license an entity must meet the following requirements.**

**(a) use of an online, digital or electronic platform integrated into a mobile application that enables the following:**

**(1) to connect passengers with network vehicles that are being operated as vehicles for hire and; that allows the passenger and driver to reach an agreement on price and destination before the passenger enters the vehicle.**

**(2) that utilizes GPS tracking to allow users to track the locations of network vehicles both prior to engaging a driver and following the completion of the trip and;**

**(3) that displays the network driver's name, network vehicle's state registration number; and make and model of the vehicle prior to selecting a network vehicle and with all such information remaining retrievable following the completion of the trip and;**

**(4) that allows customers to file complaints with the Chief of Police and with the network company within the online platform.**



(b) the Network Company provides each network driver with at least (1) \$1 million dollars in commercial liability insurance; (2) \$1 million in uninsured and underinsured liability insurance (3) comprehensive vehicle coverage with a maximum \$2500 deductible, and (4) contingent liability insurance of at least \$50,000 while the network company's application is activated between trips

(c) whose minimum company standards have been reviewed and approved by the City Council and are not otherwise in conflict with any provision of this chapter. Approved network companies shall be approved by resolution of the City Council.

**Sec. 24-50. Application for Approved Network Company License**

(a) Application for the issuance or renewal of a network company license shall be made in writing to the Chief of Police on a form provided by the Chief of Police and signed and sworn to by the owner or by its authorized agent. Each application for issuance or renewal of a company license shall include:

(1) Proof of the insurance in full force and effect that the company provides its drivers with the insurance required by section 24-49;

(2) Information on the third party provider(s) responsible for completion of driver background checks and vehicle inspections as required in section 24-52.

(3) The network company's entity name, business address, business email address and business telephone number; the date and state of formation; and proof of active status with the Florida Division of Corporations authorizing it to do business under the laws of the State of Florida.

(4) The name, mailing, physical and email addresses and telephone number of a natural person(s) located within the State of Florida that the company has authorized to be its agent and a point of contact for the City with regards to:

a. Filing applications and paying rates and charges on behalf of the company; and

b. Receiving and accepting all legal process, correspondence and notices from the City pertaining to the company, or network drivers operating for the company, including the furnishing of records and suspension of drivers.

(5) An illustration of the distinctive company signage that will be displayed on its vehicles for hire as required by section 24-53.

(6) Such other information as may be reasonably required by the Chief of Police for purposes of administration and enforcement of this article.

(7) Proof that the network company's online platform capabilities conform with the requirements of section 24-49.

(b) If the applicant knowingly provides false statements of material facts or information on the license application, the applicant will automatically be denied the company license and will be ineligible for a company license for a period of five years. If the company license has been issued prior to the discovery of the false statements or information, the company license shall be revoked and the company will be ineligible for a company license for a period of five years.

(c) As a condition of maintaining its company license, each company:

(1) Shall keep accurate records of the company vehicle for hire operations for a minimum of the past three years. Such records shall be submitted or made available for inspection or audit as required in section 24-58.

(2) Shall notify the Chief of Police in writing within 15 days of any change to the information provided in the license application.

(3) Shall not employ or contract with any driver who does not have a valid driver

authorization issued by the company.

(4) Shall provide each of its drivers with a copy of this article and inform each driver of the driver and company obligation to comply with this article.

(5) Shall on its website or digital platform provide passengers with a phone number provided by the Chief of Police where the passenger may file a complaint regarding a potential criminal act or violation of this article.

(6) Shall immediately temporarily suspend the authorization of a company driver at the request of the Chief of Police. The Chief of Police shall have the authority to request suspension if there is evidence that a driver poses a threat to the health, safety or welfare of the public. Upon suspension, the company shall investigate the driver and all records associated with the investigation shall be provided to the Chief of Police prior to the driver being re-authorized as a network driver. If the company re-instates the authorization of a driver, it shall demonstrate good cause for doing so.

(7) Shall keep its online platform available and in compliance with this chapter to its users at all times it provides vehicle for hire services within the City.

Sec. 25-51 - License, verification and issuance.

Upon receipt of an application for the issuance or renewal of an approved network company license, the Chief of Police may verify all information provided in the application for compliance with all applicable provisions of this article. The City will issue a company license if the company has met the requirements set forth in this chapter and has paid the company license fee as set by resolution of the City Council.

Sec. 25-52. - Company issued driver authorization.

(a) Prior to operating a network vehicle within the City, each network driver is required to obtain an annual driver authorization from the network company. The network company shall not issue a driver authorization, either initially or upon renewal, unless the company has verified that the driver and vehicle meet all of the requirements of this section. If the company issues a driver authorization and later determines the driver does not meet the requirements, the company shall immediately revoke the driver authorization and suspend the driver from operating a network vehicle for the company.

(1) Minimum Network Driver requirements:

a. The driver must meet possesses a valid Florida driver's license or a valid driver's license issued by another state, if the driver is not otherwise required to obtain a Florida driver's license;

b. The driver is at least 21 years old;

c. The driver has a minimum of one year experience operating a motor vehicle;

d. The driver possesses motor vehicle liability insurance as required by Florida law;

e. The background check obtained by the company covers the preceding seven years and shows that:

1. The driver has not been convicted, pled nolo contendere, nor had adjudication withheld for any violent or forcible felony or sexual battery.

2. The driver has not been convicted, pled nolo contendere, or had adjudication withheld for a felony or misdemeanor in the last

seven years for any crime involving the use or threat of use of force, prostitution, indecent exposure, stalking, prowling, or any sexually related criminal offense, or any felony offense involving the possession or sale of a controlled substance.

3. The driver is not under any form of community control, probation or under any status as a sex offender in any state.

4. The driver has not been convicted, pled nolo contendere, nor had adjudication withheld in the last seven years for any of the following offenses: leaving the scene of an accident, driving under the influence of an alcoholic beverage or drug, reckless or careless driving.

5. The driver has not been convicted, pled nolo contendere, nor had adjudication withheld in the last three years for driving with a suspended license, or had more than three (3) moving violation.

6. The driver has not been cited for more than three (3) moving violations or at-fault accidents within the last three (3) years.

f. The driver does not have a physical or mental disability that would prevent him/her from safely operating a network vehicle and performing the normal duties of a network vehicle driver.

