

RESOLUTION 17-94

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING EASEMENT AGREEMENTS WITH THE SCHOOL BOARD OF BAY COUNTY, WATERSOUND TRAIL, LLC, BREAKFAST POINT COMMUNITY ASSOCIATION, INC., AND GULF POWER COMPANY RELATED TO GAYLE'S TRAILS; AUTHORIZING A BUDGET AMENDMENT TO APPROPRIATE RECREATION IMPACT FEES FOR VARIOUS COSTS; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

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

1. The appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Greenways and Trails Agreement between the City and the School Board of Bay County, Florida, relating to the construction of a pedestrian and bike trail at Arnold High School for Gayle's Trails, in substantially the form attached as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
2. The appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Non-Exclusive Easement Agreement between the City and the Watersound Trail, LLC relating to the stormwater drainage, the installation, operation, maintenance and repair of underground utilities, and the construction, operation, maintenance and repair of a paved trail for public use, and in emergency circumstances, use by emergency vehicles, which may include signage, in substantially the form attached as Exhibit B and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
3. The appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Non-Exclusive Easement Agreement between the City and the Breakfast Point Community Association, Inc., relating to the stormwater drainage, the installation, operation, maintenance and repair of underground utilities, and the construction, operation, maintenance and repair of a paved trail for public use, and in emergency circumstances, use by emergency vehicles, which may include signage, in substantially the form attached as Exhibit C and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
4. The appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Easement Agreement between the City and the Gulf Power Company, relating to the pedestrian and bicycle ingress and egress access of the property, in substantially the form attached as Exhibit D and presented to the Council today, with such changes, insertions or omissions as may be approved by

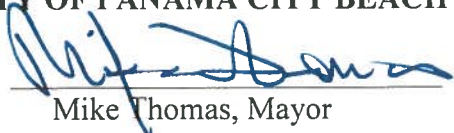
the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.

5. The following budget amendment (#38) 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 E, to appropriate recreation impact fees for the purposes stated herein.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 25th day of May, 2017.

CITY OF PANAMA CITY BEACH

By: 
Mike Thomas, Mayor

ATTEST


Diane Floyd, City Clerk

GREENWAYS & TRAILS ACCESS EASEMENT

THIS GREENWAYS AND TRAILS ACCESS EASEMENT AGREEMENT (the "Agreement") is made this ____ day of _____, 20____, between **THE SCHOOL BOARD OF BAY COUNTY, FLORIDA**, a school board duly organized and existing under the laws of the State of Florida (hereinafter referred to as "Grantor" or "School Board"), and the **CITY OF PANAMA CITY BEACH**, a municipality created by the State of Florida, whose address is 110 S. Arnold Road, Panama City Beach, Florida 32413 (hereinafter referred to as the "City").

WHEREAS, School Board is the fee simple owner of the real property located at 550 Alf Coleman Road, Panama City Beach, Florida, and identified by the Bay County Property Appraiser as Parcel No 34034-001-000 (hereinafter referred to as the "Parent Parcel");

WHEREAS, the greenways and trails to be constructed by City may become inconsistent with the rights and privileges of Grantor which are necessary and convenient for its full enjoyment and use of the Parent Parcel;

WHEREAS, Grantor and City desire to set forth their mutual understanding regarding the City's use of certain portions of the Parent Parcel.

NOW THEREFORE, Grantor and City, for and in consideration of the sum of \$10.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual promises herein contained, do hereby covenant and agree as follows:

I. GRANT OF TRAIL AND ACCESS EASEMENT.

(a) Subject to the terms and conditions hereinafter provided, Grantor hereby grants to the City, its successors and assigns, a perpetual, non-exclusive easement on, over and across that portion of the Parent Parcel more particularly described in Exhibit "A" attached hereto and incorporated by reference herein (hereinafter referred to as the "Trail Easement Parcel") for pedestrian and bicycle access, ingress to and egress as part of a natural trails system (hereinafter the "Trail Facilities"), and for the purpose of constructing, installing, maintaining, repairing, altering, operating and accessing that trail on the Parent Parcel (the "Trail Easement"). No form of travel, other than by foot or bicycle, is authorized by this Trail Easement, including without limitation, travel by motorized vehicles, motorcycles, or all-terrain vehicles, except that motorized vehicles shall be authorized to enter any part of the Trail Easement for construction, maintenance, security or emergency purposes.

(b) The public is not authorized by this Trail Easement to access or enter any portion of the Parent Parcel outside of this Trail Easement for any purpose. The parties acknowledge that loitering, trespassing onto the Parent Parcel, overnight stays or extended-day usage, loud or interfering noise, including radios, CD players, amplified sound and the like, or alcoholic beverage consumption shall not be allowed by any person within the Trail Easement. Any violation of the terms and restrictions recited herein by an individual shall constitute grounds for immediate termination of the individual's right to use the Trail Easement and his

Exhibit A

immediate removal by lawful means from the Trail Easement. The parties agree and acknowledge that the City will enforce its Code of Ordinances relating to use of Gayle's Trails to ensure compliance with this sub-section (b).

2. **TRAIL IMPROVEMENTS.**

(a) **SIGNAGE.** The City will provide and maintain such directional and risk warning signage along and within the Trail Easement Parcel to give notice to those using such Trail Easement of potential hazards as City deems appropriate. The City will further provide and maintain such informational signage along the Trail Easement Parcel to identify the Trail Easement Parcel boundary and inform the public that entry onto the Parent Parcel is unauthorized for any purpose. The City and Grantor will work together on the design and content of the signage which will be intended to blend with the natural environment.

(b) **LANDSCAPING.** Concurrent with construction of the Trail Facilities, the City will install landscaping of a type mutually acceptable to the parties along the Trail Easement Parcel. Grantor will be responsible, at its sole expense, for maintenance of such landscaping, and the installation and repair of any irrigation necessary to maintain the landscaping.

3. **COST OF CONSTRUCTION.** The cost of construction of the Trail Facilities on, over and within the Trail Easement Parcel shall be paid by the City.

4. **MAINTENANCE AND REPAIRS.**

(a) Subject to the provisions of this Agreement, the City shall restore the surface of all disturbed areas within the Trail Easement Parcel to its original contour to the reasonable satisfaction of Grantor including but not limited to, all slopes for the drainage pattern within the Trail Easement Parcel that existed prior to commencement of construction or maintenance of the Trail Facilities, provided that such damage shall have been occasioned by the City's construction of the Trail Facilities.

(b) Following the construction of the Trail Facilities, the City, at its sole cost and expense, shall maintain, or cause to be maintained in good order and in a sightly and safe condition, those Trail Facilities. Except as otherwise expressly provided in this Agreement, once constructed, in the event of any damage to or destruction of all or a portion of the Trail Facilities, the City shall, at its sole cost and expense, with due diligence, repair, restore and rebuild such Trail Facilities to their condition prior to such damage or destruction. Further, any user of the Trail Facilities shall be liable for any damages to such Trail Facilities caused by such user's negligence or intentional misconduct.

5. **IMPROVEMENTS.** The parties acknowledge that except as set forth herein, no improvements other than trails, signage, fences and landscaping shall be constructed by the City or any other party within the Trail Easement Parcel, though existing utilities of the Grantor located within the Trail Easement Parcel may be relocated, repaired and maintained at City's expense. Grantor may use its parcel for any purpose not incompatible with the easements granted herein including, without limitation, the right to construct, modify, alter, maintain and use the roads,

streets, parking areas, walkways and other improvements over, upon and across the same and to construct and install utility improvements, subject to all applicable regulations of the applicable governmental authorities, provided that such reserved rights do not obstruct or interfere with the easement rights herein granted. In the event Grantor determines that expansion of the Arnold High School Campus necessitates the placement or construction of buildings or structures within the Trail Easement Parcels, the parties agree that the Trail Easement Parcel may be relocated at Grantor's expense to another location on Grantor's Parent Parcel, provided, however, that the points of egress and ingress onto the Grantor's property are unchanged and the width of the easement is at no point less than 16' wide.

6. OBLIGATION TO COMPLY WITH ALL LAWS AND REGULATIONS.

Grantor and the City shall comply with all governmental or quasi-governmental laws, ordinances, rules, and regulations of every kind pertaining to the easements granted herein or to the use and occupancy thereof, including without limitation, any such law, ordinance, rule or regulation regarding or relating to environmental protection, pollution, sanitation or safety. No party hereto will commit or suffer any waste of any of the easements granted herein, nor will they use or permit any use of any of the easements granted herein for any illegal purpose or in any such way as to constitute a public nuisance or in any way so as to violate or breach any law, rule, regulation or ordinance to which any of the easements granted herein are subject.

