

**REGULAR MEETING
CITY COMMISSION
CITY OF APALACHICOLA, FLORIDA
TUESDAY, MARCH 5, 2019 - 6:00 PM
APALACHICOLA COMMUNITY CENTER
#1 BAY AVENUE
APALACHICOLA, FLORIDA**

AGENDA

You are welcome to speak or comment on any matter under consideration by the Apalachicola Board of City Commissioners when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the five minute time limit.

- I. Call to Order
 - Invocation (Please rise and remain standing)
 - Pledge of Allegiance
- II. Agenda Adoption
- III. Mayor's and Commissioners Reports and Communications
- IV. City Manager Communications
 - Commission Retreat
 - Ethics Training Opportunity
 - Triumph Grant Update
 - Legislative Update
- V. Attorney Pat Floyd Communications
- VI. Presentations
 - A. Presentation of Service Award – Commissioner James Elliott
Mark Sittig – Membership Manager, Florida League of Cities
- VII. Public Comment

The public is invited to speak on any agenda, non-agenda and/or consent agenda topics. Comments should be less than "five" minutes.

All items on the Consent Agenda are considered routine, to be enacted by one motion. If a member of the governing body requests discussion of an item, it will be removed from the Consent Agenda and considered separately.

- VIII. Consent Agenda
 - A. Meeting Minutes Adoption
 - **Suggested Motion:** Adopt the November 5, 2018 Joint Workshop with Tree Committee, February 5, 2019 Joint Workshop with Planning and Zoning, and February 5, 2019 Regular Meeting Minutes.
 - B. Planning & Zoning Minutes Confirmation
 - **Suggested Motion:** Confirm the January 2019 Planning and Zoning Minutes
 - C. Approval of Copier Lease – Office Business Systems
 - **Suggested Motion:** To Approve the Copier Lease with Great America Financial Services
And Authorize the City Manager to Execute the New Lease

IX. Unfinished Business

- A. Ordinance 2019-03 – Mobile Food Vendor Regulations
- **Suggested Motion:** None at this time pending further discussion by the City Commission.
- B. Rules of Procedure for the City Commission
- **Suggested Motion:** None at this time pending further direction from the City Commission.

X. New Business

- A. Ordinance 2019-01 Historic and Cultural Preservation – First Reading
- **Suggested Motion:** To Approve the First Reading of Ordinance 2019-01 City of Apalachicola Historic and Cultural Preservation and Proceed with the Adoption Process.
- B. Ordinance 2019-04 Amending Article 17 – Elections of the City of Apalachicola Charter.
- **Suggested Motion:** None at this time pending further discussion or action by the City Commission.
- C. Proposed T-Mobile Site Lease Agreement
- **Suggested Motion:** None at this time pending further discussion by the City Commission.
- D. CDBG Grant Agreement 19DB-ON-02-29-02-N18
- **Suggested Motion:** To Dispense of the Two-Reading Requirement for Ordinances as Allowed for in the City Charter so that the Budget Amendment may be Allowed to Pass Upon First Reading by Unanimous Vote.
 - **Suggested Motion:** To Approve Budget Amendment 2 Amending the Sewer Fund to Reflect Award of the Community Development Block Grant Project.
 - **Suggested Motion:** To Approve the CDBG Subgrant Agreement 19DB-on-02-29-02-N18 and Authorize the Mayor to Execute the Agreement
 - **Suggested Motion:** To Award the Contract for CDBG Grant Administration Services to Roumelis Planning and Development Services, Inc. in the Amount of \$51,500 and Authorize the City Manager to Execute the Agreement.
- E. Joint Workshop with Planning and Zoning Board – Fill and Stormwater Regulations
- **Suggested Motion:** To Set a Joint Workshop with the Planning and Zoning Board on _____ at _____ p.m. to Review Proposed Changes to the Land Development Code Relating to Fill and Stormwater.
- F. Request Consideration of C-1 Zoning Use Change
- **Suggested Motion:** To Allow the Planning and Zoning Board to Consider Revisions to the C-1 Regulations That would Allow First-Floor Transient Lodging in Existing Structures in C-1 Transition Zones (Split Residential/Commercial Blocks) Provided such Parcels are not Located within Flood Zones and Provided the Zone is not Located within the City's Core Walking District.

XI. Adjournment

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Presentation of Service Award - Commissioner James Elliott

AGENDA INFORMATION:

Agenda Location: Presentation
Item Number: A
Department: Governing Body
Contact: Mark Sittig, Membership Manager, Florida League of Cities
Presenter: Mark Sittig, Membership Manager, Florida League of Cities

BRIEF SUMMARY: The Florida League of Cities would like to recognize James Elliott for his 35 years of service as City Commissioner to the City of Apalachicola.

RECOMMENDED MOTION AND REQUESTED ACTIONS: None at this time.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Not Applicable

STAFF'S COMMENTS AND RECOMMENDATIONS: Staff is thankful for Commissioner Elliott's many years of service to the City and appreciative of his continuous support and service to our community.



CITY OF APALACHICOLA

1 Avenue E • Apalachicola, Florida 32320 • 850-653-9319 • Fax 850-653-2205

www.cityofapalachicola.com

March 5, 2019

Mayor
Van W. Johnson, Sr.

TO: Mayor and City Commission

Commissioners
Brenda Ash
John M. Bartley, Sr.
James L. Elliott
Anita Grove

FR: Ron Nalley, City Manager *RN*

RE: City Manager Communications – March City Commission Meeting

During your meeting on March 5th, I will be giving a brief update on several matters. Below is a summary of those topics:

City Manager
Ron Nalley

1) Commission Retreat – The Commission Retreat has been scheduled for March 23, 2019 beginning at 9:00 a.m. A draft agenda is attached to this report. We hope to have the location finalized by your meeting on Tuesday night.

City Administrator
Lee H. Mathes, MMC

2) Ethics Training Opportunity – The Northwest Florida League of Cities is offering an ethics training opportunity in Apalachicola on March 28th from 8 a.m. until 12 p.m. at the Community Center. Please let the City Clerk know if you can attend so that we can get everyone registered.

City Clerk
Deborah Guillotte, CMC

3) Triumph Grant Update – Cindy Clark will be giving a brief update on the Housing and Infrastructure Initiative proposed for funding through Triumph. The project is composed of three basic components: 1) leverage city-owned property and tax incentives for workforce housing; 2) expand infrastructure to support an area targeted for workforce housing; and 3) provide trades-related education and career options through apprenticeships. A meeting of Housing stakeholders to discuss the project will be held on March 6th at 10 a.m. in the Community Building.

City Attorney
J. Patrick Floyd

4) Legislative Update – Augusta West will be giving a brief update on the Apalachicola Environmental Stewardship Bill. Both versions of the Bill (HB 921 and SB 1256) were revised during drafting. Revisions include: removing the ½ cent bed tax provision (requested by Representative Newton) and asking for a larger annual appropriation (20 million over ten years) instead of the one-time costs and a smaller annual appropriation that I reviewed at your January Commission meeting (recommended by Bill drafter). As is normal during this process, please know that the Bill will likely change even more over the course of the Session.

If you questions or have other topics that you would like for me to update you on, please do not hesitate to contact me.

City of Apalachicola
City Commission Board Retreat
March 23, 2019: 9:00 a.m. – 4:00 p.m.
Location to be Determined

Agenda

I. CALL TO ORDER

- Welcome
- Invocation

II. ADOPTION OF THE AGENDA

III. THE FOUNDATION – 9:05 a.m.

The Commission will review effective group process ground rules and discuss the accomplishments of the 2018-2019 fiscal year along with any goals and objectives not accomplished in previous years.