**(2) Minimum Network Vehicle Requirements:**

a. The vehicle must be inspected annually by an automobile mechanic certified by the National Institute for Automotive Service Excellence (ASE) or a person supervised by an ASE certified mechanic. Such inspection shall, at a minimum, evaluate and confirm the working condition of the vehicle's brake system, lights, steering, suspension, tires, and seat belts and any other requirements of section 24-23 of this Chapter.

b. The vehicle is free of major interior or exterior damage.

c. Photographs of the interior and exterior of the vehicle have been submitted annually to and approved by the network company.

d. The vehicle is a model year 2005 or newer

**Sec. 24-53. Network Driver Display of Authorization.**

(a) Each driver shall display, in the vehicle in a printed format readily visible to a person of average visual acuity sitting in the rear passenger seat and electronically on the passenger's mobile device during a network vehicle ride, a photograph of the driver taken within one year and the driver's first name, the license plate number of the vehicle that the driver is authorized to operate, and the make and model of the vehicle. The driver shall present its authorization upon request to its customer, a law enforcement officer.

(b) The company and driver shall maintain complete documentation of the current inspection in the network vehicle at all times and shall provide a copy of such documentation to the Chief of Police of other law enforcement officer upon request.

(c) Each network vehicle shall display consistent and distinctive signage at all times while engaged in network vehicle for hire services. The distinctive signage shall be consistent with the current signage submitted by the company and sufficiently large and color contrasted so that it is readable during daylight hours at a distance of at least 50

feet; and reflective, illuminated or otherwise patently visible so as to be seen sufficiently at all times from a distance of at least 50 feet.

Sec. 24-54. - Operating regulations.

(a) In addition to all other applicable legal requirements, it shall be unlawful for any person:

(1) To operate a network vehicle without a valid company issued driver authorization;

(2) To operate, or cause to be operated, a network vehicle in any area where the operation of such vehicle is prohibited by an applicable law; or

(3) To operate, or cause to be operated, a network vehicle that does not meet the requirements of this chapter.

(b) A driver shall at all times carry in the network proof of the insurance required by Florida law and this chapter.

(c) Drivers shall not provide false information to or refuse to obey or to comply with any lawful order or direction of the Chief of Police, law enforcement officer, or traffic-control officer.

(d) No network vehicle shall be parked on any public way for a time longer than is reasonably necessary to board passengers.

Sec. 24-55. - Enforcement, rules and regulations, complaints.

(a) The Chief of Police is authorized to enforce this chapter, and to adopt policies for the proper administration and enforcement of this chapter.

(b) The Chief of Police or other law enforcement officer has the authority to place a network vehicle out of service if it is deemed unsafe or hazardous, until an automobile mechanic certified by the National Institute for Automotive Service Excellence (ASE) or a person supervised by an ASE certified mechanic has corrected the unsafe or hazardous conditions and completed a safety inspection.

(c) Any network driver that operates a vehicle for hire which has not been inspected and authorized by the network company shall be subject to permanent revocation of driver's authorization. The Chief of Police shall submit such the grounds for revocation in accordance with the provisions of section 24.55.5(c) of this Chapter.

(d) In addition to all other powers and remedies provided by law, the Chief of Police or a law enforcement officer shall have the right to inspect the company records as necessary to investigate and resolve a complaint received or when the Chief of Police or the law enforcement officer has a reasonable suspicion of a violation of law or of this chapter. The company shall respond to requests for records pursuant to this section with 48 hours of receipt of the request.

(e) The Chief of Police or his designee shall have the right to audit the records of the company operations including, but not limited to, driver lists, driver background checks, and vehicle inspections, for purposes of verifying compliance with this chapter.

(f) The audits conducted by the Chief of Police or his designee shall take place at the company's local place of business or a mutually agreed upon location. The company shall provide records in an unredacted form. The City shall cooperate with the company to protect trade secrets as allowed by Florida law.

Sec. 24-55.5. - Violations, Penalties, License revocation.

(a) Violations of the provisions of this chapter by a company or driver may be enforced by a suspension or revocation of any company license issued hereunder, by enforcement

under Chapter 25 of City of Panama City Beach Code of Ordinances, or by any other legal remedy available. Each violation shall be deemed a separate and distinct offense and shall be penalized as a separate and distinct offense.

(b) The City may revoke the company license which grants the privilege of any company to conduct vehicle for hire services on any of the following grounds:

(1) If the company and/or any company driver fails to follow any requirements of this chapter;

(2) If the original application or any other required documentation are found to contain any false statements of material fact; or

(3) If the company and/or company driver fails to pay any fees or fines as specified in this chapter or by resolution of the City Council.

(c) A company license may be revoked for acts of a driver in violation of this section if the company fails to take the action requested by the City with respect to the driver violations, including and up to, the company revoking the driver's authorization issued by the company. In instances where a company had knowledge of a violation and took corrective action on its own or as requested by the City, the company shall maintain written documentation of such actions for a minimum period of one year from the date that the corrective action was taken.

(d) When revocation of a driver's authorization is requested by the City with good cause, the company shall immediately revoke the authorization of the requested driver. Re-authorization of any previously revoked driver the network company shall provide evidence in support of the reauthorization. No revoked driver shall be reauthorized without review and consent by the Chief of Police.

(e) The procedure for revoking a company license is as follows:

(1) The Chief of Police shall provide written notice to the company by hand delivery or by sending the notice certified or registered mail at least 30 calendar days prior to the effective date of the revocation. The written notice shall contain notice that the company may contest the revocation by requesting a hearing as provided below. Service shall be mailed to or hand delivered to the person authorized by the company as its agent in its registration with the City.

(2) The company may file a written request for a hearing prior to the effective date of the revocation with the City Manager or his designee. Failure to timely request a hearing shall constitute a waiver by the company of any rights to a hearing. Upon request for a hearing, the revocation shall be stayed until final administrative action has been effected.

(3) The hearing will be a quasi-judicial proceeding before a hearing officer appointed pursuant to section 25-16 of this Code.

(4) All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to be represented by counsel. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceeding. Any party desiring the hearing be recorded shall be responsible for arranging and paying the cost of a court reporter's attendance and services.

(5) If the hearing officer finds, by a preponderance of the evidence, that the company meets the requirements for license revocation, then the hearing officer shall uphold the decision to revoke the company's license and set the revocation date to begin 15 days from the date of the final administrative order, subject to a writ of certiorari being filed pursuant to paragraph (7) below.

(6) At the conclusion of the hearing, the hearing officer shall issue findings of fact based on evidence in the record and conclusions of law and shall issue an





order, which shall be sent by regular U.S. mail to the person authorized by the company as its agent in its registration with the City.

(7) The final administrative order of the City is subject to certiorari review in a court of competent jurisdiction in Bay County, Florida by the timely filing of a petition. Filing of a petition in the court shall not operate as a stay of the revocation.

(f) Any company whose company license has been revoked shall not be eligible to obtain a company license until such revocation period has expired.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. SEVERABILITY. If any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

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

2016 and on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2017.