7. REMEDIES AND ENFORCEMENT.

(a) In the event of a breach or threatened breach by any party or its permittees of any of the terms, covenants, restrictions or conditions hereof, the other party shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including specific performance.

(b) In addition to all other remedies available at law or in equity, upon the failure of a defaulting party (the "Defaulting Party") to cure a breach of this Agreement within thirty (30) days following written notice thereof by a party (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the Defaulting Party commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), the non-defaulting party (the "Non-Defaulting Party") shall have the right to perform such obligation contained in this Agreement on behalf of the Defaulting Party and be reimbursed by the Defaulting Party upon demand for the reasonable costs thereof. Notwithstanding the foregoing, in the event of (i) an emergency, or (ii) blockage or material impairment of the easement rights, a party may immediately cure the same and be reimbursed by the other party upon demand for the reasonable cost thereof.

(c) In addition to all remedies available at law or in equity, if the City's failure of enforcement of the duty enumerated in subsection 1(b) above results in a civil penalty issued by DEP to the Grantor for disturbance of the Conservation Easement located north of the Trail Easement Parcel, City agrees to reimburse Grantor for such civil penalty or cost of restoration up to \$300,000.

(d) The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

(e) Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any party to cancel, rescind, or otherwise terminate this Agreement.

8. **INDEMNIFICATION.**

9. **RUNNING OF BENEFITS AND BURDENS.** All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties hereto.

10. **ENFORCEMENT; ATTORNEY'S FEES.** In the event of any default under this instrument, the party not in default shall be entitled to any and all remedies available at law or in equity, including but not limited to an injunction or specific performance. Any party which prevails in any such litigation to enforce the provisions hereof shall recover as part of his costs a reasonable attorney's fee, together with such other costs and expenses as the court deems appropriate.

11. **CONSTRUCTION.** The rule of strict construction does not apply to these easement grants. These grants shall be given a reasonable construction so that the intention of the parties to confer a usable right of enjoyment on each party is carried out.

12. **NOTICE.** The addresses of Grantor and the City are as set forth in the initial paragraph. Any party may give written notice of change of address with the others. All notices shall be sent by U.S. mail to the addresses provided for in this paragraph or to the last known address and shall be deemed given when placed in the mail.

13. **WAIVER.** No waiver of any of the provisions hereof shall be effective unless it is in writing and signed by the party against whom the waiver is asserted. Any such written waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing waiver or waiver of any future matter.

14. **DELEGATION OF AUTHORITY.** The parties are public agencies as defined in 163.01(3)(b), and as such may exercise jointly with each other any power, privilege or authority which the parties share in common and which each might exercise separately. In order to see the Trail Facilities contemplated by this Easement Agreement fully realized, the parties agree that the City of Panama City Beach is authorized to apply on behalf of The School Board of Bay County, for the relocation of existing wetlands and conservation easements located on School Board property and the revision of any permits or easements related thereto. The School Board of Bay County, Florida, hereby delegates to the City Manager of the City of Panama City Beach, signatory authority for permit applications and information requested by Florida Department of Environmental Protection or the Army Corps of Engineers related to the revision of those permits or relocation of those easements to accomplish the construction of the pedestrian trail contemplated by this Easement Agreement, provided however, that any such documents to be signed by the City on behalf of the School Board shall be reviewed by the Director of Facilities for Bay District Schools prior to such execution by the City and copies of any such documents executed by the City on behalf of the School Board be transmitted to the Director of Facilities for Bay District Schools following such execution and transmittal to the permitting agency. This signatory authority shall not extend to the execution of any documents conveying School Board

realty, though the School Board understands and agrees that conveyance of amended deeds or easements are the foreseeable and desired result of such permit applications and revisions for which signatory authority is given. The signatory authority shall be terminated upon issuance of all permits necessary to construct the Trail Facilities. Any permit application fees and associated costs for such shall be borne entirely by the City.

15. **ENTIRE AGREEMENT; AMENDMENT.** The parties hereto agree that the entire agreement between the parties with respect to the easements is set forth in this instrument. This Agreement may be amended only by an instrument in writing and signed by the then owner of the Parent Parcel and the City.

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

THE SCHOOL BOARD OF BAY COUNTY, FLORIDA

ATTEST:

By: Steve C. Moss
Steve Moss, Chairman

William V. Husfelt, III
William V. Husfelt, III, Superintendent

STATE OF Florida
COUNTY OF Bay

The foregoing instrument was acknowledged before me this 28 day of October 2016, by Steve Moss and William V. Husfelt, III as Chairman and Superintendent respectively of The School Board of Bay County, Florida, on behalf of the School Board, and who are personally known to me.



Joette Mashburn
Notary Public, State of _____
Name: _____
My Commission Expires: _____
My Commission Number is: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CITY OF PANAMA BEACH, a municipality
created by the State of Florida

ATTEST:

By: _____
Mario Gisbert, City Manager

Diane Fowler, City Clerk

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____ 20___, by Mario Gisbert and Diane Fowler, as City Manager and City Clerk, respectively, of the City of Panama City Beach, on behalf of the City, and who are personally known to me.

Notary Public, State of _____
Name: _____
My Commission Expires: _____
My Commission Number is: _____

Exhibit "A"

Legal Description of Trail Easement Parcel

MULTI USE PATH EASEMENT - BAY COUNTY SCHOOL BOARD

A PARCEL OF LAND LYING AND BEING IN SECTIONS 23, 24 AND 25, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND NAIL AND DISK STAMPED DRMP, MARKING THE SOUTHWEST CORNER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND PROCEED SOUTH 89 DEGREES 13 MINUTES 50 SECONDS EAST, ALONG THE SOUTH BOUNDARY LINE OF SAID SECTION 24, FOR A DISTANCE OF 32.43 FEET TO THE POINT OF BEGINNING, THENCE LEAVING SAID SOUTH BOUNDARY LINE PROCEED NORTH 52 DEGREES 14 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 216.67 FEET; THENCE SOUTH 83 DEGREES 32 MINUTES 57 SECONDS WEST; FOR A DISTANCE OF 17.29 FEET; THENCE NORTH 52 DEGREES 14 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 42.88 FEET, THENCE NORTH 8 DEGREES 01 MINUTES 54 SECONDS WEST, FOR A DISTANCE OF 17.29 FEET, THENCE NORTH 52 DEGREES 14 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 600.00 FEET; THENCE SOUTH 37 DEGREES 45 MINUTES 31 SECONDS WEST, FOR A DISTANCE OF 42.18 FEET; THENCE NORTH 52 DEGREES 14 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 56.63 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF ALF COLEMAN ROAD; THENCE NORTH 37 DEGREES 45 MINUTES 31 SECONDS EAST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 62.18 FEET; THENCE LEAVING SAID SOUTHEASTERLY RIGHT OF WAY LINE PROCEED SOUTH 52 DEGREES 14 MINUTES 29 SECONDS EAST, FOR A DISTANCE OF 1269.28 FEET; THENCE SOUTH 88 DEGREES 06 MINUTES 39 SECONDS EAST, FOR A DISTANCE OF 778.34 FEET TO THE SOUTHWEST CORNER (ALSO MOST WEST CORNER) OF LOT 34, BREAKFAST POINT PHASE I, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 24, PAGES 57 THROUGH 64 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA; THENCE SOUTH 70 DEGREES 26 MINUTES 17 SECONDS EAST, ALONG THE SOUTH BOUNDARY LINE OF SAID LOT 34, FOR A DISTANCE OF 154.72 FEET TO THE WESTERLY BOUNDARY LINE OF SAID BREAKFAST POINT PHASE I, THENCE SOUTH 23 DEGREES 46 MINUTES 42 SECONDS WEST, ALONG SAID WESTERLY BOUNDARY, FOR A DISTANCE OF 20.05 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY LINE PROCEED NORTH 70 DEGREES 26 MINUTES 17 SECONDS WEST, FOR A DISTANCE OF 157.15 FEET; THENCE NORTH 88 DEGREES 06 MINUTES 39 SECONDS WEST, FOR A DISTANCE OF 781.70 FEET; THENCE NORTH 52 DEGREES 14 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 334.78 FEET TO THE POINT OF BEGINNING, CONTAINING 1.082 ACRES, MORE OR LESS

This instrument prepared by
and to be returned to:
Kevin D. Obos, Esq.
Harrison Sale McCloy
P.O. Drawer 1579
Panama City, Florida 32402

NON-EXCLUSIVE EASEMENT AGREEMENT

29 THIS NON-EXCLUSIVE EASEMENT AGREEMENT ("Easement Agreement") is made this day of March, 2017, by and between Watersound Trail, LLC, a Florida limited liability company, with a post office address of 133 South Watersound Parkway, Watersound, Florida 32461 (hereinafter referred to as the "Grantor") and the City of Panama City Beach, with a post office address of 110 South Arnold Road, Panama City Beach, Florida 32413 (hereinafter referred to as the "Grantee").