1. Meeting Format
2. Suggested Ground Rules for Effective Group Process
3. City Commission Areas of Responsibility
4. Review of Previously Adopted Goals and Objectives
5. Department Head Summary Reports (Goals/Objectives for 2018-2019)
6. City Commission Rules of Procedure Review

IV. THE FRAMEWORK – 9:35 a.m.

The Commission will briefly review each broad topic and specifically discuss each of the bulleted points. This allows the Commission to receive additional information on the topic and concentrate discussion on specific needs or issues that are important to the Commission members and when appropriate, provide direction for staff.

1. Finance
 - 2019-2024 Capital Improvements Plan
 - 2019-2020 Annual Budget Highlights
 - General Fund – Tax Base and Revenue Sources
 - Enterprise Funds – Rates and Fees
 - Cash Management and Investment Plan

Break – 10:30 a.m.

2. Planning and Zoning
 - Comprehensive Plan Update and Review

- Land Development Code
- Housing Initiative

3. Services and Infrastructure

- Police Services
- Fire Services
- Library Services
- Water, Sewer and Street Services
- Sanitation and Recycling Services
- Building Inspections and Zoning Services
- Community Redevelopment Agency
- Administration Services

Lunch – 12:30 p.m.

4. Environment and Recreation

5. Personnel and Employee Benefits

- Pay and Classification Plan
- Personnel Policy Update

6. Communication Efforts

- Website Update
- Social Media Policy

7. Update on Current Projects/Services/Issues

- City Hall Relocation
- Water Quality – TTHM
- Apalachicola Environmental Stewardship Bill
- Port Authority and Marinas
- Triumph Grants
- Facilities Master Plan

Break – 3:00 p.m.

V. THE FINALE

The Commission will discuss establishing both city-wide and departmental goals for the next fiscal year. For each goal, the Commission could choose to incorporate one or more action items or objectives to help in the accomplishment of that goal.

1. Putting it all Together

Establishing Goals and Objectives for 2019-2020

VI. ADJOURNMENT – 4:00 p.m.

CITY OF APALACHICOLA
DIRECTOR OF ADMINISTRATIVE SERVICES
FEBRUARY 2019

- Working through FEMA damage assessment reports; uploading required documents; acquiring estimates
- Updated meeting calendar on website
- Reviewed February minutes
- Completed January accounting
- Completed budget expense report through 1/31/2019
- Posted February revenues and expenses
- Assisted staff with tree applications, utility bill issues, and payroll processing
- Attended mandated CDBG grant implementation workshop
- Working with staff to update inventory/property list
- Completed tasks as assigned by the City Manager

40 work orders issued and completed
0 payroll checks processed – direct deposit
Approximately 80 accounts payable checks processed
1900 payments processed
2,000 bills processed
3 public records request processed

**City of Apalachicola
Police Department**

February 1- 28

Totals

Traffic Stops/ Warnings/ citations	35
Arrests/ Warrant Requests	5
Traffic Accidents	10
Burglary/Theft calls	5
Assist Citizens/ Complaints/investigations	332
Trespass Warnings/agreements	9
Business alarm calls/building checks/welfare checks	479
Assist county call/other agencies	51
Domestic cases involving violence/disturbance calls	18
Drugs	0
Total calls from dispatch	534

City of Apalachicola public works monthly report
February 2019

Finished replacing handy cap rails and steps at harbor master building and passed fire inspection.

We had 4 funerals, open and close

We finished putting culvert in on ave, f and 17th.st. just need to finish final racking and clean up.

We set 6th. St. park up for black history festival, and took back down after festival.

Serviced 1 vehicle.

Removed tree on ave l, that was in danger of falling in road.

We collected 139 bags of trash from down town and parks.

We have completed 15 work orders.

We cleaned concrete storm ditch between 5th.st. and 6th. St.

We rebuilt main street sign and cleaned up broke benches at river front park, after a truck jumped curve and broke them.

Date 2-26-19 sign Robert Osburn

Water and Wastewater Department Monthly Report

Water Plant

- . We Treated 10,320,000 gal. of Drinking Water.
- . Raised the Operating level of the Ground Storage Tank at the Water Plant. We think this will help with the TTHMs

Wastewater Plant

- . We Treated 7,200,000 gal. of wastewater .
- . 2-7 A leak was noticed in the INF. Line that run over the EQ. tank. This means that Raw wastewater was getting our treated Wastewater. Leak was Repaired with Quick setting . .. Sealant,Sheet metal, and Duct Tape. This line is in Bad shape
- . 2-12 Replaced the Tubing in the Alum Pump
- . Trends Not working at Wastewater Plant. Reset the Logic 2000 on control panel in the Lab
- . 2-25 Mr. Ronny Martina Reported low land flooding on his Property with no Rain. I check the East Spray Fields. The Zone next to Mr. Ronny,s Property had the Auto Valve hung open letting .It Spray all the Time. It only Sprays for 20 to 40 mins. A Day when Operating Properly. I Closed .Off this Zone #27 So this will not happen again
- . 2-27 Replaced Cut off Float Switch in #2 SBR

Distribution and Collections

- . Made 2 Water Taps And 1 Sewer Tap
- . With Code Enforcement Help We got the problem with Strom water going into the collection system . at 48 Av. D Fixed.
- . We had Kenny Strange Elect. At the Vac. Station working on controls. Order Parts will be back
- . Installed Auto flushers at sampling Locations for TTHMs
- . Worked on Valve excursions
- . Worked on Vac. System Preventive Maintenance
- . Changed Oil in 2 of the Vac. Pumps

Code Enforcement Monthly Report

February 2019

1. Number of tree removal applications for this month is 6 on private property with fee and 2 on city property with no fee.
2. Assisted on building permits applications. Field work checked 2 construction sites for permits.
3. Addressed 18 complaints that were called into the office, 8 was about trees, 2 was no permit, and 4 was trash, 4 was from city departments.
4. Marked off grave lots in cemeteries as work orders required.
5. Completed 9 work orders as assigned.
6. Checked the payment drop box at old city hall twice a day the first week of the month. Then I check it once a day for the remaining weeks.
7. Checked payment drop boxes at Battery Park Boat Basin every Monday.
9. Assisting all Departments, City Hall, Public Works, Water & Sewer, and Waste Water Plant, as needed.



Wilbur L. Bellew: _____

Date: _____

Wilbur L. Bellew
3/1/19

City Building Department Monthly Report / February 2019

1. For this month, I have processed and issued 35 permits.
2. For License renewals and late notices, there have been a total of 19 payments received due to final response notices sent
3. We have had 5 terminated licenses due to returned mail, no response, or contact made and business has been closed.
4. We have had 5 new business licenses issued this month.
5. For Variances, we have had no variance requests.
6. There has been 1 stop work order issued this month

 
Signature/Date

Planning Report –February 2019

Cynthia Clark

PERMITS ISSUED: 33 as of Feb. 26.