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# REGULAR AGENDA

## ITEM

8



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION

2. MEETING DATE:  
FEBRUARY 9, 2017

3. REQUESTED MOTION/ACTION:  
HOLD A PUBLIC HEARING TO CONSIDER FIRST READING OF ORDINANCE 1398 REGULATING  
LOW SPEED VEHICLES

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)

In May of this year, Council directed staff to prepare recommendations for the regulation of low speed vehicles rented in the City. Staff's proposed regulations were considered by the Council at a workshop on December 1, 2016. The attached ordinance captures Council's direction to cap the number of low speed vehicles rented in the City to 300, provides for existing businesses to be eligible for up to 50 low speed vehicles registered with the City and provides for existing or new businesses to obtain medallions for low speed vehicle rental inventory by purchasing an existing business. The attached ordinance includes amendments to the LDC that are in substantially similar form to that presented at the December 1 workshop but changes the limits on outdoor display and parking requirements for businesses.

This proposed ordinance amends the LDC to create a new supplemental Use of Land specific to Low Speed Rental Vehicle Businesses, and as such requires two public hearings. Council may approve the ordinance as written or direct further revisions following the public hearing. Whether or not such revisions will require a re-start to the enactment process will depend on whether the revisions change the purpose of the Ordinance. Staff anticipates advertising a second public hearing on February 23., 2017.

ORDINANCE 1398

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELATED TO THE REGULATION OF AMUSEMENT VEHICLES; AMENDING THE CITY'S CODE OF ORDINANCES TO DEFINE AMUSEMENT VEHICLES AND AMENDING DEFINITIONS, EXPAND THE APPLICATION OF EXISTING RULES FOR MOTOR SCOOTER RENTALS TO AMUSEMENT VEHICLES; DELETE CERTAIN REQUIREMENTS RELATED TO THE PROVISION OF INSURANCE AND VESTS, CLARIFY THE HOURS DURING SPRING BREAK IN WHICH RENTED MOTOR SCOOTERS MAY NOT BE MADE AVAILABLE FOR RENT, REQUIRE THE REGISTRATION OF AMUSEMENT VEHICLES, AND LIMIT THE NUMBER OF LOW SPEED VEHICLES RENTED IN THE CITY AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE ORDINANCE; AMENDING THE CITY'S LAND DEVELOPMENT CODE TO CREATE A NEW SUPPLEMENTAL USE CATEGORY FOR LOW SPEED RENTAL BUSINESSES IN CH ZONES; PROVIDING DEFINITIONS; PROVIDING STANDARDS FOR LOCATION, STORAGE, AND DISPLAY OF VEHICLES, SIGNAGE, AND APPEARANCE OF SUCH BUSINESSES AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE ORDINANCE; AMENDING ARTICLE VII RELATED TO GOLF CARTS TO PERMIT THEIR OPERATION BETWEEN SUNSET AND SUNRISE; PROVIDING A METHOD OF APPEAL FOR ADDITIONAL TIME TO COMPLY WITH CERTAIN AMENDMENTS TO THE LAND DEVELOPMENT CODE; PROVIDING FOR AUTOMATIC REPEAL OF THE LIMIT ON LOW SPEED VEHICLE RENTALS IF NOT EXTENDED WITHIN TWO YEARS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach is a tourist destination frequented by thousands at any given time; and

WHEREAS, while drawn to town by the beach, visitors look for other forms of amusement off the beach as well; and

WHEREAS, the rental of scooters and other amusement vehicles has long been a popular form of entertainment for visitors; and

WHEREAS, the City has consistently acted in conjunction with the amusement rental industry to regulate and enhance the amusement rental experience for visitors and residents of the City; and

WHEREAS, while scooters were traditionally the primary form of amusement rental in the City, other forms of amusement vehicles have entered the market and provide visitors with many ways to tour the City; and

WHEREAS, the Council finds that the registration of rented low speed vehicles in the City has increased from a total of 93 in November 2015 to a total of 194 as of May 12, 2016; and

WHEREAS, during that same time frame increased development throughout the City, increased population, and increases in the number of visitors to the City have dramatically increased the congestion and pressure placed upon the City's infrastructure and administration to maintain and safeguard visitors and residents experience as they travel throughout the City; and

WHEREAS, Ordinance 1351-L authorized staff to work with the industry to explore the accommodation of alternate amusements to fill the gap created by the reduction of rented motor scooters which was limited by the City's adoption of Ordinance 1351-L; and

WHEREAS, given the rapid increase in the number of rented low speed vehicles, on May 26, 2016, Council adopted Resolution 16-82, providing for a moratorium on the registration of further low speed vehicles; and

WHEREAS, on June 23, 2016, the Council adopted Ordinance 1388, establishing a 6 month moratorium, which was extended by adoption of Resolution 16-82 and Ordinance 1399 until March 1, 2017 on the issuance of development orders and permits and on the processing of applications concerning motor vehicle sales, rental or service facilities on Front Beach Road or on a City road with a posted speed limit of 45 mph or less that connects directly to Front Beach Road, or permits relates to the establishment, change of use, expansion or altering of buildings or parking areas on property throughout the City on which low speed vehicles are offered or intended to be offered for rental; and

WHEREAS, after careful consideration of the analysis by City staff, testimony from the Chief of Police, City Manager, industry representatives, members of the City Council, and the public, the City makes the findings of fact detailed herein; and

WHEREAS, the City Council finds that rented low-speed vehicles are fairly to be considered amusements intended to fill the gap created by the reduction of rented motor scooters, as such low-speed vehicles are primarily made available for rent by the same businesses whose ability to rent motor scooters has been limited by Ordinance 1351-L; and

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WHEREAS, the City finds that the rented low-speed vehicles are rented to persons who drive traditional motor vehicles to the City or adjacent unincorporated areas of Bay County, and thereafter rent the low-speed vehicles upon their arrival to town as an amusement to enjoy the sights and sounds of Front Beach Road rather than as a means of transportation around and throughout the community (since their operation in fact is limited to Front Beach Road and adjacent neighborhood roads with a posted speed limit of 35mph or less); and

WHEREAS, although low speed vehicles are safer, due to being stabilized by four wheels, many rental operators become so enthralled with the entertainment of the ride, and interacting with their fellow passengers, that they fail to heed to rules of the road and forget they are operating a motor vehicle. This increased distraction makes low speed vehicles more susceptible to violations of the Uniform Traffic Code and thus requires increased enforcement by the City Police Department; and

WHEREAS, the Council finds that it must prevent increased congestion on its already failing roads by limiting the amount of low speed vehicles rented throughout the City; and

WHEREAS, limiting the amount of low speed vehicles will allow the City to better police the action of all travelers upon its roads including those riding motor scooters and low speed vehicles for amusement.