WITNESSETH:

1. That the Grantor for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants unto the Grantee, its employees, agents, officers, representatives, independent contractors, guests, invitees and licensees, in perpetuity, a non-exclusive easement over, under, and across property located in Bay County, Florida and as more particularly described in Exhibit "A" attached hereto and made a part hereof, (hereinafter the "Easement Property"). The purposes of the easement are strictly limited to stormwater drainage; the installation, operation, maintenance and repair of underground utilities ("Utilities"); and the construction, operation, maintenance and repair of a paved trail for public use and, in emergency circumstances, use by emergency vehicles, which may include signage ("Trail").
2. The foregoing grant of easement shall run with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective successors, successors in interest or title and permitted assigns.
3. Grantee shall not be permitted to alter or improve the Easement Property in any manner, except as allowed in Paragraph 1. The cost of any and all improvements shall be borne solely by Grantee. Grantee shall be required to abide by the terms and conditions of any and all applicable permits governing the Easement Area.
4. Grantor reserves the right and privilege to use and occupy and to grant to others the right to use and occupy the subsurface, surface and air space over the Easement Property for any purpose which does not interfere with the rights herein granted to Grantee.
5. It is understood and agreed by and between Grantor and Grantee that to the extent the Grantee installs the Utilities or constructs the Trail within the Easement Property, that such Utilities and Trail shall at all times be and remain the absolute property of the Grantee, and subject to its complete dominion and control.
6. In the event that Grantor determines that Grantee is overburdening the Easement Property or using the Easement Property in a way that would restrict Grantor's use or access of the Easement Property, Grantor reserves and shall have the right and authority to require that Grantee redesign, relocate or change the location of the Easement Property and/or any improvements constructed within the Easement

Exhibit B

Property as may be necessary or desirable in the sole judgment of the Grantor, upon reasonable notice. Grantee shall be solely responsible for the cost of relocation of any improvements.

7. To the extent not prohibited by applicable law, Grantor shall have no liability to Grantee or its employees, guests, invitees, agents or independent contractors for loss of personal property, death or personal injury incurred by Grantee or any such third parties on or about the Easement Property. By acceptance of this easement, Grantee agrees to defend, indemnify and hold harmless Grantor and any subsidiaries and affiliated companies of Grantor, its officers, directors, employees and designated agents from and against any and all losses, damages, injuries, causes of action, claims, demands and expenses (whether based upon tort, breach of contract, failure to pay employee taxes or withholdings, failure to obtain workers' compensation insurance or otherwise), including legal fees and expenses, of whatever kind or nature to the extent arising out of use of the Easement Property by Grantee, its employees, guests, agents, invitees or independent contractors.

8. Grantee, by acceptance of this easement, hereby agrees to maintain the Easement Property in good repair and shall at all times keep the Easement Property clear of all structures, obstructions, trees, shrubbery, undergrowth and roots or objects that may interfere with the Utilities or the Trail.

9. Grantee agrees to provide reasonable restoration to the Easement Property and surrounding area as a result of its installation, operation, maintenance, repair or reconstruction of the Utilities or the Trail.

10. Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with uses of the adjacent property owned by Grantor.

11. The easement conveyed herein shall continue in effect for so long as Grantee shall use the Easement Property for its intended purpose as expressed herein. In the event Grantee abandons or ceases to use the Easement Property for the purposes set forth in this Easement Agreement for a period of six (6) months or longer, all rights herein granted shall be considered abandoned. Upon such abandonment, the parties agree that Grantor shall have the right, without any further authority of Grantee, to record in the Official Records of Bay County, Florida an affidavit describing the abandonment of the easement and declaring this Easement Agreement to be terminated. The parties further agree that such affidavit shall be sufficient and competent evidence of such abandonment and termination without further documentation by either Grantor or Grantee.

12. Grantor may terminate this Easement Agreement in the event Grantee fails to comply with the terms of this Easement Agreement.

13. The Easement Property is subject to the St. Joe Ecosystem Management Agreement (the "EMA") for Bay and Walton Counties entered into by The St. Joe Company and the Florida Department of Environmental Protection ("FDEP") October 11, 2004, and to the Regional General Permit SAJ-86 ("RGP") covering a regional area inclusive of the Property authorized by the Army Corp of Engineers ("Corps") on June 30, 2004, renewed June 23, 2009 and March 15, 2015. The EMA and RGP (SAJ-86) establish certain guidelines for regulatory permitting of the Easement Property subject to the jurisdiction of the FDEP, the Corps and other applicable governmental agencies and may be reviewed at <http://www.dep.state.fl.us/northwest/StJoeEMA/joeema.htm>. Grantee acknowledges and agrees that any permitting contemplated pursuant to the EMA and RGP shall require The St. Joe Company to be a co-applicant under such applications. Grantee agrees to obtain any necessary permits related to wetlands impacts, subsequent mitigation and the management of stormwater or provision of stormwater improvements necessary to support the project in compliance with the EMA and RGP. Grantee shall be solely responsible for any and all costs related to the application for the EMA and RGP permits. Grantee agrees to comply with all applicable laws, rules and regulations, including but not limited to provisions of

the EMA and RGP, governing the use and development of any wetlands. In the event Grantee is permitted to fill or otherwise impact any wetlands located on the Easement Property pursuant to the EMA and/or RGP, Grantee agrees not to fill or otherwise impact any wetlands beyond the boundary of that for which a permit is obtained. Furthermore, Grantee acknowledges and agrees that it shall comply with the stormwater management system requirements attached as Appendix E to the EMA. Grantee shall defend, indemnify and hold The St. Joe Company harmless from and in respect to any loss, costs, expenses and damages associated with either (a) the unauthorized filling or impacting of wetlands within or beyond the boundary of the Easement Property, including but not limited to the impacting of wetlands beyond that permitted hereunder, and agrees to promptly restore said property to its original condition prior to filling or impacting pursuant to the written direction of The St. Joe Company and/or applicable governing authorities or (b) Grantee's failure to comply with the RGP or EMA including but not limited to the stormwater management requirements of the EMA.

14. Except as expressly provided in this paragraph, without the prior written consent of Grantor, which consent Grantor may withhold in its sole and absolute discretion, the Grantee shall not assign, transfer or license all or any portion of its interests under this Easement Agreement in any manner and shall not delegate any of its obligations under this Easement Agreement in any manner.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Easement Agreement to be executed on the day and year set forth above.

Signed, seal and delivered
in the presence of

April Wilkes
Name: April Wilkes
Janet P. Greeno
Name: JANET P. GREENO

WATERSOUND TRAIL, LLC,
a Florida limited liability company

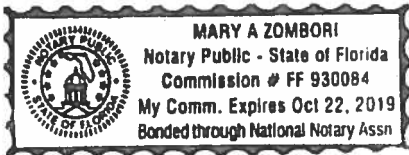
By: Patrick Murphy
Name: Patrick Murphy
Its: President

STATE OF FLORIDA
COUNTY OF WALTON

The foregoing instrument was acknowledged before me this 29 day of March, 2017, by Patrick Murphy, of Watersound Trail, LLC, a Florida limited liability company, who is personally known to me.

My commission expires:

Mary A Zombori
(Notary Public - Signature)



CITY OF PANAMA CITY BEACH

By: _____
Mario Gisbert, City Manager

ATTEST:

By: _____
Holly J. White, City Clerk

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Mario Gisbert and Holly J. White, as City Manager and City Clerk of the City of Panama City Beach, who are personally known to me.

My commission expires:

(Notary Public - Signature)

EXHIBIT "A"
EASEMENT PROPERTY

A parcel of land lying and being in the Southwest Quarter of Section 23, Township 3 South, Range 16 West, Bay County, Florida and being more particularly described as follows:

Commence at a found 5/8" iron rod and cap no. 7546, marking the Southwest corner of the Southeast Quarter of Section 23, Township 3 South, Range 16 West, Bay County, Florida and proceed South 89 degrees 33 minutes 05 seconds East, along the South boundary line of said Southeast Quarter, for a distance of 866.97 feet to a point on the East boundary line of the 100 foot Gulf Power Company right of way as recorded in Deed Book 153, Page 567 of the Public Records of Bay County, Florida; thence leaving said South boundary line proceed North 00 degrees 26 minutes 04 seconds East, along said East boundary line, for a distance of 1202.90 feet to the Point of Beginning; thence continue North 00 degrees 26 minutes 04 seconds East, along said East boundary line, for a distance of 34.78 feet; thence leaving said East boundary line proceed South 59 degrees 10 minutes 40 seconds East, for a distance of 1109.09 feet to a point on the West right of way of Alf Coleman Road as recorded in Official Records Book 1850, Page 2030 of the Public Records of Bay County, Florida; thence South 37 degrees 44 minutes 12 seconds West, along said West right of way line, for a distance of 30.22 feet; thence leaving said West right of way proceed North 59 degrees 10 minutes 40 seconds West, for a distance of 1087.86 feet to the Point of Beginning.