GENERAL TASK LIST - General Tasks

1. City Commission – Feb. 5
3. P&Z Fill and Stormwater Workshop – Feb. 11
3. Pre-application consultation: Charles Leonard, Ladonna Ingram (email), Michael Shuler, Diedra Gross, Andy Stivers, T-Mobile, Ashley Greig
5. Food cart research
7. Follow-up Research rezoning for Van Johnson Complex with DEO
8. Online Permit software proposal review
9. FEMA non-residential research connected with Shuler pre-ap. Contact and confer with Steve Martin, FL DEM
11. Affordable Housing Follow-up – Triumph application – contact Steve Gibson, B. Lapaz, M. Moron, Comm. Jones in reference to March 6 mtg.
12. Phone conference Feb. 22 re affordable housing supplier

Request for March 5 board action:

1. Permitting Policy
2. Joint Workshop Request for proposed fill Ordinance
3. First Reading – Historic and Cultural Preservation Ordinance

City of Apalachicola CRA Monthly Summary Report: February 2019

Submitted by Executive Director Augusta R. West

State Legislative Action Plan

The Apalachicola Environmental Stewardship Bill (HB 921/SB1256) has been filed in the House and Senate. It seeks funding for drinking water, wastewater, and stormwater infrastructure and land acquisition. It is modelled after Rep. Raschein's successful Florida Keys Environmental Stewardship Act which resulted in millions of dollars in state funding for their similar Area of Critical State Concern issues. I continue to coordinate with Lobbyist Patrick Bell, who has been instrumental in this process. It was decided to postpone until next session the amendment of statutes to allow for implementation of a Tourist Impact Tax via local referendum with governance and all revenues kept within the municipality. Local funding initiative requests were also submitted. Session begins on March 5 and ends on May 3, 2019.

USDA Grant/Loan Funding Application for GAC Water Filtration System

The City qualifies for grant funding of up to 75% (if the USDA is fully funded) as part of the grant/loan package to fund the water filtration system. This project is required by DEP to address the Trihalomethane issue. This application is part of a multi-pronged strategy to acquire funding for the project.

USDA Rural Business Development Grant

The application package was completed and submitted. The goal of this project is to install pervious parking, lighting, and sidewalks in the Bowery District along Water Street and Avenue G.

Electric Car Charging Stations

Engineers from NovaCharge, Duke Energy's installation contractor, performed site visits on February 1 to assess potential locations. The final sites selected are on Avenue F in front of the old Ford lot, on Avenue D near the Hayes House, and on Commerce Street alongside the Visitors Center. Addresses for new meters were established by the County.

Kayak Launch

This project has been on hold in order to focus on legislative matters.

Training

I attended the Rural Economic Development Academy on January 16, 2019 in Tallahassee. I also attended the Resilient Apalachee Workshop on February 26 in Eastpoint. I will attend the Florida Redevelopment Association Academy's Budgeting, Funding & Reporting course on March 15 in Orlando.

Visit by DEO and Other State Agencies

I am coordinating with the Department of Economic Opportunity for a site visit by their staff and staff from other state agencies to discuss the City's challenges and opportunities for state resources to address them.

CRA Plan Update

I recommend that the plan update timeline coincide with the approval of the next fiscal year's budget and that recommendations from DEO's visit, the outcome of the legislative session, opportunities for public input, and possible technical assistance guide its direction. I have begun incorporating board member's suggestions to date and am working on the new format to highlight strategies, goals, and objectives.



CITY OF APALACHICOLA

1 Avenue E • Apalachicola, Florida 32320 • 850-653-9319 • Fax 850-653-2205
www.cityofapalachicola.com

Mayor
Van W. Johnson, Sr.

January 14, 2019

Commissioners
Brenda Ash
John M. Bartley, Sr.
James L. Elliott
Anita Grove

Mr. Don Gaetz, Chair
Florida Triumph Gulf Coast, Inc.
P.O. Box 12007
Tallahassee, FL 32317

City Manager
Ron Nalley

RE: Artificial Reef Creation Project in Franklin County, Florida – Coastline
Environmental Materials

City Administrator
Lee H. Mathes, MMC

Dear Chairman Gaetz:

City Clerk
Deborah Guillotte, CMC

The City of Apalachicola fully supports and recommends the application submitted by Coastline Environmental Materials for the Artificial Reef Creation Project in Franklin County to the Triumph Gulf Coast, Inc. The City believes that this project will strengthen and diversify our local economy through tourism as well as provide environmental benefits to our area.

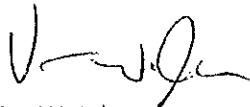
City Attorney
J. Patrick Floyd

Florida reportedly has the largest complement of permitted artificial reefs in the nation and these reefs have been shown to be beneficial to the local economies and increase economic activity in the communities. Benefits include increased economic activity (i.e., expenditures, incomes, jobs) as well as non-market benefits relating to their biological habitat.

Promotion of the artificial reef will be handled through the Franklin County Tourist Development Council and our local Chamber of Commerce. The site will attract commercial and recreational fishermen and divers.

The City of Apalachicola appreciates the Board's consideration of Coastline Environmental Materials application and supports their efforts in the artificial reef creation project.

Sincerely,



Van W. Johnson, Sr.
Mayor
City of Apalachicola

MINUTES OF THE JOINT WORKSHOP OF THE APALACHICOLA CITY COMMISSION AND TREE COMMITTEE TUESDAY, NOVEMBER 5, 2018, 5:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Van W. Johnson, Sr.
Mayor Pro Tem Brenda Ash
Commissioner Jimmy Elliott
Commissioner Anita Grove
Commissioner Mitchell Bartley

Ron Nalley, City Manager
Lee Mathes, Director of Administrative Services
Deborah Guillotte, City Clerk

CALL TO ORDER

Mayor Johnson called the meeting to order at 5:00 PM.

Dennis Winterringer opened the meeting by introducing the Tree Committee members.

Holley Brown stated the Tree Committee meets the 3rd Tuesday of each month and gave an update of past events. Ms. Brown announced that there will be an Arbor Day celebration in January where we will be giving away approximately one hundred trees. In April we will be working with History, Culture and Arts Center, to host another tree celebration in conjunction with National Arbor and Earth Day. Ms. Brown stated we have had two meetings with Duke Energy to discuss vegetation management along the power lines on the City right-of-ways.

Bob Seymour reviewed the benefits and the value of trees in the City.

Mr. Winterringer reviewed the proposed changes of the new Ordinance to replace the 2011-01 Ordinance. Mr. Winterringer reviewed and stressed the importance of preservation and removal of patriarch trees, stating if someone wants to remove a patriarch tree, the Tree Committee would like this to go before Planning and Zoning for recommendation to the City Commission, and the City Commission for final decision.

Mayor Johnson stated he would like the City Commission as the appeal board.

Commissioner Ash asked Mr. Winterringer does the Tree Committee not want to review this prior to making recommendation to the Planning and Zoning or is the Tree Committee just want to present the Ordinance. Commissioner Ash stated her thoughts are to go through Code Enforcement and then the Tree Committee. Commissioner Ash said the Tree Committee can make a recommendation to Planning and Zoning.

Mr. Nalley stated he can see the benefit of the Tree Committee making recommendations of patriarch trees to Planning and Zoning.

Commissioner Grove asked that we also look at set-backs in reference to patriarch trees.

Mayor Johnson stated this is a whole separate issue, than what we are doing now.

Commissioner Grove suggests a patriarch tree should go through the special exception or variance process.

Mr. Winterringer has concerns about citizens cutting healthy trees down after storms and when cutting down damaged trees.

Mayor Johnson stated if the Tree Committee wants a specific understanding of this, this needs to be put in the Ordinance.

Mr. Winterringer reviewed the beautification fund, fines for illegal removal of protected trees and electrical utility (Duke Energy) tree trimming along power lines.

Commissioner Ash stated the Tree Committee needs to make sure fines for illegal removal of protected trees are totally explained and covered in this Ordinance.

Mr. Winterringer asked the City Commission how they need to proceed for proposed Ordinance for first reading.

Mayor Johnson suggests having the first reading, based on the minor changes for the December Meeting.