WHEREAS, limiting the number of low speed vehicles available shall encourage responsibility by the vehicle owners to maintain each vehicle and ensure that renters are properly educated on safe methods of operation; and

WHEREAS, the City finds that the best and most efficient means of continuing cooperation and regulation of low speed vehicles is to place the limited number of low speed vehicle medallions in the hands of the business owners who have experience in this industry and have worked closely with the City in enacting these regulations; and

WHEREAS, the larger size of low speed vehicles requires considerable amounts of space to display the vehicles from the rental businesses. These displays and rental activities tend to interfere with the vision of renters entering and exiting the businesses property as well as impede the flow of traffic; and

WHEREAS, the lack of consistent standards of use for the rental of low speed vehicles has created interference with existing traffic patterns by the excessive display of low speed vehicles in or near the right-of-way; and

WHEREAS, uniform outdoor display of low speed vehicles, signage will substantially reduce interference with lines of sight, congestion, and traffic flow by both customers of amusement vehicle businesses and travelers throughout the

City, and enhance the appearance of the Front Beach Road corridor where the businesses are located; and

WHEREAS, uniform land development standards will allow each amusement vehicle business to clearly display low speed vehicles and delineate clear spaces for the display; and

WHEREAS, the Council desires to review the effect of these changes on the tourist and local experience and to re-consider the state of the City's amusement vehicle regulation in two years; and

WHEREAS, the City's Land Development Code allows for amendment as new uses arise and from time to time and as the City deems necessary consistent with the City Charter and the City's Comprehensive Plan.

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

SECTION 1. Intent. The City Council finds that the number of rented low speed vehicles in the City is rising at such a rapid rate that the number must be capped and regulations established before efforts to do so are overcome by the sheer volume of rented low speed vehicles operated in the City, and therefore intends to immediately limit the number of rented low speed vehicles to a maximum of three hundred (300) units throughout the City on the effective date of this Ordinance. Further, the Council finds that by limiting the number of low speed vehicles that may be rented, not only will the City be better able to police the rental drivers but also the economics of having fewer units available for rent should have a positive effect upon the congestion of Front Beach Road and the responsibility of the operators to whom the remaining units are rented.

SECTION 2. From and after the effective date of this ordinance, Chapter 22 of the Code of Ordinances of the City of Panama City Beach related to Traffic



and Motor Vehicles, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Sec. 22-05. Definitions.**

Definitions. The following words, terms or phrases, when used in this Chapter 22, shall have the meanings respectively ascribed to them:

**Amusement vehicle shall mean a motorcycle, moped, motor scooter, motorized scooter, low speed street vehicle, golf cart, dune or swamp buggy, go-cart, megacycle, or other vehicle rented or leased to customers which provides locomotion on a street or highway, but not including bicycles.**

*Bicycles* shall mean every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than twenty (20) miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than twenty-five (25) inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.

*Emergency vehicles* shall include, but not be limited to, law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles which are marked as such.

*Fire and safety lane* shall mean a fire apparatus or emergency vehicle access way to or beside a commercial building, having an all-weather driving surface of not less than ten (10) feet of unobstructed width and required by governmental authority.

*Golf cart* shall mean a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes **and that is not capable of exceeding speeds of 20 miles per hour. A low speed vehicle modified pursuant to section 319.14(10)(a), Florida Statutes, shall be considered a golf cart for the purpose of this section once proof of compliance is presented to the City.**

*Low speed street vehicle* shall mean any four-wheeled vehicles whose top speed is **greater than 20 miles per hour but is not greater than 25 miles per hour, but shall not include golf carts or motor scooters. Low-speed vehicles must comply with the safety standards enumerated in C.F.R. s. 571.500 and section 316.2122, Florida Statutes.**

*Marked fire and safety lane* shall mean a fire and safety lane marked by a pavement stripe and posted at intervals of fifty feet (50') or less by signs which state: "Fire and Safety Lane. Parking of motor vehicles prohibited at all times."

*Moped* shall mean any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels; with a motor rated not in excess of two (2) brake horsepower and not capable of propelling the vehicle at a speed greater than thirty (30) miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed fifty (50) cubic centimeters.

*Motor scooter or scooter* shall mean a motorcycle or two or three or four wheeled vehicle powered by a motor with a displacement of fifty (50) cubic centimeters or less or is rated not in excess of two (2) brake horsepower and which is not capable of propelling such ~~motorcycle~~ **motor scooter** at a speed greater than thirty (30) miles per hour on level ground, and shall include a moped as

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defined in ~~this section FS 316.03(77)(2013)~~, and any other two or three wheeled, self-propelled vehicle for which state law does not require proof of financial responsibility (see FS Chapter 324 (2013)).

*Motorized scooter* shall mean any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three (3) wheels, and not capable of propelling the vehicle at a speed greater than thirty (30) miles per hour on level ground.

*Motor vehicle* shall mean any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped.

*Private property* shall mean any real property within the city which is privately owned and which is not public property.

*Public property* shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

*Registered owner* shall mean the person or entity that is registered by state law as the title holder of a motor vehicle on the date that a violation of this section occurs.

*Stop, stand or park* shall mean any stopping, standing or parking of a vehicle, whether occupied or not, other than momentarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

*Vehicle* shall mean every device ~~including golf carts, bicycles, motor scooters, motor vehicles, and mopeds~~ in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

...

## ARTICLE VI. - VEHICLE RENTALS

### Sec. 22-100. - Prohibited acts.

(a) It shall be unlawful for any person to rent, lease or hire within the City a an amusement vehicle, ~~motorcycle, motor scooter or any other two or three wheeled, self-propelled vehicle~~, or solicit the same within the City, unless each of the following requirements is met:

(1) There is promptly available for delivery without charge with each such vehicle available for rental if requested by the customer, protective headgear, and eye-protective devices, and a florescent highway safety vest, of a type approved by the Department of Highway Safety and Motor Vehicles, ~~and there is present on the same premises a vest described in this section for each scooter available for rental.~~

~~(2) Protective headgear and an eye-protective device approved by the Department of Highway Safety and Motor Vehicles are furnished without charge if requested by the customer.~~

~~(3)~~ **(2)** For each motor scooter rented, there is affixed to it one of the number of unique medallions issued by the City for that location as required by the City's Land Development Code as a condition of the continuation of the rental of scooters as a non-conforming use.

~~(4) For each motor scooter rented, all occupants are outfitted with a florescent green highway safety vest meeting at a minimum Class 2 ANSI 107-2010 or equivalent revised standards, upon the back of which the word "RENTAL" is applied in black, block letters four inches (4") high,~~

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~~and the occupants are not allowed to leave the rental business on the vehicle unless wearing the vest in a normal fashion on the outside of all clothing or apparel.~~

~~(5) (3)~~ All persons who will operate the vehicle hold and have in their possession a valid driver's license authorizing operation of the vehicle upon the public streets of Florida and the name and address of all operators and the number and state of issuance of all licenses shall be made a part of the contract pursuant to which possession of the vehicle is transferred.