AND

A parcel of land lying and being in the South half of Section 23, Township 3 South, Range 16 West, Bay County, Florida and being more particularly described as follows:

Commence at a 4" by 4" concrete monument no. LB6682, marking the Southwest corner of the Northwest quarter of Section 23, Township 3 South, Range 16 West, Bay County, Florida and proceed North 00 degrees 36 minutes 24 seconds East, along the West boundary line of said Northwest quarter, for a distance of 643.61 feet to a point on the South boundary line of a 100 foot Gulf Power Company right of way as recorded in Deed Book 153, Page 567 of the Public Records Bay County, Florida (point also being on the North boundary line of a Conservation Easement recorded in Official Records Book 2648, Page 724 of the Public Records Bay County, Florida); thence leaving said West boundary line proceed South 59 degrees 10 minutes 44 seconds East, along said boundaries, for a distance of 2056.71 feet to the Northeast corner of said Conservation Easement for the Point of Beginning; thence continue South 59 degrees 10 minutes 44 seconds East, along said South boundary of the Gulf Power right of way, for a distance of 1883.99 feet to the Westerly boundary of said Gulf Power right of way; thence South 00 degrees 26 minutes 04 seconds West, along said right of way, for a distance of 29.98 feet to the Northeast corner of property recorded in Official Records Book 3754, Page 2077 of the Public Records Bay County, Florida; thence leaving said right of way proceed North 59 degrees 10 minutes 40 seconds West, along the North boundary line of said property, for a distance of 617.52 feet to a found 5/8 inch iron rod and cap no. 2372, marking the Northwest corner of said property (also the Northeast corner of property recorded in Official Records Book 3772, Page 1478 of the Public Records Bay County, Florida); thence North 59 degrees 26 minutes 08 seconds West, along the North boundary line of said property recorded in Official Records Book 3772, Page 1478, for a distance of 187.83 feet; thence South 78 degrees 01 minutes 56 seconds West, along said North boundary line, for a distance of 4.87 feet; thence leaving said North boundary line proceed North 59 degrees 10 minutes 44 seconds West, for a distance of 1072.70 feet to the East boundary line of aforesaid Conservation Easement recorded in Official Records Book 2648, Page 724; thence North 00 degrees 31 minutes 24 seconds East, along said East boundary line, for a distance of 34.75 feet to the Point of Beginning.

AND

A parcel of land lying and being in the West half of Section 23, Township 3 South, Range 16 West, Bay County, Florida and being more particularly described as follows:

Commence at a 4" by 4" concrete monument No. LB6682 marking the Southwest corner of the Northwest Quarter of said Section 23 and proceed North 00 degrees 36 minutes 24 seconds East, along the West boundary line of said Northwest quarter, for a distance of 759.33 feet to the North boundary line of the 100 foot Gulf Power Company right of way as recorded in Deed Book 153, Page 567 of the Public Records Bay County, Florida for the Point of Beginning; thence leaving said North boundary line proceed South 89 degrees 16 minutes 09 seconds East, for a distance of 59.84 feet; thence South 59 degrees 10 minutes 44 seconds East, for a distance of 1993.52 feet; thence South 09 degrees 05 minutes 53 seconds East, for a distance of 39.12 feet to the aforesaid North boundary of the 100 foot Gulf Power right of way; thence North 59 degrees 10 minutes 44 seconds West, along said North boundary line for a distance of 2070.39 feet to the Point of Beginning.

NON-EXCLUSIVE EASEMENT AGREEMENT

THIS NON-EXCLUSIVE EASEMENT AGREEMENT ("Easement Agreement") is made this _____ day of _____, 2017, by and between **Breakfast Point Community Association, Inc.**, a Florida not for profit corporation, with a post office address of 133 South Watersound Parkway, Watersound, Florida 32461 (hereinafter referred to as the "Grantor") and the City of Panama City Beach, with a post office address of 110 South Arnold Road, Panama City Beach, Florida 32413 (hereinafter referred to as the "Grantee").

WITNESSETH:

1. That the Grantor for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants unto the Grantee, its employees, agents, officers, representatives, independent contractors, guests, invitees and licensees, in perpetuity, a non-exclusive easement over, under, and across property located in Bay County, Florida and as more particularly described in Exhibit "A" attached hereto and made a part hereof, (hereinafter the "Easement Property"). The purposes of the easement are strictly limited to stormwater drainage; the installation, operation, maintenance and repair of underground utilities ("Utilities"); and the construction, operation, maintenance and repair of a paved trail for public use and, in emergency circumstances, use by emergency vehicles, which may include signage ("Trail").
2. The foregoing grant of easement shall run with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective successors, successors in interest or title and permitted assigns.
3. Grantee shall not be permitted to alter or improve the Easement Property in any manner, except as allowed in Paragraph 1. The cost of any and all improvements shall be borne solely by Grantee. Grantee shall be required to abide by the terms and conditions of any and all applicable permits governing the Easement Area.
4. Grantor reserves the right and privilege to use and occupy and to grant to others the right to use and occupy the subsurface, surface and air space over the Easement Property for any purpose which does not interfere with the rights herein granted to Grantee.
5. It is understood and agreed by and between Grantor and Grantee that to the extent the Grantee installs the Utilities or constructs the Trail within the Easement Property, that such Utilities and Trail shall at all times be and remain the absolute property of the Grantee, and subject to its complete dominion and control.
6. In the event that Grantor determines that Grantee is overburdening the Easement Property or using the Easement Property in a way that would restrict Grantor's use or access of the Easement Property, Grantor reserves and shall have the right and authority to require that Grantee redesign, relocate or change the location of the Easement Property and/or any improvements constructed within the Easement Property as may be necessary or desirable in the sole judgment of the Grantor, upon reasonable notice. Grantee shall be solely responsible for the cost of relocation of any improvements.
7. To the extent not prohibited by applicable law, Grantor shall have no liability to Grantee or its employees, guests, invitees, agents or independent contractors for loss of personal property, death or personal injury incurred by Grantee or any such third parties on or about the Easement Property. By acceptance of this easement, Grantee agrees to defend, indemnify and hold harmless Grantor and any subsidiaries and affiliated companies of Grantor, its officers, directors, employees and designated agents from and against any and all losses, damages, injuries, causes of action, claims, demands and expenses (whether based upon tort, breach of contract, failure to pay employee taxes or withholdings, failure to obtain

Exhibit C

workers' compensation insurance or otherwise), including legal fees and expenses, of whatever kind or nature to the extent arising out of use of the Easement Property by Grantee, its employees, guests, agents, invitees or independent contractors.

8. Grantee, by acceptance of this easement, hereby agrees to maintain the Easement Property in good repair and shall at all times keep the Easement Property clear of all structures, obstructions, trees, shrubbery, undergrowth and roots or objects that may interfere with the Utilities or the Trail.

9. Grantee agrees to provide reasonable restoration to the Easement Property and surrounding area as a result of its installation, operation, maintenance, repair or reconstruction of the Utilities or the Trail.

10. Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with uses of the adjacent property owned by Grantor.

11. The easement conveyed herein shall continue in effect for so long as Grantee shall use the Easement Property for its intended purpose as expressed herein. In the event Grantee abandons or ceases to use the Easement Property for the purposes set forth in this Easement Agreement for a period of six (6) months or longer, all rights herein granted shall be considered abandoned. Upon such abandonment, the parties agree that Grantor shall have the right, without any further authority of Grantee, to record in the Official Records of Bay County, Florida an affidavit describing the abandonment of the easement and declaring this Easement Agreement to be terminated. The parties further agree that such affidavit shall be sufficient and competent evidence of such abandonment and termination without further documentation by either Grantor or Grantee.

12. Grantor may terminate this Easement Agreement in the event Grantee fails to comply with the terms of this Easement Agreement.