With no further business, meeting adjourned.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk

MINUTES OF THE JOINT WORKSHOP OF THE APALACHICOLA CITY COMMISSION AND PLANNING AND ZONING BOARD HELD TUESDAY, FEBRUARY 5, 2019, 5:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Van W. Johnson, Sr.
Mayor Pro Tem Brenda Ash
Commissioner Jimmy Elliott
Commissioner Anita Grove
Commissioner Mitchell Bartley

Ron Nalley, City Manager
Lee Mathes, Director of Administrative Services
Deborah Guillotte, City Clerk
Bobby Varnes, Chief of Police
Pat Floyd, City Attorney

CALL TO ORDER

Mayor Johnson called the meeting to order at 5:00 PM.

Cindy Clark stated Planning and Zoning Board has been working diligently on rewriting the Historic Preservation Regulations and Requirements. The required workshops have been held with the Planning and Zoning Board, and the process now requires a joint workshop with both the City Commission and Planning and Zoning Board before moving forward with the ordinance adoption process. Planning and Zonings initial goal is to turn the historic guidelines which currently don't have any regulatory authority into something the City can use more as development standards to help guide the preservation and regulations of historic structures. Ms. Clark outlined the recommendations made by the Planning and Zoning Board.

Rebecca Jetton stated that models from all over the state, including the University of Florida Historic Preservation plan, had been pulled and used to comprise the suggested changes. Ms. Jetton recommends the Commission approve the recommended changes and proposed and proceed with ordinance adoption process.

Ms. Clark stated the Department of State Division of Historic Preservation has read these changes and submitted their comments. Ms. Clark stated this proposed ordinance amendment proposes the following changes: 1) Repeals Chapter VI in its entirety and creates a new Chapter VI (historic preservation) for the purpose and intent of protecting historic assets; 2) Establish plan requirements for obtaining a Certificate of Appropriateness within the Historic District; 3) Provide for protective maintenance of historic structures and provide required material descriptions; 4) Amend/add definition; 5) Take the guidelines and turn them into requirements with specific development standards; 6) Clarify between contributing (historic) and non-contributing (not historic) structures with a map provided identifying contributing and non-contributing; 7)

Preserve the integrity of the historic square by placing limitations on use; 8) Prohibit development that would alter the historic plat of the City; 9) Provide for relocation over demolition; 10) Identify building materials for historic restoration/renovation; 11) Encourage porch or sides facing historic squares; 12) Provide for development standards for porches on contributing structure; 13) Provide for the preservation of commercial storefronts and prohibits blinking lights; 14) Require that accessory structures cannot exceed height of principal structures; and 15) Provide for accessory structure location.

Bonnie Davis stated the proposed changes would encourage development which would face a historic square to have the side which faces the square look like an entrance (covered porch).

Dennis Winterringer requests the City make a policy to post on the City website proposed changes regarding LDC changes at least fourteen days prior to a meeting.

Ms. Clark responded proposed Ordinance changes had been posted on the City website a couple weeks before this meeting.

Rebecca Jetton stated the policy Mr. Winterringer is requesting requires five hearings, when Florida Statutes only require two hearings. The City's entire Charter, City Ordinances and Land Development Regulations are at Municode and will be producing entire document within the next couple months.

Commission Ash stated if we would like more public comments that we need to have this available online and be able to accept comments with a cutoff date, so they can be compiled prior to having a workshop or meeting.

Ms. Clark stated there have been two public workshops with Planning and Zoning, the joint workshop today, and there are two additional opportunities for public comments during the ordinance adoption process.

Attorney Floyd suggests having the same committee do a review of the policy and make suggested changes reducing from five meetings to two meetings since we are implementing these other factors and we can do some streamlining in the process.

Ms. Clark suggests leaving the policy as is, because when it gets to the City Commission, Planning and Zoning has held workshops and public comment has been received and the issues are worked out by the time decisions are to be made.

Mayor Johnson stated he thinks it is a good time to have a policy made and Ms. Clark stated the City already has a policy in place.

Mr. Winterringer would like the policy to require publishing the document on the City's website fourteen days before Planning and Zoning workshop, whereas the Florida Statutes require notice ten days prior to a hearing where official action is taken.

Mayor Johnson commented he is confident moving forward with the proposed Ordinance.

Commissioner Jimmy Elliott made a motion to move forward with adoption process of the Historic Preservation Regulations and Requirements and the other proposed revisions as outlined by Cindy Clark. Commission Anita Grove second and the motion carried 5-0.

ADJOURNMENT

With no further business, Commissioner Brenda Ash made a motion to adjourn the meeting at 6:00 pm. Commissioner Anita Grove seconded and motion carried 5-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY, FEBRUARY 5, 2019,
6:00 PM AT THE APALACHICOLA COMMUNITY CENTER.**

PRESENT: Mayor Van W. Johnson, Sr.
Commissioner Jimmy Elliott
Mayor Pro Tem Brenda Ash
Commissioner Anita Grove
Commissioner Mitchell Bartley

Ron Nalley, City Manager
Lee Mathes, Director of Administrative Services
Deborah Guillotte, City Clerk
Bobby Varnes, Chief of Police
Pat Floyd, City Attorney

CALL TO ORDER

Mayor Johnson called the meeting to order at 6:00 PM and Attorney Floyd gave the invocation. Council members led the pledge of allegiance.

AGENDA ADOPTION

Mayor Johnson called for motion to approve agenda.

Commissioner Brenda Ash made a motion to approve the agenda as presented. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

Ron Nalley requested New Business- Item E be removed from agenda due to item is under further review.

MAYOR'S/COMMISSIONER'S COMMUNICATIONS

- In response to a question asked by Commissioner Grove, Mr. Nalley reported water is available and working at the Mill Pond.
- In response to a question asked by Commissioner Ash about the Sidewalk Ordinance, Attorney Floyd stated that it was passed contingent with the rates for the usage of the sidewalks based on square footage being adopted, and the fees at this time have not been set by the City Commission.
- In a response to a question asked by Commissioner Elliott, Mr. Nalley stated we are in the process of repairing the Battery Park electric receptacles that will be approximately \$6,000 and are waiting for the insurance check and FEMA money at this time. Commissioner Elliott requested that Mr. Nalley contact Duke Energy about getting individual power outlets so that each individual can apply and pay for their own power and Mr. Nalley reported this is already in the process.

CITY MANAGER COMMUNICATIONS

- **2019-2020 Budget Calendar** - In your packet is the 2019-2020 Budget Calendar. In March, staff will begin preparing the Capital Improvement Plan in preparation for Commission review in May and adoption in July. In July, staff will begin preparing the Annual Budget for the initial presentation

to the Commission in August and final adoption in September. Workshops can be scheduled by the Commission throughout the calendar period in order to receive regular updates, receive public input and to provide any further direction to staff.

- **Commission Retreat** – As we move towards budget season, I would like to propose that the Commission set a time and date for the one-day retreat to discuss existing projects and to allow the development of immediate, intermediate and long-range goals for the next fiscal year. These goals are then used by staff to develop a realistic working budget for the City and to accomplish the annual priorities of the Commission. Mr. Nalley stated the retreat is usually held late February to early March on Saturday from 8 AM to 4-5 PM. Staff will send out dates and if you could let us know what is good for each of you.

Bonnie Davis requests that the public be able to attend the Commission Retreat so they can give their input on upcoming projects. Mr. Nalley stated this is an opportunity for the City Commission's input on upcoming projects but most input will be held between staff and City Commission before the upcoming budget season, but the public is welcome to attend.