~~(6) — Reserved.~~

~~(7) (4)~~ All operators listed on the rental agreement for each ~~motor scooter~~ **amusement vehicle** shall be required to read, print their name, sign and date a brochure in form and substance approved by the Chief of Police outlining the laws applicable to the operation of ~~motorcycles~~ **the rented amusement vehicle** in Florida (a "Safety Brochure"). The Safety Brochure shall also explain (i) that the City understands that the rental about to commence is more of an amusement ride than transportation, and (ii) ~~that vests are required to maximize the visibility of the amusement vehicles for the occupants' safety and the protection of property,~~ and (iii) that the police are particularly sensitive to reckless and unlawful operation of the amusement vehicles because they have seen frequent injuries and damages caused by them. ~~A subsequent rental on a following day shall require a new Safety Brochure.~~

~~(8) (5)~~ There is prominently affixed to such vehicle a current registration decal **or medallion, or both**, supplied by the City.

~~(9) — Reserved.~~

~~(10) — The entity owning and renting a motorcycle or motor scooter shall have provided and have in effect a policy of insurance through an insurance company licensed to do business in Florida insuring the owner and operator of such rented scooter against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance or use of the vehicle in not less than the limits described below and conforming to the requirements of FS 324.151 (2013) subject to the usual policy exclusions that have been approved in policy forms by the Florida Office of Insurance Regulation:~~

~~In the amount of ten thousand dollars (\$10,000) because of bodily injury to, or death of, one (1) person in any one (1) crash; and  
Subject to such limits for one (1) person, in the amount of twenty thousand dollars (\$20,000) because of bodily injury to, or death of, two or more persons in any one (1) crash; and  
In the amount of ten thousand dollars (\$10,000) because of injury to, or destruction of, property of others in any one (1) crash.~~

~~(11) (6)~~ There is conspicuously posted at all entrances to such business premises and above wherever rental forms are signed, on a sign in size and form (including font) approved by the Chief of Police displaying the schedule of maximum deposits allowed and including substantially the following notices:

CITY ORDINANCE REQUIRES DELIVERY OF A WRITTEN ITEMIZATION OF PARTS AND LABOR CHARGED AGAINST A SECURITY DEPOSIT AND A CLEAR PHOTOGRAPH OF ANY DAMAGE CLAIMED.

CITY ORDINANCE PROHIBITS YOUR DEPOSIT BEING USED FOR ANOTHER PERSON UNLESS YOU CONSENT BY SEPARATE WRITTEN INSTRUMENT.

IN ORDER TO RENT A MOTORCYCLE **AN AMUSEMENT VEHICLE**, YOU MUST HOLD A VALID DRIVER'S LICENSE WHICH WOULD PERMIT YOU TO OPERATE A MOTORCYCLE **SUCH VEHICLE** IN YOUR HOME STATE.

IT IS ILLEGAL FOR ANYONE NOT LISTED AS AN OPERATOR ON THE RENTAL AGREEMENT TO OPERATE THE **RENTAL VEHICLE MOTORCYCLE OR SCOOTER.**

TO RENT **AN AMUSEMENT VEHICLE** A MOTOR SCOOTER YOU MUST READ, SIGN AND HAVE IN YOUR POSSESSION WHILE DRIVING IN THE CITY A "SAFETY BROCHURE" AND WEAR A VEST WHICH THIS BUSINESS WILL GIVE TO YOU.

OPERATING A MOTOR SCOOTER **AN AMUSEMENT VEHICLE** WITHOUT THE BROCHURE OR WITHOUT WEARING THE VEST, OR VIOLATING ANY FLORIDA TRAFFIC LAWS, WILL SUBJECT YOU TO A CIVIL PENALTY OF BETWEEN \$100 AND \$500 DOLLARS, OR MORE.

Said notice shall have a white background with black Roman lettering in substantially the form on file and available for inspection in the office of the City Clerk.

(b) It shall be unlawful for any person to rent, lease or hire within the City a **an amusement vehicle, motorcycle, motor scooter or any other two or three wheeled, self-propelled vehicle,** or solicit the same within the City, to a person who is under the influence of alcoholic beverages or any controlled substance. A person is under the influence of alcoholic beverages or any controlled substance when affected to the extent that the person's normal faculties are impaired.

**(c) It shall be unlawful for any person to rent, lease or hire within the City an amusement vehicle, or solicit the same within the City, to a person who does not have a valid driver's license authorizing operation of a motor vehicle on public streets of Florida.**

(e) **(d)** It shall be unlawful for any person to operate on the public streets of the City a ~~motor scooter~~ **an amusement vehicle** which is rented, leased or hired within the City, (or within the County, as described and provided below), unless:

(1) The person operating the vehicle is listed as an operator in the rental agreement under which the vehicle is being operated and a copy of that rental agreement is secured in the vehicle or in the possession of the operator; and

(2) The operator of the vehicle has in his or her possession a Safety Brochure dated and signed by him or her that same day.

~~(d) It shall be unlawful for any person to operate on any street or highway under the City's jurisdiction a motor scooter which is rented, leased or hired within the City (or within the County, as described and provided below), unless all occupants of the vehicle are wearing on the outside of all clothing or apparel a florescent green highway safety vest upon the back of which the word "RENTAL" is applied in black, block letters four inches (4") high.~~

(e) It shall be unlawful for any person to operate on the public streets of the city a **an amusement rental vehicle** ~~motor scooter~~ which is rented, leased or hired within the City if there is on or in the vehicle an alcoholic beverage in a container not sealed with the manufacturer's original seal.

(f) The City consents to the applicability within its boundaries, and may enforce against persons who rent, lease, or hire, ~~motor scooters~~ **amusement vehicles** within the unincorporated area of Bay County bounded by Phillips Inlet, the Intracoastal waterway and St. Andrews Bay, any requirements imposed by Bay County upon such persons to the extent consistent with this article or any interlocal agreement entered between the City and Bay County.

**Sec. 22-101. - Overnight rentals and operation of rented motor scooters at night prohibited during college spring break.**

As used here, college spring break means the period commencing March 1 at 12:01 a.m. and ending March 31 at 11:59 p.m. each year, unless that period is extended by resolution of the City Council adopted on or before the immediately preceding January 31st as authorized here.

(1) No person who makes a scooter available for rent shall make a scooter available for rent overnight, or rent a scooter overnight or between 7 p.m. and 7 a.m. ~~sunset and sunrise~~ each day, during college spring break.