13. The Easement Property is subject to the St. Joe Ecosystem Management Agreement (the "EMA") for Bay and Walton Counties entered into by The St. Joe Company and the Florida Department of Environmental Protection ("FDEP") October 11, 2004, and to the Regional General Permit SAJ-86 ("RGP") covering a regional area inclusive of the Property authorized by the Army Corp of Engineers ("Corps") on June 30, 2004, renewed June 23, 2009 and March 15, 2015. The EMA and RGP (SAJ-86) establish certain guidelines for regulatory permitting of the Easement Property subject to the jurisdiction of the FDEP, the Corps and other applicable governmental agencies and may be reviewed at <http://www.dep.state.fl.us/northwest/StJocEMA/joeema.htm>. Grantee acknowledges and agrees that any permitting contemplated pursuant to the EMA and RGP shall require The St. Joe Company to be a co-applicant under such applications. Grantee agrees to obtain any necessary permits related to wetlands impacts, subsequent mitigation and the management of stormwater or provision of stormwater improvements necessary to support the project in compliance with the EMA and RGP. Grantee shall be solely responsible for any and all costs related to the application for the EMA and RGP permits. Grantee agrees to comply with all applicable laws, rules and regulations, including but not limited to provisions of the EMA and RGP, governing the use and development of any wetlands. In the event Grantee is permitted to fill or otherwise impact any wetlands located on the Easement Property pursuant to the EMA and/or RGP, Grantee agrees not to fill or otherwise impact any wetlands beyond the boundary of that for which a permit is obtained. Furthermore, Grantee acknowledges and agrees that it shall comply with the stormwater management system requirements attached as Appendix E to the EMA. Grantee shall defend, indemnify and hold The St. Joe Company harmless from and in respect to any loss, costs, expenses and damages associated with either (a) the unauthorized filling or impacting of wetlands within or beyond the boundary of the Easement Property, including but not limited to the impacting of wetlands beyond that permitted hereunder, and agrees to promptly restore said property to its original condition prior to filling or impacting pursuant to the written direction of The St. Joe Company and/or applicable governing authorities or (b) Grantee's failure to comply with the RGP or EMA including but not limited to the stormwater management requirements of the EMA.

14. Except as expressly provided in this paragraph, without the prior written consent of Grantor, which consent Grantor may withhold in its sole and absolute discretion, the Grantee shall not assign, transfer or license all or any portion of its interests under this Easement Agreement in any manner and shall not delegate any of its obligations under this Easement Agreement in any manner.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Easement Agreement to be executed on the day and year set forth above.

Signed, seal and delivered
in the presence of

[Signature]
Name: Jennifer Wood

Name: _____

**BREAKFAST POINT COMMUNITY
ASSOCIATION, INC.,**
a Florida not for profit corporation

By: [Signature]
Name: Jason Scarborough
Its: Vice President

STATE OF FLORIDA
COUNTY OF WALTON

The foregoing instrument was acknowledged before me this 6th day of April, 2017,
by Jason Scarborough of Breakfast Point Community Association, Inc., a Florida not for profit
corporation, who is personally known to me.



[Signature]
(Notary Public - Signature)

CITY OF PANAMA CITY BEACH

By: _____
Mario Gisbert, City Manager

ATTEST:

By: _____
Holly J. White, City Clerk

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me this _____ day of _____,
2017, by Mario Gisbert and Holly J. White, as City Manager and City Clerk of the City of Panama City
Beach, who are personally known to me.

My commission expires: _____
(Notary Public - Signature)

EXHIBIT "A"
EASEMENT PROPERTY

MULTI USE EASEMENT - BREAKFAST POINT COMMUNITY ASSOCIATION, INC.

A PORTION OF TRACT G, BREAKFAST POINT PHASE I, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 24, PAGES 57 THROUGH 64 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWESTERLY CORNER OF TRACT G, BREAKFAST POINT PHASE I, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 24, PAGE 57 THROUGH 64 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA AND PROCEED NORTH 23 DEGREES 46 MINUTES 42 SECONDS EAST, ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT G, FOR A DISTANCE OF 23.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 23 DEGREES 46 MINUTES 42 SECONDS EAST, ALONG SAID WESTERLY BOUNDARY, FOR A DISTANCE OF 20.05 FEET TO THE NORTHWESTERLY CORNER OF SAID TRACT G; THENCE NORTH 78 DEGREES 35 MINUTES 19 SECONDS EAST, ALONG THE NORTHERLY BOUNDARY LINE OF SAID TRACT G, FOR A DISTANCE OF 29.18 FEET TO A POINT MARKING THE NORTHEASTERLY CORNER OF SAID TRACT G (POINT ALSO BEING ON A CURVE CONCAVE TO THE NORTHEASTERLY); THENCE SOUTHEASTERLY ALONG SAID CURVE WITH A RADIUS OF 72.13 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 05 MINUTES 49 SECONDS. FOR AN ARC DISTANCE OF 20.27 FEET (CHORD OF SAID ARC BEING SOUTH 19 DEGREES 27 MINUTES 37 SECONDS EAST, FOR A DISTANCE OF 20.20 FEET) TO THE SOUTHEASTERLY CORNER OF SAID TRACT G, THENCE SOUTH 78 DEGREES 35 MINUTES 19 SECONDS WEST, FOR A DISTANCE OF 37.55 FEET; THENCE NORTH 70 DEGREES 26 MINUTES 17 SECONDS WEST, FOR A DISTANCE OF 7.02 FEET TO THE POINT OF BEGINNING; CONTAINING 0.016 ACRES, MORE OR LESS.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made effective as of the ____ day of _____, 2017 (the "Effective Date"), by and between **GULF POWER COMPANY**, a Florida corporation, whose address is One Energy Place, Pensacola, Florida 32520-0093 ("Gulf"), as Licensor, and **THE CITY OF PANAMA CITY BEACH**, a municipal corporation of the State of Florida, with Grantee's address being 110 South Arnold Road, Panama City Beach, Florida 32413 (the "Grantee").

WHEREAS, Gulf owns those certain parcels of land of approximately 12.26 acres located in Bay County, Florida identified under parcel identification numbers 34026-000-000 and 34026-010-000 and more particularly described as follows (the "Property"):

The southwest quarter (SW ¼) of the northwest quarter (NW ½) and the north one-half (N ½) and the north one-half (N ½) of the southwest quarter (SW ½) and the west one-half (W ½) of the southeast quarter (SE ½) of section twenty-three (23), Township 3 South, Range 16 West;

WHEREAS, Grantee has requested pedestrian and bicycle ingress and egress access over, on, and across three (3) separate portions of the Property as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Parcel"); and

WHEREAS, Gulf is willing to grant Grantee a non-exclusive right to enter upon the Easement Parcel (the "Easement"), subject to the terms and conditions hereof; and

WHEREAS, Grantee acknowledges and appreciates the risks of coming on the Easement Parcel and agrees that Grantee and all persons under Grantee's direction and control, as well as any other person on the Easement Parcel at the direction or because of Grantee, including, but not limited to its employees, agents, guests, contractors, subcontractors, or invitees, whether invited or uninvited (collectively, the "Invitees") shall at all times exercise due care for their own personal safety and the safety of Invitees on the Easement Parcel and shall fully indemnify Gulf for any damages which may occur on the Easement Parcel and/or are or will be associated this Agreement.

NOW, THEREFORE, in consideration of Gulf's granting such Easement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Gulf and Grantee hereby agree as follows:

1. **Incorporation of Recitals.** Each of the above recitals is true and correct and are incorporated herein by reference.

2. **Term.** Grantee and the Invitees shall be permitted to have access to the Easement Parcel beginning on the Effective Date. Grantee's use is subject to the time and use restrictions set forth in Section 3 below. This Agreement shall terminate upon either i) Gulf's right of termination or relocation, as further described in this Section 2 or ii) automatically upon Grantee's abandonment and/or non-use of the Easement Parcel for a period of one hundred sixty (160) days or more (the "Term").

Exhibit D

In the event that Grantee breaches any of the terms and conditions described in this Agreement, then Gulf has the right to terminate this Agreement, in Gulf's sole and absolute discretion, upon ninety (90) days prior written notice to Grantee of such termination.

Gulf hereby reserves the right to inspect the Easement Parcel at any time in order to assess Grantee's use of the Easement Parcel. Gulf further reserves the right to impose additional limitations and/or restrictions on Grantee's use of the Easement Parcel in the event that Gulf decides, in Gulf's absolute and sole discretion, that Grantee or Grantee's Invitees are overburdening the Easement Parcel (or the Property) or using the Easement Parcel (or the Property) in a way that would restrict Gulf's use and/or access of the Easement Parcel or the Property. In the event that Gulf determines, in Gulf's sole discretion, that additional limitations and/or restrictions should be placed on the Easement Parcel (or the Property), then Gulf and Grantee shall use commercially reasonable efforts to execute an amendment to this Agreement memorializing such additional limitations and/or restrictions. In the event that Gulf determines that Grantee or Grantee's Invitees have used the Easement Parcel (or the Property) in a way that would restrict Gulf's use and/or access of the Easement Parcel or the Property, including, without limitation, Gulf's ability to relocate any of Gulf's facilities on the Easement Parcel or the Property, then Grantee shall be permitted to relocate the Easement Parcel to a mutually acceptable location, upon execution of a new easement agreement with Gulf.