- **Ethics Training Opportunity** – In 2014, the Florida legislature mandated four hours of ethics training for all municipal officers every calendar year. The Northwest Florida League of Cities is offering an ethics training opportunity in Apalachicola on March 28th from 8 a.m. until 12 p.m. at the Community Center. Please let the City Clerk know if you can attend so that we can get everyone registered.
- **16th Annual African-American History Festival** – The African-American History Festival will be held February 15th through February 17th. The City will be assisting the members of H'COLA in preparing for the festival by allowing the use of Franklin Square, blocking roads for the festival and assisting along the parade route.
- **Chris Langston – Battery Park Lease** – Staff is still working on this matter and we will be bringing an update at next month meeting with staff recommendation.
- **Storm Water Project** – The Storm Water Project between 16th and 17th Street is a very big project and at this time we have spent approximately \$6,000, which doesn't include staff time. We are trying to prioritize these projects and we are looking at the listing of areas there are concerns about, so please be patient as we work on these issues. At this time, we have \$30,000 for storm water projects in the 2018-2019 budget and so far on this project we have already spent \$6000, which gives everyone a idea of how much these projects cost.

In a response to a question from Commissioner Ash inquiring if a list of these projects are available to the public for review, Mr. Nalley responded yes, the Stormwater Master Plan outlines the projects and is available for public review.

In response to a question from Commissioner Elliott, Mr. Nalley stated that with the completion of the 16th and 17th stormwater repairs, this work will not eliminate the holding of water over Highway 98, but it will help with the Sawyer Lane area.

ATTORNEY COMMUNICATIONS

- Attorney Floyd gave update on the Denton Cove litigation stating the depositions for him and Mayor Johnson was cancelled until further notice. The City had council in the previous litigation which we may need to use again if needed.
- Attorney Floyd gave update on the floodplain ordinance cases stating we have an answer on the Smith/Hall case and we have a motion coming up for hearing in the Moore case.

- Attorney Floyd stated as of this time he still hasn't received any information from Chris Langston on the Battery Park Lease.

In response to a question from Commissioner Grove about the Amicus Brief, Attorney Floyd stated as of this time there has not been any briefs filed by the parties.

PRESENTATIONS

A. Proposed Change to Municipal Elections Schedule - Heather Riley, Franklin County Supervisor of Elections, presented the City Commission with the option of moving the municipal elections to even number of years to fall in line with the general elections cycle, which would save the City approximately \$5,000 to \$6,000 per election cycle. Ms. Riley stated if this is something the City is interested in this would mean the seats coming up for reelection would need to extend their term for one year to 2020 and also the commissioners upcoming in 2021 to 2022. Ms. Riley stated the city elections would approximately increase about 30% voter turnout by changing the election cycle. The last city election voter turnout was 44%, but during the general election for just the City of Apalachicola voter turnout was 72% which is a big difference. A change to the City Charter will be required if the Commission chooses to move forward with the proposal. The proposal also requests eliminating the run-off requirement in the City Charter and relying on the recount guidelines found in the Florida Statutes.

Commissioner Ash recommends Ms. Riley and Mr. Nalley discuss further and present options to Commission.

B. Apalachicola Environmental Stewardship Bill - Mr. Nalley gave a presentation on the City's proposed bill, the Apalachicola Environmental Stewardship Bill, which is leveraging the City's Area of Critical State Concern designation into funding for the City's most critical needs. Mr. Nalley stated the Stewardship Bill along with the Legislative Agenda is posted online for public viewing. The Apalachicola Environmental Stewardship Bill is a 2019 Legislative initiative by the City of Apalachicola to establish funding sources that address the City's most pressing needs: infrastructure improvements to our wastewater, drinking water, and stormwater systems; water quality protection; and workforce housing. The Bill builds on the Legislatures intent to support our unique needs and asks for comparable funding to Monroe County, the other populated area in Florida that shares the Area of Critical State Concern designation. The Bill requests \$17 million to repair and upgrade our wastewater and stormwater infrastructure; \$1.6 million to install a water filtration system; \$4 million per year over ten years for land acquisition and capital improvements to facilitate public access; and updates to State statutes to facilitate a 1% bed tax levied on visitors for infrastructure and/or workforce housing projects. Mr. Nalley reported the legislative session begins March 5, 2019, and ends May 3, 2019.

Commissioner Grove asked about the \$1.6 million for the water filtration system from the State and Mr. Nalley stated this is from special appropriations funding. Mr. Nalley stated we have three appropriations requests: 1) pay off the debt default amount of \$755,000; 2) water filtration project at \$1.6 million and; 3) sewer project approximately \$2.5 million.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Byron Blan asked about mobile food vendor truck regulations in the City of Apalachicola and stated if the City doesn't have a current ordinance on mobile food vendor trucks, could City consider piggy backing off the County's Ordinance until the City's ordinance is in force.

In response to this issue, Mayor Johnson asked Ms. Clark to address comments and concerns.

Ms. Clark stated currently the City doesn't have standards in the LDC that directly addresses mobile food vendor trucks so any changes made to the LDC to accommodate this request would require going through the ordinance adoption process.

Mayor Johnson asked Ms. Clark and Attorney Floyd, is there any provision that would allow the City to have a temporary period that would allow mobile food vendor trucks to operate until an ordinance is put in place.

Ms. Clark stated currently mobile food vendor trucks are not even addressed in the Land Development Code. In the past, citizens have stressed concerns of not being able to have mobile food vendor trucks in the City of Apalachicola, but any request can be addressed and included in the LDC if the Commission chooses to do so, it just has to go through the process. If the City Commission would like to go in this direction, staff can draft a proposal to provide development standards and guidance for placement of mobile food vendor trucks.

Commissioner Elliott asked if the City Commission could possibly draft a proposal for temporary allowance of mobile food vendor trucks while ordinance is being drafted and going through the process.

Commissioner Grove stated maybe it is time to address this issue, but this should go through the adoption process outlined in the Land Development Code.

Attorney Floyd recommends the City Commission give authorization to allow staff to draft a proposed Ordinance allowing mobile food vendor trucks and go through the process for adoption.

Commissioner Mitchell Bartley made a motion for Attorney Floyd, Cindy Clark, and staff to draft a proposed Ordinance allowing mobile food vendor trucks and go through the adoption process. Commissioner Anita Grove seconded and motion carried 5-0.

- Robin Vroegop distributed a list of questions she would like to get answers too.

Mayor Johnson asked Mr. Nalley to respond to the submitted questions.

- Chris Moore outlined details regarding her floodplain management case.

Attorney Floyd reminded Ms. Moore that this case is in litigation and that the City cannot communicate with her on this matter without the presence of her attorney. Attorney Floyd stated the City will be going to court next week on this case.

CONSENT AGENDA

Mayor Johnson presented the Consent Agenda and asked if any items should be removed before a motion.

- Meeting Minutes Adoption - Adopt the January 8, 2019 Public Hearing and Regular Meeting and January 11, 2019 Special Meeting Minutes.
- Planning & Zoning Minutes Confirmation - Confirm the December 2018 Planning and Zoning Minutes.

Commissioner Anita Grove made a motion to approve the Consent Agenda. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

UNFINISHED BUSINESS

A. ORDINANCE NO. 2018-07 – TREE ORDINANCE

Attorney Floyd read Ordinance No. 2018-07 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA ADOPTING ORDINANCE 2018-07 TO REPLACE ORDINANCE 2011-01 IN ITS ENTIRETY; PROVIDING FOR INCLUSION OF ITS REGULATIONS IN THE LAND DEVELOPMENT CODE OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Elliott stated he doesn't think water/scrub oaks should be listed in this Ordinance.

Commissioner Brenda Ash made a motion to adopt Ordinance 2018-07 Tree Ordinance. Commissioner Anita Grove seconded and the motion carried 4-1. Commissioner Mitchell Bartley opposed.