(2) Any rented scooter operated on the road between 7 p.m. and 7 a.m. ~~at night (between one half hour after sunset and one half hour before sunrise as estimated by the times listed in any local publication or government website)~~ during college spring break shall be confiscated and impounded by the City. Possession of the impounded scooter shall be surrendered to the owner of the scooter, or to his, her or its authorized representative, no sooner than the next business day and only after payment of an impound fee and storage fee in such amounts as may be established by resolution of the City Council from time to time based upon the charges negotiated by the city with private parties for those services.

**Sec. 22-102. - Itemization of damage claims.**

No person or business renting, leasing or hiring within the City a **an amusement vehicle** ~~motorcycle, motor scooter, moped or any other two- or three- wheeled, self-propelled vehicle~~, shall make any charge for damage to such vehicle without first delivering to the customer a written, itemized statement of such charge, separately stating each replacement part and its cost, all labor costs, and any other charge made, and one (1) or more color photographs clearly depicting the damaged parts. No additional charge may be made for such statement and photographs.

**Sec. 22-103. - Threat of arrest.**

No person or business renting, leasing or hiring within the City a **an amusement vehicle** ~~motorcycle, motor scooter, moped or any other two- or three- wheeled, self-propelled vehicle~~, shall threaten a customer with arrest or criminal prosecution for refusal to pay a damage claim or any other charge.

**Sec. 22-104. - Limitations on deposits; cross-collateralization prohibited; exceptions.**

(a) No person or business renting, leasing or hiring within the City (hereafter in this section "renting" or "rental") a self-propelled vehicle intended to be operated upon a public street shall accept anything of value as security or collateral for the full performance of the rental agreement therefor (hereafter in this section a "deposit"), other than (i) cash, or (ii) a credit card invoice upon which a maximum amount is clearly written, and in either case not exceeding the amount per vehicle set forth in subsection (d). The fee paid by a customer as consideration for the rental is not a deposit.

(b) Any value transferred to a person or business renting a vehicle within the City in connection with such rental shall be conclusively deemed to be a deposit within the meaning of the forgoing prohibition whenever the circumstances of the rental provide or reasonably infer that such value will be returned to the customer if the customer fully performs the customer's obligations under the rental agreement, including the obligation to pay the cost to repair any damage or loss sustained by the vehicle during the rental period. Nothing herein shall prohibit such person or business from collecting a non-refundable, voluntary fee to limit a customer's liability in the event of damage or loss to the rented vehicle, such a fee not being a deposit; however, any value held to secure

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satisfaction of the customer's liability so limited is a deposit within the meaning of the forgoing prohibition.

(c) No person or business renting within the City a self-propelled vehicle intended to be operated upon a public street shall permit or require the cash or credit card deposit given by one (1) or more persons, individually or jointly, with respect to one or more vehicles to be applied in excess of the amount per vehicle set forth in subsection (d).

(d) Maximum deposits permitted:

Motor Scooter (2 or 3 or 4 wheel, less than 50cc)	\$150
Electric Cart or Dune Buggy (3 or 4 wheel)	\$300
Motorcycle (50cc or greater)	\$500
All other vehicles	\$500
Vehicle Type	Deposit Cap

**Sec. 22-105. - Registration and inspection.**

(a) Each **amusement vehicle** ~~motorcycle, motor scooter, moped or any other two or three-wheeled, self-propelled vehicle, or low-speed vehicle~~ rented, leased or hired within the City shall be inspected and registered annually with the Chief of Police at the offices of the Police Department at such times as shall be specified by the Chief. The annual application for registration of each vehicle shall include:

- (1) The name, residence and mailing address of the owner, and
- (2) The name, location and mailing address of the rental, etc. business, and
- (3) The location of the business where the amusement vehicle will be offered for rental, and**
- (4) A description of each type of vehicle to be rented by the business, including make, model and manufacturer, engine displacement, maximum brake horsepower, maximum seat height from ground, and whether equipped with pedals to permit propulsion by human power, and**
- (5) The approximate number of vehicles of each type to be rented by the business, subject to a continuing obligation to promptly advise the Chief of Police of any material change in such number, and**
- (6) A description of each type of protective headgear and eye protective device to be used, including manufacturer, make model and serial number, if any, and the approximate number of each type, and**
- (7) Evidence satisfactory to the City of any the trust deposit or bond financial responsibility required by law.**

(b) Each application shall be accompanied by a registration fee in the amount of fifty dollars (\$50), plus one dollar (\$1) for each decal or medallion furnished, to defray the cost of enforcing the regulations contained in this Article.

(c) Each registration shall expire on December 31 next following issuance, regardless of the date of issuance. However, any medallion issued for a low speed vehicle which is not timely renewed by December 31 for the following calendar year shall be void and of no further use or effect.

(d) Each vehicle to be rented pursuant to this Article shall be inspected by the Chief of Police or his designee to confirm that the vehicle meets all applicable local, state, and federal safety standards, including but not limited to, confirming that the throttle, brakes, lights, blinkers and horn are in apparent working order, that the vehicle has a current tag and does not appear to leak fuel.

(e) If all conditions in the application and inspection are met, the Chief of Police or his designee shall supply and place upon each vehicle to be rented a decal or medallion, or both, in form and content specified by the Chief of Police or his designee, to identify the vehicle as a rental vehicle associated with the business renting the vehicle.

(f) Within 30 days after the amusement vehicle registration period closes, the Chief of Police shall submit to the City Council the current inventory of each type of amusement vehicle registered for rental in the City and recommend whether further regulation is necessary.

(g) The police department shall maintain for each calendar year a record of all reported traffic accidents involving amusement vehicles, and other incidents resulting in the issuance of a traffic citation (as may result from travel on a road with a posted speed limit of 35 or more). If, in the opinion of the City Manager after reviewing the annual record of information collected by the police department, a substantial or disproportionate number of accidents or incidents or both are attributable to a specific rental business or location, the City Manager may make the rebuttable presumption that the business' instruction and training are inadequate and take action to suspend the business tax receipt (for business) or development use permit (for location) as may be appropriate.

Sec. 22-105.5. – Limitation on number of Low Speed Vehicles to be rented in the City.

(a) The number of low speed vehicles available for rental in the City shall not exceed 300.