3. **Time and Use.** The Easement Parcel may be used by the Grantee and the Invitees solely for construction, operation, maintenance and repair of a pedestrian and bicycle ingress and egress trail during the Term (the "Permitted Improvements"). No vehicles, vendors, exhibitors, trailers, or machinery shall be permitted on the Easement Parcel, except for construction, maintenance, and emergency purposes. There shall be no use or act by Grantee or the Invitees which is in violation of any law, rule, or ordinance established by any federal, state, municipal or local governmental or regulatory agency. Grantee shall not permit any use of the Easement Parcel which would cause a disruption or which would be offensive or harmful in Gulf's sole discretion. Grantee shall have no right to alter, make, or construct any improvements, stormwater and drainage facilities, and/or landscaping on the Easement Parcel, other than the Permitted Improvements, without Gulf's prior written consent, which consent may be withheld in Gulf's sole, but reasonable, discretion. Any alterations or construction of improvements, stormwater and drainage facilities, and/or landscaping on the Easement Parcel, other than the Permitted Improvements described herein, shall be pursuant to a separate written agreement by and between Gulf and Grantee with terms acceptable to Gulf, in Gulf's sole, but reasonable discretion.

4. **Repairs.** Grantee shall repair and pay for any property damage caused by Grantee to any part of the Easement Parcel. This obligation for repair includes, but is not limited to, vegetation reestablishment, and any damage to the soil, or sub-soil caused by Grantee, or its Invitees. Grantee shall be responsible for maintaining the repaired damage for the first twelve (12) months after completion of repairs and after vegetation is fully established. Gulf understands and acknowledges that Grantee intends to use the Easement Parcel for pedestrian and bicycle ingress and egress pathways/trails. Grantee acknowledges that Grantee's repair obligation of the Easement Parcel extends to the repair of any damage or destruction of the pedestrian and bicycle ingress and egress pathways and/or trails caused by Gulf during Gulf's repair and/or maintenance of Gulf's utilities and/or facilities on the Easement Parcel.

5. **Insurance.** Throughout the term of this Agreement, Grantee shall maintain documentation of the following applicable insurance requirements at their principal office located at 110 South Arnold Road, Panama City Beach, FL 32413. (Check applicable provisions)

- a. Comprehensive General Liability with limits of not less than \$1,000,000.00 General Liability per occurrence per accident, incident, injury or death;
- b. Contractual Liability covering liability assumed by Grantee under the indemnification provisions contained in this Agreement;
- c. Broad Form Property Damage, Personal Injury coverage, Employees as additional Insured, Blanket Explosion, Collapse and Underground coverage;
- d. Comprehensive Automobile Liability covering the use of all owned, non-owned, or hired vehicles with limits of liability of at least \$300,000.00 bodily injury and \$50,000.00 property damage;
- e. Standard homeowners insurance policy containing general liability coverage in the amount of at least \$300,000.00.

Each such policy or certificate shall contain a provision that it is not subject to change or cancellation until thirty (30) days prior written notice has been given to Gulf by the insurance company.

6. **Assumption of Risk.** Grantee acknowledges that Gulf shall not be responsible for the personal safety of the Invitees or any persons on or about the Easement Parcel, or for any damage to or theft of vehicles or the contents thereof, located on or about the Easement Parcel, and Grantee shall advise the Invitees that their use of the Easement Parcel is at their own risk. In particular, Grantee acknowledges that Gulf shall not be responsible for any personal injury, loss or damage to personal property resulting from any Invitees entering or leaving the Easement Parcel.

7. **Security.** Grantee shall be solely responsible for providing its own security at all times on and around the Easement Parcel and areas used by Grantee, its employees, agents, representatives, independent contractors, and Invitees, as may be necessary to ensure their safety.

8. **Maintenance.** Grantee shall, at its expense and at all times during the Term, maintain the Easement Parcel in a clean, neat, safe and sanitary condition. Grantee shall repair all damage to the Easement Parcel that occurs during the Term, and shall restore the Easement Parcel to the condition that existed as of the commencement of the Term, including removal of all trash and debris.

9. **Safety.** Grantee shall take all necessary precautions for the safety of its employees, and all other persons who may at any time and for any reason come upon the Easement Parcel. Grantee shall comply with and shall cause each of its employees, customers, and invitees to comply with all applicable provisions of Federal, State and Local occupational safety and health laws, building and safety codes, and environmental regulations to prevent accidents, injuries to persons or damage to property.

10. **Notice and Notice Requirement.** Grantee recognizes that Gulf's equipment in, on and around Gulf's fee owned transmission right of way carries electricity at high voltage and that the possibility always exists of damage and /or injury to persons and /or property from such electricity. Grantee shall specifically and adequately warn each and every Invitee of Grantee, and its contractors, invitees, an/or agents, of the dangers inherent in making contact with Gulf's equipment before such

employees, contractors, invitees, an/or agents are permitted to perform any work on land adjacent to Gulf's facilities. Grantee agrees and covenants to warn all persons of whom the Grantee knows or should reasonably anticipate that for any reason may resort to the vicinity of Gulf's conductors of the fact that such conductors are (a) electrical conductors, (b) energized, (c) uninsulated, and (d) dangerous.

11. **Release and Indemnity.** Grantee hereby agrees to indemnify and hold harmless Gulf and its parent company, affiliates, employees, agents, officers and directors ("Indemnitees") for claims brought from all claims, causes of action, judgments, and liabilities asserted against Indemnitees, including claims for bodily injury, death, and property damage (including attorneys' fees and legal expenses), but only to the extent that they arise from or are found to result from Grantee's breach of this Agreement and/or from the sole negligence, gross negligence, or willful, wanton, or intentional misconduct of the Grantee, its governing body, or its employees. This indemnification shall not be construed to be an indemnification for the acts or omissions of third parties, independent contractors or third party agents of Grantee, who shall be required by Grantee to provide their own indemnification. This indemnification shall not be construed as a waiver of the Grantee's sovereign immunity, and shall be interpreted as limited to only such traditional liabilities for which the Grantee could be liable under the common law interpreting the limited waiver of sovereign immunity. An action may not be instituted on a claim against the Grantee unless the claimant presents the claim in writing to the City Manager within three years after such claim accrued or the City Manager denies the claim in writing. For purposes of this paragraph, the requirements of notice to the City Manager and denial of the claim are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues. Notwithstanding any other provisions of this paragraph, the value of this indemnification and hold harmless is limited to the maximum sum of \$300,000 as a result of all claims and judgments arising out of the same incident or occurrence, not to exceed the sum of \$200,000 for any one claim or judgment or portions thereof. In addition, this indemnification shall be construed to limit recovery by the indemnified party against the Grantee to only those damages caused by the Grantee's sole negligence, and shall specifically exclude any attorney's fees or costs associated therewith.

To the extent not prohibited by applicable law, Grantee, for itself and on behalf of its invitees who make use of the Easement Parcel ("Releasors"), does hereby release, acquit and forever discharge Gulf, its parent company and affiliates, and each of Gulf's employees, agents, officers, and directors ("Releasees") of and from any and all known and unknown causes of action, damages, liabilities, costs, expenses, and claims and demands of whatsoever kind or nature including claims for bodily injury, death, and property damage (including attorneys' fees and legal expenses) which Releasors now have or may ever have against Releasees on account of any and all known and unknown present or future injuries, losses and damages sustained or received or which may be sustained by Releasors or the property of Releasors occurring on, at or about the Easement Parcel, resulting from any events concerning the ingress and egress access to the Easement Parcel, and whether in law or in equity and whether brought or asserted against Releasees now or in the future, except for any of the foregoing caused by the willful, wanton, or wrongful act of Gulf or its employees or agents.

12. **Assignment.** Grantee may not assign this Agreement in whole or in part, without the prior written approval of Gulf, which said approval may be withheld at Gulf's absolute discretion.

13. **Authority.** Grantee and Gulf represent that they have the full right, power and authority to enter into this Agreement on behalf of Grantee and Gulf, respectively.

14. **Waiver.** No failure of Gulf to enforce any term hereof shall be deemed a waiver of said term. The rights and remedies of Gulf as contained in this Agreement and as permitted by law or equity shall be cumulative.

15. **Time.** **TIME IS OF THE ESSENCE** with respect to Grantee's obligation to timely and faithfully perform all of Grantee's obligations under this Agreement.