UNFINISHED BUSINESS

B. DUKE ENERGY ELECTRIC FRANCHISE AGREEMENT

Attorney Floyd stated details have not been finalized at this time, and recommends addressing agreement at March meeting. Attorney Floyd stated Duke Energy is objecting to a 3 year franchise term, and is proposing a 10 year franchise term.

UNFINISHED BUSINESS

C. DISCUSSION CONCERNING THE SMITH/HALL CASE – 39 7TH ST.

Attorney Floyd stated he has filed a motion for default by the court and they have filed an answer of defense within the last couple of days. Attorney Floyd stated we will now file a reply to see if there is any discovery to be done and then we will ask the court for a trial date which will be given by the judge.

Rich Hall reviewed the issues he still has with these floodplain management violations and stated he has researched this further and the concrete fill needs to be addressed. Mr. Hall requests clarification regarding the removal of the concrete and rear fill.

NEW BUSINESS

A. RESOLUTION 2019-02 ADOPTING A POLICY OF PROHIBITING THE USE OF EXCESSIVE FORCE

Attorney Floyd read Resolution 2019-02 in its entirety. Title is as follows:

A RESOLUTION OF THE CITY OF APALACHICOLA, FLORIDA, ADOPTING A POLICY OF PROHIBITING THE USE OF EXCESSIVE FORCE BY LAW ENFORCEMENT AGENCIES WITHIN THE CITY AGAINST ANY INDIVIDUALS ENGAGED IN LEGALLY PERMITTED NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS AND ALSO ENFORCING APPLICABLE STATE AND LOCAL LAWS AGAINST PHYSICALLY BARRING ENTRANCE TO OR EXITS FROM A FACILITY OR LOCATION WHICH IS THE SUBJECT OF SUCH NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS, AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

Commissioner Mitchell Bartley made a motion to adopt Resolution 2019-02 Policy of Prohibiting the Use of Excessive Force. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

NEW BUSINESS

B. PROPOSED FDOT SIDEWALK PROJECT ALONG HIGHWAY 98

Mr. Nalley stated Franklin County is proposing to apply to the Florida Department of Transportation for funding under the Transportation Alternatives Set-Aside to build a sidewalk along the north side of Highway 98 from Prado Street westward to the Ace Hardware Store. The length of the project is 0.72 miles and because 88% of the project is located in the City of Apalachicola, Franklin County is requesting the City's support for this project. While normally requiring a local match, the match is waived because both the City and County are part of the designated Rural Area of Opportunity. FDOT will maintain sidewalk.

Commissioner Anita Grove made a motion to support Franklin County's Application to FDOT for the construction of a sidewalk along Highway 98 from Prado Street westward to the Ace Hardware Store and once completed FDOT agrees to maintain the sidewalk. Commissioner Brenda Ash seconded and the motion carried 5-0.

NEW BUSINESS

C. DISCUSSION OF MOBILE FOOD VENDOR REGULATIONS

Discussion of Mobile Food Vendor Regulations held under Public Comments, therefore, no further discussion held.

NEW BUSINESS

D. DISCUSSION CONCERNING RULES OF PROCEDURE FOR THE CITY COMMISSION

Mr. Nalley stated following a discussion of parliamentary procedure, public comment periods and rules of procedure at a Community Redevelopment Agency Board meeting, Commissioner Grove requested that the City Commission have an opportunity to discuss the same matter at the February meeting. The City of Apalachicola Charter states that, "the Commission shall determine its own rules and order of business and shall keep a journal of its proceedings." The Florida Municipal Officials' Manual states, "The primary principle of procedure is to facilitate the transaction of business and promote cooperation and harmony. Such procedure should not be used to entangle and confound the uninformed but rather to expedite business, avoid confusion and unfair advantage, and protect the rights of members." Mr. Nalley continued stating that a well written "Rules of Procedure" Manual for the City will address many of the concerns/matters discussed during the CRA meeting. Cities in Florida have a lot of discretion in determining how to conduct business and each Board must therefore fashion rules of procedure that will meet its own particular needs. Staff is willing to assist in the development of such a manual for the Commission's input and review if you would like for us to do so.

Commissioner Jimmy Elliott made a motion for staff to write proposed Rules and Procedures for the City Commission of the City of Apalachicola and present to the City Board for further review, discussion and possible action. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

NEW BUSINESS

E. PROPOSED REZONING OF VAN JOHNSON COMPLEX

Item removed from agenda.

NEW BUSINESS

F. RECOMMENDATION OF AUDITING SERVICES - AUDIT COMMITTEE

Mr. Nalley stated at the December meeting, the Audit Committee authorized the advertisement of a Request For Qualifications for Audit Services. Three proposals were received by the submittal deadline of January 18, 2019. The Audit Committee evaluated each of three proposals and ranked their responses to the request for proposal. The Audit Committee recommends the following order of preference for the Auditing firms: 1) Moran & Smith CPA LLP, 2) Roberson & Associates, P.A. and Vance CPA, LLC, and 3) James Moore & Co., P.L. Mr. Nalley stated the Audit Committee felt that Moran & Smith had the unique qualifications, commitment to professional performance, and a proven record of working closely with their local government clients and recommends this firm to perform the auditing services.

Commissioner Jimmy Elliott made a motion to accept the Audit Committee recommendation of Moran & Smith, CPA LLP for audit services contingent upon the approval of contract by Attorney Floyd and authorization for Mayor Johnson's signature. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

ADJOURNMENT

With no further business, Commissioner Jimmy Elliott made a motion to adjourn the meeting at 8:30 pm. Commissioner Mitchell Bartley seconded and motion carried 5-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk

CITY OF APALACHICOLA
PLANNING & ZONING BOARD
REGULAR MEETING
MONDAY, JANUARY 14th, 2019
Community Center/City Hall – 1 Bay Avenue
AGENDA MINUTES

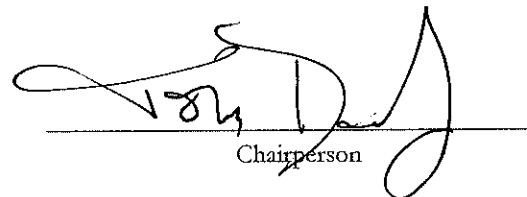
Present: Chairperson – Tom Daly, Uta Hardy, Joe Taylor, Jim Bachrach. Cindy Clark, City Planner.
Lee Mathes, City Administrator. Cortni Bankston, Permitting and Development Coordinator

Workshop – 5:00 P.M

Fill and Stormwater Regulation Revisions – Discussion held

Regular Meeting – 6:00 P.M.

- 1) Approval of December 10th, 2018 Regular Meeting Minutes. **Motion to approve: Jim Bachrach, 2nd: Uta Hardy. Motion Carried.**
- 2) Review, Discussion and Decision for House Relocation/Addition (**Historic District**)(R-1) @ 33 9th Street, Block 35, Lot(s) 7, For – Michael & Tara Roberts, Contractor – TBD. **Motion to approve: Jim Bachrach, 2nd: Joe Taylor. Motion Carried.**
- 3) Review, Discussion and Decision for a 6' Privacy Fence addition (R-2) @ 147 17th Street, Block 103, Lot(s) 9, For – Jamie Liang, Contractor – Owner/Self. **Motion to approve: Joe Taylor, 2nd: Uta Hardy. Motion Carried.**
- 4) Review, Discussion and Decision for revision of current 6' Privacy fence to abut property line (R-2) @ 320 12th Street, Block 208, Lot(s) 3 & 4, For – Anthony Croom, Contractor – Taunton Maintenance. **Motion to approve per allowed fence regulations Jim Bachrach, 2nd: Joe Taylor. Motion Carried.**
- 5) Review, Discussion and Decision for 4' Fence permit (R-1) @ 221 Avenue D, Neels Addition Block 4, Lot(s) 13&14, For – Michael Smith, Contractor – Island Fences/Owner. **Motion to Table due to no-show: Uta Hardy, 2nd: Jim Bachrach. Motion Carried.**
- 6) Review and Discussion of removal of a Patriarch Pine Tree greater than 35 inches @ 183 13th Street, For – Ella Speed, Contractor – JJ's Tree Service. **Motion to Table due to no-show: Uta Hardy, 2nd: Jim Bachrach. Motion Carried.**
- 7) Review and Discussion of removal of 3 Pine Trees and 1 Water Oak Tree @ 45 Ave C, For – Robin & Mike Vroegop, Contractor – The F.A. Bartlett Tree Expert Company. **Motion to approve: Joe Taylor, 2nd: Jim Bachrach. Motion Carried.**