(b) On the effective date of this Ordinance, Low Speed Vehicle Rental Businesses shall be limited to offering for rental in the City the number of low speed vehicles such business had registered with the City for rental on May 12, 2016, or such higher number as permitted by Resolution 16-82. For purposes of this Ordinance, Low Speed Vehicle Rental Business shall mean the following named persons or entities:

- (1) Classy Cycles dba California Cycles/Outlaw Cycles
- (2) Classic Rentals, Inc.
- (3) MOT Dead Sea, Inc., dba King of Scooters
- (4) The Hangout by the Sea
- (5) Sara's Rentals, Inc.
- (6) Bike the Beach PCB

**(c) Each Low Speed Vehicle Business delineated in section (b) shall apply for and be granted up to 50 low speed vehicle medallions in accordance with procedures of section 22-105 of this chapter and as designated by the Chief of Police.**

**(d) The City shall prepare and issue for each Low Speed Vehicle Rental Business a number of medallions unique to that business, and each Low Speed Vehicle available for rent at a Low Speed Vehicle Rental Business must have one of those medallions affixed to it. Failure to register a low speed vehicle pursuant to Section 22-105 will result in the loss of medallions to which a low speed rental business may be entitled, though such businesses shall be permitted to obtain medallions pursuant to section (e) herein.**

**(e) Once issued, low speed vehicle medallions may only be transferred by a Low Speed Vehicle Rental Business to another person or entity under the following conditions:**

**(1) all, but no less than all, of the issued medallions unique to the existing business are conveyed to a third party, in conjunction with a sale of the existing business to that same third party. Any rights to unissued medallions of the existing business shall not survive any sale pursuant to this section; and**

**(2) if any real property interests are being conveyed by an existing business to a third party as part of the transaction contemplated above in order for such third party to carry on the rental of low speed vehicles at a certain location, the use and structures on the real property conveyed conform to the standards for Low Speed Vehicle Rental Businesses set forth in Section 5.04.07 of the City's Land Development Code. The third party to whom a low speed vehicle rental business is transferred shall enjoy no grandfathering from the requirements of Section 5.04.07 of the City's Land Development Code.**

**Sec. 22-105.56. - Enforcement and penalties.**

(a) The City finds that a violation of any section of this Article, except Section 22-105, presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature.

(b) Each violation of this Article shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation of this Article: .....\$100.  
Second violation of this Article: .....\$200.  
Third and all subsequent violations of this Article: .....\$500.

Unless otherwise specified, a person who does not contest the civil citation for violation of this Article shall be subject to a civil penalty in the following amount:

First violation of this Article: .....\$50.  
Second violation of this Article: .....\$100.  
Third and all subsequent violations of this Article: .....\$250.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

(c) This Article may be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated any section of this Article. All sworn police officers of the City shall be considered code enforcement officers for the purpose



of enforcing every section of this Article. A citation issued under any section of this Article may be contested in the county court for Bay County, Florida. The civil citation shall contain the matters specified in § 162.21 Florida Statutes (2013), or subsequent, superseding legislation, in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided in §§ 162.21(6), 775.082 & 775.083, Florida Statutes or subsequent, superseding legislation. In addition to the penalties specified in this Article, a person voluntarily paying a civil citation or convicted of a civil citation shall be required to bear all costs and fees imposed by the County Court or the office of the Clerk.

(d) **Any amusement vehicle operated on the road without a medallion shall be confiscated and impounded by the City. Possession of the impounded amusement vehicle shall be surrendered to the owner of the vehicle, or to his, her or its authorized representative, no sooner than the next business day and only after payment of an impound fee and storage fee in such amounts as may be established by resolution of the City Council from time to time based upon the charges negotiated by the City with private parties for those services.**

(e) The penalties provided here are cumulative to any other civil or criminal penalties available for violation of this the Panama City Beach Code of Ordinances, or state law.

(f) (e) Each day (any 24 consecutive hour period) that a continuing violation of this Chapter occurs or continues shall constitute a separate, civil infraction punishable by a civil penalty in the cumulative amount specified above. Repeat violations by a single person or entity may relate to different requirements imposed by this law and in different circumstance and still constitute a repeat violation for the purpose of determining the civil penalty due.

## **ARTICLE VII. GOLF CARTS**

**Sec. 22-106. Intent.**

**Sec. 22-107. Designated streets.**

**Sec. 22-108. Operation requirements and penalty.**

**Sec. 22-106. Intent.**

It is the intent of this article to permit and regulate the use of golf carts upon the streets of the City by licensed drivers ~~during the hours between sunrise and sunset.~~

**Sec. 22-107. Designated streets.**

(a) Golf carts shall be allowed to operate upon any street located within the City on [the effective date of this ordinance], except the following:

- (i) East-West streets:
  - Front Beach Road (State Road 30)
  - Hutchison Boulevard (Middle Beach Road)
  - Panama City Beach Parkway (State Road 30A or Highway 98)
  - Thomas Drive South Thomas Drive
  - North Lagoon Drive
- (ii) North-South streets:
  - Beach Boulevard (from South Thomas Drive to Front Beach Road)
  - Churchwell Road
  - Beckrich Road
  - Alf Coleman Road
  - Clara Avenue
  - Hill Road
  - Powell Adams Road
  - Highway 79

(b) Golf carts shall be permitted to cross any street listed above only at such points as are from time to time designated by resolution of the City Council where authorized, or the FDOT, and marked as crossing points with official signage.

**Sec. 22-108. Operation requirements and penalty.**

It shall be unlawful to operate a golf cart on any City street unless:

- (a) The operator **is at least 14 years of age; holds a valid, current driver's license;**
- ~~(b) The golf cart is operated during the hours between sunrise and sunset;~~
- ~~(b)~~ (e) The golf cart is operated in accordance with State or City traffic regulations;
- ~~(c)~~ (d) Such operation does not obstruct or interfere with normal traffic flow;
- ~~(d)~~ (e) The golf cart carries no more passengers than the number for which the golf cart was designed to carry; and
- ~~(e)~~ (f) The golf cart is installed with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices on both the front and rear.

A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318, Florida Statutes.

SECTION 3. From and after the effective date of this ordinance, Section 1.07.00 of the Land Development Code of the City of Panama City Beach related to Definitions, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**1.07.00 Acronyms and Definitions**

...

**Low Speed Vehicle: The term "Low Speed Vehicle" means any four-wheeled vehicles whose top speed is greater than 20 miles per hour but is not greater than 25 miles per hour, but shall not include unmodified golf carts or motor scooters. Low-speed vehicles must comply with the safety standards enumerated in C.F.R. s. 571.500 and section 316.2122, Florida Statutes.**

**Low Speed Vehicle Rental Businesses. The term "Low Speed Vehicle Rental Business" means a commercial establishment or place of business at which a Low Speed Vehicle is rented on a short-term basis and which possession of such vehicle is delivered to customers onsite for immediate use from that rental establishment or place of business. A Low Speed Vehicle Rental Business shall not include businesses where Low Speed Vehicles are sold but are not made available for rent.**

SECTION 4. From and after the effective date of this ordinance, Section 5.04.07 of the Land Development Code of the City of Panama City Beach related to Low Speed Vehicle Rentals and Sales, is created to read as follows:

### 5.04.07 Low Speed Vehicle Rental, Sales and Services

#### A. Location and Distance limitations.

1. **Low Speed Vehicle Rental Business** shall be located only on parcels fronting a road with a posted speed limit of 35 miles per hour or less.
2. **Low Speed Vehicle Rental Business** shall be located no closer than one thousand five hundred (1,500) feet to a **Single Family Residential** zoning district (R-1, R-1B, R-1C, R-1CT, and R-0).
3. No **Low Speed Vehicle Rental Business** opened or established after [the effective date of this Ordinance] shall be located within five hundred (500) feet from the next closest **Low Speed Vehicle Rental Business**.