16. **Injunctive Relief.** In the event of any violation or threat of violation by Grantee of any of the terms and conditions of this Agreement, Gulf shall have the right to enjoin such violation or threatened violation in a Court of competent jurisdiction. This right of injunctive relief shall be in addition to any and all other remedies available under statute, law, or equity.

17. **Successor and Assigns.** The covenants, conditions and restrictions set forth in this Agreement inure to the benefit of and bind the respective successors and assigns of the parties hereto.

18. **Miscellaneous.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unconscionable, or unenforceable in any respect, such invalidity, illegality, unconscionability, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, unconscionable, or unenforceable provision had never been contained herein.

19. **Authority; Binding Effect.** The person signing this Agreement on behalf of Grantee represents and warrants that this Agreement has been duly authorized by Grantee and constitutes the valid and binding obligation of Grantee, and that the obligations of Grantee hereunder are binding upon its employees, agents, representatives and independent contractors.

20. **Entire Agreement.** The terms and conditions of this Agreement are the entire agreement and understanding of the parties. Grantee acknowledges that it has read this Agreement and understands its provisions and agrees to utilize the Easement Parcel subject to the terms of this Agreement. No change in the terms of this Agreement may be made unless it is in writing and signed by both Gulf and Grantee.

21. **Counterparts; Facsimile Copies.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution of this Agreement by the parties hereto may be evidenced by the transmission of facsimile or email copies; provided that each party shall promptly forward to the other party a copy hereof with its original signature.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Gulf and Grantee have executed this Agreement as of the Effective Date.

GULF:

Signed, sealed and delivered
in the presence of:

GULF POWER COMPANY, a Florida corporation

Sign: _____
Print: _____

By: _____
Jim Fletcher
Vice President External Affairs
and Corporate Services

Sign: _____
Print: _____
(as to both signatures)

Attest: _____
Sharon A. Jordan
Its Assistant Secretary

(Corporate Seal)

Date: _____

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Jim Fletcher and Sharon A. Jordan, Vice President External Affairs and Corporate Services and Assistant Secretary, respectively, of Gulf Power Company, a Florida corporation, on behalf of the corporation. They are personally known to me, or have provided valid Florida Driver's Licenses as identification, and did not take an oath.

Notary Public, State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

GRANTEE:

THE CITY OF PANAMA CITY BEACH, a
political Subdivision of the State of Florida

Sign: _____
Print: _____

Sign: _____
Print _____
(as to both signatures)

By: _____
Name: _____
Its: _____

(Official Seal)

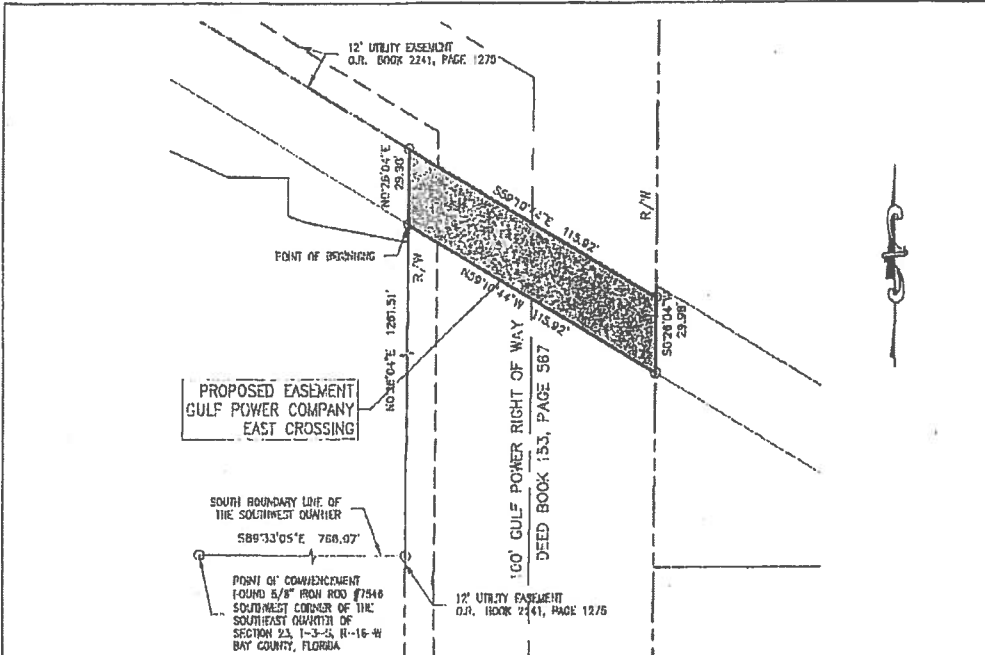
Attest: _____
By: _____
Its City Clerk

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____ as _____ of The City of Panama City Beach, a municipal corporation of the State of Florida, on behalf of the City, who is personally known to me or who produced a valid driver's license as identification.

Notary Public, State of Florida at Large
My Commission Expires: _____

EXHIBIT "A"
(the "Easement Parcel")



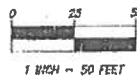
SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE REFERENCED TO FLORIDA STATE PLANE COORDINATES, NORTH ZONE, NAD 1983/90, U.S. SURVEY FEET.
2. THIS SKETCH, MAP, AND REPORT IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. NO TITLE SEARCH, TITLE OPINION OR ABSTRACT WAS PERFORMED BY, NOR PROVIDED TO DEWBERRY / PREBLE-RISH, INC., FOR THE SUBJECT PROPERTY. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, ENCROACHMENTS, RIGHT-OF-WAYS, BUILDING SETBACKS, RESTRICTIVE COVENANTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SUBJECT PROPERTY.
4. THIS IS NOT A BOUNDARY SURVEY.

MULTI USE PATH EASEMENT - GULF POWER COMPANY - EAST CROSSING

A PARCEL OF LAND LYING AND BEING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 5/8" IRON ROD AND CAP NO. 7546, MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND PROCEED SOUTH 89 DEGREES 33 MINUTES 05 SECONDS EAST, ALONG THE SOUTH BOUNDARY LINE OF SAID SOUTHEAST QUARTER, FOR A DISTANCE OF 766.97 FEET TO A POINT ON THE WEST BOUNDARY LINE OF THE 100 FOOT GULF POWER COMPANY RIGHT OF WAY AS RECORDED IN DEED BOOK 153, PAGE 567 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA; THENCE LEAVING SAID SOUTH BOUNDARY LINE PROCEED NORTH 00 DEGREES 26 MINUTES 04 SECONDS EAST, ALONG SAID WEST BOUNDARY LINE, FOR A DISTANCE OF 1261.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00 DEGREES 26 MINUTES 04 SECONDS EAST, FOR A DISTANCE OF 29.98 FEET; THENCE LEAVING SAID WEST BOUNDARY LINE PROCEED SOUTH 59 DEGREES 10 MINUTES 44 SECONDS EAST, FOR A DISTANCE OF 115.92 FEET TO A POINT ON THE EAST BOUNDARY LINE OF GULF POWER COMPANY RIGHT OF WAY; THENCE SOUTH 00 DEGREES 26 MINUTES 04 SECONDS WEST, ALONG SAID EAST BOUNDARY LINE, FOR A DISTANCE OF 29.98 FEET; THENCE LEAVING SAID EAST BOUNDARY PROCEED NORTH 59 DEGREES 10 MINUTES 44 SECONDS WEST, FOR A DISTANCE OF 115.92 FEET TO THE POINT OF BEGINNING, CONTAINING 0.069 ACRES, MORE OR LESS.