Chairperson

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Approval of Copier Lease – Office Business Systems

AGENDA INFORMATION:

Agenda Location: Consent
Item Number: C
Department: Administration
Contact: Lee Mathes, Director of Administrative Services
Presenter: Deborah Guillotte, City Clerk

BRIEF SUMMARY: The copier lease at City Hall has a current monthly rate of \$191.85. There is a need to upgrade the copier to accommodate color printing capability and to save in individual work station printing costs. Currently, there are three individual color printers in the office with four cartridges per machine. Cartridges are being replaced every 30 to 60 days at a cost of \$60 per cartridge. It is becoming cost prohibitive to continue with the individual color printers at each work station. The new proposed lease is for 36 months at a monthly rate of \$226.09 and cartridges are included in the maintenance service contract. Once installed, employees will have their own password to be able to print color. Otherwise, the copier will automatically default to black and white print. The individual work station printers will be surplusd saving approximately \$2,000 per year.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To Approve the Copier Lease with GreatAmerica Financial Services and Authorize the City Manager to Execute the New Lease.

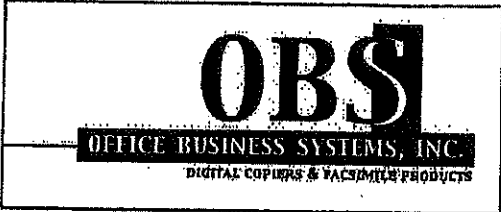
FUNDING SOURCE: Administration – Copier Rental - 510440

ATTACHMENTS: Copier Sales Order and Lease Agreement

STAFF'S COMMENTS AND RECOMMENDATIONS: The City Hall copier serves as the main copier for all departments except the Police Department. The copier upgrade will allow color printing capability and a \$2,000 cost savings per year.

SALES ORDER

2380 Capital Circle, N.E.
 P.O. Box 3921
 Tallahassee, Florida 32308
 (850) 385-1230
 Fax: (850) 385-6517
 (800) 230-7177



SHIP TO: CITY OF APALACHICOLA
192 COACH WAGONER BLVD
APALACHICOLA, FL 32320

BILL TO: GREAT AMERICA LEASING

Date: 2-4-2019	Sales Rep: RANDY HOLLEY	County: FRANKLIN	METER READING:				
PO #:	SALES/LEASE INFO: CPC() 10%() ALL-INCLUSIVE() ANNUAL GMA() FMV(X) \$1() OPEN()		LEASE INFORMATION: # OF PAYMENTS: 36 #OF MONTHS: 36 PAYMENT: \$ 226.09				
Contact: DEBORAH GUILLOTTE		PHONE #: 850-853-9319	SUPPLIES: DELIVERED BY REP (X) CUSTOMER PICK-UP () SHIP TO CUSTOMER ()				
FAX #:							
QTY	SHIP	PROD. #	DESCRIPTION	EQUIP ID	SERIAL #	COST EA.	TOTAL
1		418309	RICOH IMC4500 COLOR COPIER				
1		418378	SR3250 INTERNAL FINISHER				\$ -
1		418349	PB3280 PAPER DRAWER				\$ -
1		418392	FAX OPTION				\$ -
							\$ -
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Office Business Systems, Inc. herein referred to as ("OBS"), hereby sells to the Customer, identified by its signature on this contract, the equipment described in this contract, subject to the terms and conditions on each page of this Contract, and the Customer in consideration thereof, acknowledges and agrees as follows:

OBS and the Customer hereby agree that this Contract shall be governed by and construed under the laws of the State of Florida. In the event that the Customer fails to make payment to OBS pursuant to the terms of this Contract, Customer, its heirs, assigns, and successors in interest hereby agree to pay OBS for any and all collection costs and/or expenses incurred by OBS in the collection of any sum due under the terms of this Contract, including but not limited to reasonable attorney's fees.

DELIVERY & SET-UP	
SUB TOTAL	
TOTAL TAX	
7.5%	
6%	
CHECK #	
AMOUNT DUE	

DATE APPROVED:
 X _____
DATE RECEIVED:

CUSTOMER APPROVED:
 X _____
CUSTOMER RECEIVED:



AGREEMENT

GREATAMERICA FINANCIAL SERVICES CORPORATION
625 FIRST STREET SE, CEDAR RAPIDS IA 52401
PO BOX 609, CEDAR RAPIDS IA 52408-0609

AGREEMENT NO.: 1433114

CUSTOMER ("YOU" OR "YOUR")

FULL LEGAL NAME: Apalachicola, City of

ADDRESS: 192 Coach Wagoner Blvd Apalachicola, FL 32320-2150

VENDOR (VENDOR IS NOT OUR AGENT AND IS NOT AUTHORIZED BY US TO ACT ON OUR BEHALF OR TO WAIVE OR ALTER ANY PROVISION OF THIS AGREEMENT)

Office Business Systems Tallahassee, FL

EQUIPMENT AND PAYMENT TERMS

TYPE, MAKE, MODEL NUMBER, SERIAL NUMBER, AND INCLUDED ACCESSORIES

SEE ATTACHED SCHEDULE

1 Ricoh IMC4500 System

EQUIPMENT LOCATION: As Stated Above

(PLUS TAX)

TERM IN MONTHS: 36

MONTHLY PAYMENT AMOUNT: \$226.09

PURCHASE OPTION: Fair Market Value

ADDITIONAL TERMS AND CONDITIONS

AGREEMENT. You want us to now pay your Vendor for the equipment and/or software referenced herein ("Equipment") and the amounts your Vendor included on the invoice to us for the Equipment for related installation, training, and/or implementation costs, and you unconditionally agree to pay us the amounts payable under the terms of this agreement ("Agreement") each period by the due date. This Agreement will begin on the date the Equipment is delivered to you or any later date we designate. We may charge you a one-time origination fee of \$89.50. If any amount payable to us is past due, you will pay a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-six dollars (\$26.00); or 2) the highest lawful charge, if less.

NET AGREEMENT. THIS AGREEMENT IS NON-CANCELABLE FOR THE ENTIRE AGREEMENT TERM. YOU UNDERSTAND WE ARE PAYING FOR THE EQUIPMENT BASED ON YOUR UNCONDITIONAL ACCEPTANCE OF IT AND YOUR PROMISE TO PAY US UNDER THE TERMS OF THIS AGREEMENT, WITHOUT SET-OFFS FOR ANY REASON, EVEN IF THE EQUIPMENT DOES NOT WORK OR IS DAMAGED, EVEN IF IT IS NOT YOUR FAULT.

EQUIPMENT USE. You will keep the Equipment in good working order, use it for business purposes only, and not modify or move it from its initial location without our consent. You must resolve any disputes you may have concerning the Equipment with the manufacturer or Vendor. Payments under this Agreement may include amounts you owe your Vendor under a separate arrangement (for maintenance, service, supplies, etc.), which amounts may be invoiced by us on your Vendor's behalf for your convenience.