#### B. Display of Low Speed Vehicles - All new **Low Speed Vehicle Rental Businesses** shall comply with the following Vehicle Display and appearance requirements.

1. The outdoor display of **Low Speed Vehicles** shall be limited to areas that are not otherwise required for compliance with the parking requirements of section 4.05.02.A of this Code, landscaping requirements of this Code, or any other condition required under any provision of this Code or the City's Code of Ordinances. Except as provided herein, no Low Speed Vehicles may be displayed outdoors on the **Premises** of any **Low Speed Vehicle Rental Business** in such a way as to be visible from a **Scenic Corridor** or on any portion of a property lying between the primary business entrance and the ROW.
2. All outdoor display of **Low Speed Vehicles** shall be on a hard, durable surface such as concrete or compacted gravel.
3. All **Low Speed Vehicles** displayed shall be properly anchored, secured, or stored in such a manner to avoid shifting or movement
4. **Low Speed Vehicles** awaiting departure or recently returned may not be displayed or otherwise visible from a **Scenic Corridor** or on any portion of a property lying between the primary business entrance and the ROW.

#### C. Repair and maintenance activities are limited to equipment rented on site, and shall be conducted within enclosed structures and otherwise screened from view of a **Scenic Corridor**.

#### D. The **Use**, including any signage or other display of merchandise, shall not interfere with pedestrian movement along public sidewalks or public entrances or otherwise create an unsafe condition and shall be in full compliance with all applicable federal and state accessibility standards, including but not limited to, the Americans with Disabilities Act.

- E. After the effective date of this Ordinance, there shall be no storage, parking, **Vehicle** display, signs, banners, tents or other **Accessory** or sales activity on the public right of way.
- F. All **Low Speed Vehicle Rental Businesses**, regardless of their location in the City, shall comply with the requirements of Section 7.02.03G of this Code relating to the use of Front Yards and the items authorized within them, except that with regard to Low Speed Vehicle Rental businesses the width of the Front Yard established for such use may be at least 90% the width of the front of the principal building existing at that business location on the effective date of this Ordinance.
- G. **Sign and Appearance Requirements** -- All **Low Speed Vehicle Rental Businesses** shall comply with the following Sign and appearance requirements. **Low Speed Vehicle Rental Businesses** existing on May 12, 2016, shall have until February 23, 2018 to come into compliance with these requirements. All capitalized terms used in this section shall have the meanings ascribed in the City of Panama City Beach Sign Code, as amended from time to time, which ordinance shall apply to the extent not inconsistent with this section.
  1. All Signs shall be flat **Wall Signs**.
  2. The amount of allowable **Sign Area** shall be one square foot of **Sign Area** per linear foot of **Frontage** of that **Premises**, to a maximum of twenty-five (25) square feet.
  3. **Free-Standing On-Premises Signs** are prohibited.
- H. A **Low Speed Vehicle Rental Business** shall be limited to offering a maximum of fifty (50) **Low Speed Vehicles** for rental at any one location. This limitation shall not be interpreted to limit the number of vehicles that may be stored or displayed indoors at a location that can reasonably accommodate the storage or display of such vehicles, or to permit the rental or storage of any number of low speed vehicles beyond the site's capacity to reasonably accommodate that number of vehicles.
- I. **Section Not Independently Authorizing Use.** Nothing in this section shall be construed to permit the establishment or maintenance of any **Low Speed Vehicle Rental Business** not otherwise permitted by the other chapters of this LDC or any other applicable law.

SECTION 5. From and after the effective date of this ordinance, Table 4.05.02.A of the Land Development Code of the City of Panama City Beach related to Parking Space Requirements, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Table 4.05.02.A: Parking Space Requirements**

Type of Use or activity	Minimum Number of Spaces
<u>Low Speed Vehicle</u> , motorcycle, and paddle boat rentals	1 per employee on the largest shift, plus 1 per 2 rental Vehicles.

SECTION 6. From and after the effective date of this ordinance, Table 2.03.02 of the Land Development Code of the City of Panama City Beach related to Land Uses in Base Zoning Districts, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Table 2.03.02: Land Uses in Base Zoning Districts**

Land Uses	AR	R-1a	R-1b	R-1c	R-1cT	RO	RTH	R-2	R-3	CL	CM	CH	M1	C	R	PF
<u>Low Speed Vehicle Rental Business</u>												<u>S</u> <u>5.04.0</u> <u>Z</u>				

SECTION 7. HARDSHIP EXTENSION OF TIME FOR COMPLIANCE WITH SIGN AND APPEARANCE REQUIREMENTS -- To mitigate any potential economic impact and to prevent any alleged taking of private property that could be caused by the operation of Section 5.04.07(G) of the Panama City Beach Land Development Code, the owner or real property or operator of a Low Speed Vehicle

Rental Business may apply to the City Council for an extension of time within which to comply with Subsection G on the grounds that the effect of subsection G within the allotted time causes undue hardship by depriving that person of the ability to recoup any reasonable investment made by that entity in signs or other property deemed nonconforming by Subsection G.

(a) Time and Manner of Application - An application for an extension of time within which to terminate a use made nonconforming by the provisions of subsection G may be filed by the owner of the affected real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the City Manager at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in subsection G for termination of such use.

(b) Procedure and Decision: If an application is made to the City Manager pursuant to this subdivision, a public hearing before the City's Planning Board shall be set by the City Manager and duly noticed at least ten (10) days prior to hearing. After considering the recommendation of the Planning Board, and all evidence submitted in support of and opposition to the application for hardship extension, the Council may grant a limited extension on terms and conditions that are fair, reasonable and consistent with the protection of the public health, safety and welfare to prevent a taking of undue hardship or a taking of private property without just compensation. Such application shall be subject to any fee set by the City Council from time to time by resolution.

SECTION 8. SUNSET. The provisions of this ordinance amending Section 22-105.5 of the Panama City Beach Code of Ordinances shall cease to be effective two (2) years from the effective date of this Ordinance unless otherwise extended in accordance with applicable law.

SECTION 9. REPEAL. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 10. CODIFICATION. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code of Ordinances and the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following each such publication, each codification of this Ordinance shall become the final and official record of the matters herein ordained and there codified. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 11. SEVERABILITY. If any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR

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