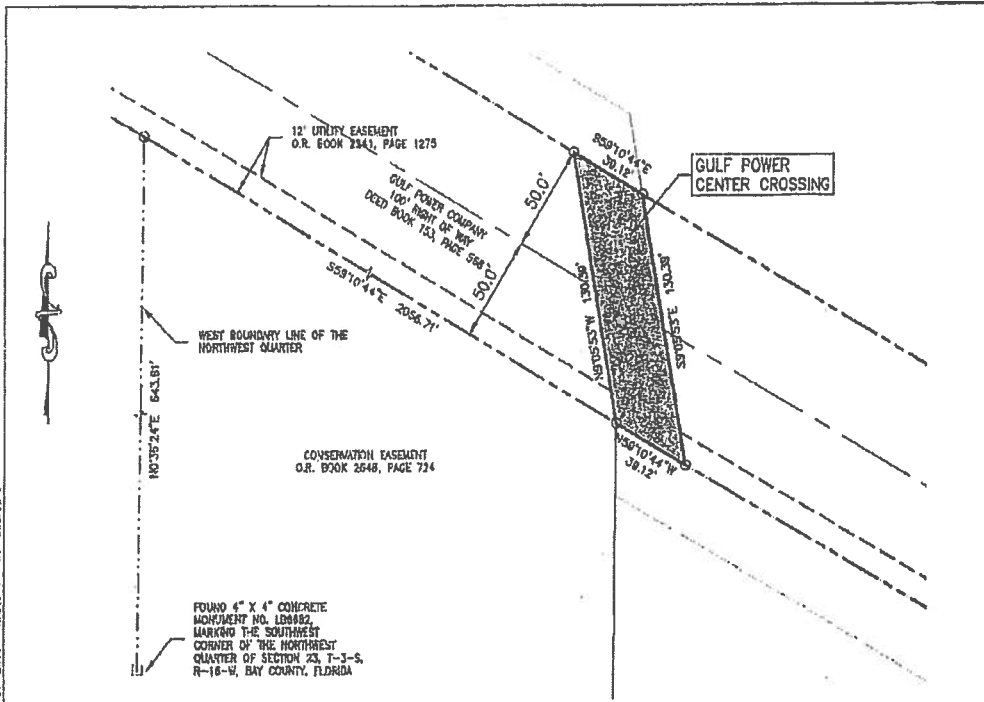
DAVID JOHN BARTLETT, P.S.M. DATE SIGNED
 PROFESSIONAL SURVEYOR & MAPPER No. LS4018

Dewberry PREBLE-RISH
 205 ABLENDEEN PARKWAY
 PANAMA CITY, FLORIDA 32408
 PHONE: 850.622.0844 FAX: 850.622.1011
 WWW.DEWBERRY.COM
 CERTIFICATE OF AUTHORIZATION NO. LB 8011

| | | |
|--|---------------|-------------|
| SKETCH OF DESCRIPTION MULTI USE PATH EASEMENT GULF POWER COMPANY EAST CROSSING PANAMA CITY BEACH BAY COUNTY, FLORIDA | DRAWING DATE: | PROJECT NO. |
| | 8/01/2016 | 50082146 |
| | BY: DJB | |
| | APPROVED BY: | S1 |
| | FCR | |

SCALE: 1"=30'

Project Name: 16-50082146 - Multi-Use Path - Peninsula Encroachment Survey - 50082146 - Gulf Power Eastside - Gulf Power Eastside - 16-50082146 - Multi-Use Path - Peninsula Encroachment Survey - 50082146 - Gulf Power Eastside - 16-50082146 - Multi-Use Path - Peninsula Encroachment Survey - 50082146 - Gulf Power Eastside

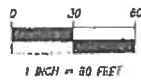


SURVEYOR'S NOTES:

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4. THIS IS NOT A BOUNDARY SURVEY.

MULTI USE PATH EASEMENT - GULF POWER COMPANY - CENTER CROSSING

A PARCEL OF LAND LYING AND BEING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCE AT A 4" BY 4" CONCRETE MONUMENT NO. LB6882, MARKING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND PROCEED NORTH 00 DEGREES 36 MINUTES 24 SECONDS EAST, ALONG THE WEST BOUNDARY LINE OF SAID NORTHWEST QUARTER, FOR A DISTANCE OF 843.01 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF A 100 FOOT GULF POWER COMPANY RIGHT OF WAY AS RECORDED IN DEED BOOK 153, PAGE 568 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA (POINT ALSO BEING ON THE NORTH BOUNDARY LINE OF A CONSERVATION EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 2648, PAGE 724 OF THE PUBLIC RECORDS BAY COUNTY, FLORIDA); THENCE LEAVING SAID WEST BOUNDARY LINE PROCEED SOUTH 59 DEGREES 10 MINUTES 44 SECONDS EAST, ALONG SAID BOUNDARIES, FOR A DISTANCE OF 2056.71 FEET TO THE NORTHEAST CORNER OF SAID CONSERVATION EASEMENT FOR THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH BOUNDARY PROCEED NORTH 9 DEGREES 05 MINUTES 53 SECONDS WEST, FOR A DISTANCE OF 130.39 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF SAID 100 FOOT GULF POWER COMPANY RIGHT OF WAY; THENCE SOUTH 89 DEGREES 10 MINUTES 44 SECONDS EAST, ALONG SAID NORTH BOUNDARY LINE, FOR A DISTANCE OF 39.12 FEET; THENCE LEAVING SAID NORTH BOUNDARY PROCEED SOUTH 9 DEGREES 05 MINUTES 53 SECONDS EAST, FOR A DISTANCE OF 130.39 FEET TO A POINT ON THE AFORESAID SOUTH BOUNDARY LINE OF THE 100' GULF POWER COMPANY RIGHT OF WAY; THENCE NORTH 59 DEGREES 10 MINUTES 44 SECONDS WEST, ALONG SAID SOUTH BOUNDARY LINE, FOR A DISTANCE OF 39.12 FEET TO THE POINT OF BEGINNING. CONTAINING 0.089 ACRES, MORE OR LESS.



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

Dewberry PREBLE-RISH
 203 ABERDEEN PARKWAY
 PANAMA CITY, FLORIDA 32405
 PHONE 850.822.0844 FAX 850.822.1011
 WWW.DEWBERRY.COM
 CERTIFICATE OF AUTHORIZATION NO. LB B011

| | | |
|--|---------------|-------------|
| SKETCH OF DESCRIPTION MULTI USE PATH EASEMENT GULF POWER COMPANY CENTER CROSSING PANAMA CITY BEACH BAY COUNTY, FLORIDA | DRAWING DATE: | PROJECT NO. |
| | 7/28/2018 | 50082146 |
| | BY: DJB | |
| | APPROVED BY: | S1 |
| | FCH | |

SCALE 1"=60'

Records name: M:\50082146 - MultiUse Path - PanamaCity Beach\Survey - Gulf Power Center Crossing\Drawings - Gulf Power Center Crossing - 7/28/2018 - 12:36pm by: djbartlett

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

No. BA # 38

| FUND | GENERAL ACCOUNT NUMBER | ACCOUNT DESCRIPTION | APPROVED BUDGET | BUDGET ADJUSTMENT | NEW BUDGET BALANCE |
|------|------------------------|--------------------------|-----------------|-------------------|--------------------|
| TO | 001-7201-572.65-90 | Construction in Progress | 228,000.00 | 25,000.00 | 253,000.00 |
| FROM | 001-8100-999.95-00 | Reserves Restricted | 1,504,891.00 | (25,000.00) | 1,479,891.00 |
| | | | 0.00 | 0.00 | 0.00 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | Check Adjustment Totals: | 1,732,891.00 | 0.00 | 1,732,891.00 |

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To appropriate additional recreation impact fees for Gayle's Trails east extension for various costs associated with obtaining the necessary easements to move the project forward

ROUTING FOR APPROVAL

DEPARTMENT HEAD

CITY MANAGER

FINANCE DIRECTOR

DATE

Exhibit E



CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

Multi-Use Trail/Paul Casto

2. MEETING DATE:

5/25/2017

3. REQUESTED MOTION/ACTION:

Approve the easement agreements for Gulf Power, St. Joe Company, Breakfast Point, and the School Board for the multi-use eastern alignment to Breakfast Point Subdivision.

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 applied for construction funds June 20, 2016 through the FDOT SUN Trail program which has approximately \$25 Million budgeted by the Florida Legislature. The City was unofficially awarded approval for the Suntrail grant under an 80/20 funding split and the Joint Participation Agreement (JPA) is currently being drafted. That cost breakdown was as follows: the FDOT pays for construction and construction engineering inspection in the amount of \$904,716.00 for the fiscal year 2017-2018. The design and easement acquisition were to be paid for by the City through recreation impact fees in the amount of \$92,864.00 for the fiscal year 2016-2017. In addition the City would also pay \$133,315.00 for construction in the fiscal year 2017-2018.

The proposed eastern expansion of Gayle's Trails will start on the east side of Trieste Subdivision and terminate at Breakfast Point Subdivision. There is an existing 10' wide concrete trail within Breakfast Point Subdivision that will eventually connect to Wildwood Road around the proposed Bay County Sports Complex. This piece is an integral part to safely connect Arnold High School students and staff, residents of Seagrass Village, residents of Waterfall Subdivision, as well as the residents of Breakfast Point Subdivision. Negotiations for the necessary easements through Gulf Power, Bay County School Board, Breakfast Point Subdivision, and the St. Joe Company property started July 1, 2016. Agreements were finalized and executed by each entity and are attached for your review. A budget amendment was required to proceed forward with engineering design and is included for review and approval.

Staff recommends approval of the easement agreements. A task order was approved April 14th, 2016 (Resolution 16-71) to proceed forward with design of this segment and should these easements be approved through City Council, the engineer of record, Panhandle Engineering, Inc. will begin work on the design.