SOFTWARE/DATA. Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligations of you or the licensor under any license agreement. You are solely responsible for protecting and removing any confidential data/images stored on the Equipment prior to its return for any reason.

NO WARRANTY. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU HAVE ACCEPTED THE EQUIPMENT "AS-IS". YOU CHOSE THE EQUIPMENT, THE VENDOR AND ANY/ALL SERVICE PROVIDER(S) BASED ON YOUR JUDGMENT. YOU MAY CONTACT YOUR VENDOR FOR A STATEMENT OF THE WARRANTIES, IF ANY, THAT THE MANUFACTURER OR VENDOR IS PROVIDING. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.

ASSIGNMENT. You may not sell, assign or sublease the Equipment or this Agreement without our written consent. We may sell or assign this Agreement or our rights in the Equipment, in whole or in part, to a third party without notice to you. You agree that if we do so, the assignee will have our rights but will not be subject to any claim, defense, or set-off assertable against us or anyone else.

LAW/FORUM. This Agreement and any claim related to this Agreement will be governed by Iowa law. Any dispute will be adjudicated in a state or federal court located in Linn County, Iowa. You consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial.

LOSS OR DAMAGE. You are responsible for any damage to or loss of the Equipment. No such loss or damage will relieve you from your payment obligations hereunder. We are not responsible for, and you will indemnify us against, any claims, losses or damages, including attorney fees, in any way relating to the Equipment or data stored on it. In no event will we be liable for any consequential or indirect damages.

INSURANCE. You agree to maintain commercial general liability insurance acceptable to us. You also agree to: 1) keep the Equipment fully insured against loss at its replacement cost, with us named as loss payee; and 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of this Agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option, but not the obligation, to secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance, and which may result in a profit to us through an investment in reinsurance. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 3% per annum.

TAXES. We own the Equipment. You will pay when due, either directly or by reimbursing us, all taxes and fees relating to the Equipment and this Agreement. Sales or use tax due upfront will be payable over the term with a finance charge.

END OF TERM. At the end of the term of this Agreement (or any renewal term) (the "End Date"), this Agreement will renew month to month unless a) you provide us written notice, at least 30 days prior to the End Date, of your intent to return the Equipment, and b) you timely return the Equipment to the location designated by us, at your expense. If a Purchase Option is indicated above and you are not in default on the End Date, you may purchase the Equipment from us "AS IS" for the Purchase Option price. If the returned Equipment is not immediately available for use by another without need of repair, you will reimburse us for all repair costs. You cannot pay off this Agreement or return the Equipment prior to the End Date without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the amount we paid for the Equipment.

DEFAULT/REMEDIES. If a payment becomes 10+ days past due, or if you otherwise breach this Agreement, you will be in default, and we may require that you return the Equipment to us at your expense and pay us: 1) all past due amounts and 2) all remaining payments for the unexpired term, plus our booked residual, discounted at 3% per annum; and we may disable or repossess the Equipment and use all other legal remedies available to us. You agree to pay all costs and expenses (including reasonable attorney fees) we incur in any dispute with you related to this Agreement. You agree to pay us 1.5% interest per month on all past due amounts.

UCC. You agree that this Agreement is (and/or shall be treated as) a "Finance Lease" as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). You agree to forgo the rights and remedies provided under sections 607-622 of Article 2A of the UCC.

MISCELLANEOUS. This Agreement is the entire agreement between you and us relating to the Equipment and supersedes any prior representations or agreements, including any purchase orders. Amounts payable under this Agreement may include a profit to us. The parties agree that the original hereof for enforcement and perfection purposes, and the sole "record" constituting "chattel paper" under the UCC, is the paper copy hereof bearing (i) the original or a copy of either your manual signature or an electronically applied indication of your intent to enter into this Agreement, and (ii) our original manual signature. Any change must be in writing signed by each party.

APPLICABLE TO GOVERNMENTAL ENTITIES ONLY

You hereby represent and warrant to us that as of the date of the Agreement: (a) the individual who executed the Agreement had full power and authority to execute the Agreement on your behalf; (b) all required procedures necessary to make the Agreement a legal and binding obligation against you have been followed; (c) the Equipment will be operated and controlled by you and will be used for essential government purposes for the entire term of the Agreement; (d) that all payments due and payable for the current fiscal year are within the current budget and are within an available, unexhausted, and unencumbered appropriation; (e) you intend to pay all amounts payable under the terms of the Agreement when due, if funds are legally available to do so; (f) your obligations to remit amounts under the Agreement constitute a current expense and not a debt under applicable state law; (g) no provision of the Agreement constitutes a pledge of your tax or general revenues; and (h) you will comply with any applicable information reporting requirements of the tax code, which may include 8038-G or 8038-GC information returns. If funds are not appropriated to pay amounts due under the Agreement for any future fiscal period, you shall have the right to return the Equipment and terminate the Agreement on the last day of the fiscal period for which funds were available, without penalty or additional expense to you (other than the expense of returning the Equipment to the location designated by us), provided that at least thirty (30) days prior to the start of the fiscal period for which funds were not appropriated, your Chief Executive Officer (or Legal Counsel) delivers to us a certificate (or opinion) certifying that (a) you are a state or a fully constituted political subdivision or agency of the state in which you are located; (b) funds have not been appropriated for the applicable fiscal period to pay amounts due under the Agreement; (c) such non-appropriation did not result from any act or failure to act by you; and (d) you have exhausted all funds legally available for the payment of amounts due under the Agreement. You agree that this paragraph shall only apply if, and to the extent that, state law precludes you from entering into the Agreement if the Agreement constitutes a multi-year unconditional payment obligation.

OWNER ("WE", "US", "OUR")

CUSTOMER'S AUTHORIZED SIGNATURE

THIS AGREEMENT IS NON-CANCELABLE FOR THE FULL AGREEMENT TERM. THIS AGREEMENT IS BINDING WHEN WE EXECUTE THIS AGREEMENT AND PAY FOR THE EQUIPMENT.

OWNER: GreatAmerica Financial Services Corporation

CUSTOMER: (As Stated Above)

SIGNATURE:

DATE:

SIGNATURE: X

DATE:

PRINT NAME & TITLE:

PRINT NAME & TITLE:

CERTIFICATE OF DELIVERY AND ACCEPTANCE

The Customer hereby certifies that all the Equipment: 1) has been received, installed, and inspected, and 2) is fully operational and unconditionally accepted.

SIGNATURE: X

NAME AND TITLE:

DATE:

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Ordinance 2019-03 - Mobile Food Vendor Regulations

AGENDA INFORMATION:

Agenda Location: Unfinished Business
Item Number: A
Department: Governing Body
Contact: Pat Floyd, City Attorney
Presenter: Pat Floyd, City Attorney

BRIEF SUMMARY: Currently, no provision in the Zoning Ordinance supports or provides development standards for mobile food vendors or itinerate merchants. Historically, the City has informally allowed, on a temporary basis, mobile food vendors in conjunction with events and festivals and a provision in the Business License Ordinance allows for this. Recently, the City has received requests from businesses interested in either locating a Mobile Food Truck on their property or operating a Mobile Food Truck within the City. At their February meeting, the Commission asked the City Attorney to develop an Ordinance regulating Mobile Food Vendors for their consideration at the next meeting.

RECOMMENDED MOTION AND REQUESTED ACTIONS: None at this time pending further discussion by the City Commission.

FUNDING SOURCE: None

ATTACHMENTS: Ordinance 2019-03 – Mobile Food Vendors

STAFF'S COMMENTS AND RECOMMENDATIONS: In February, Staff supported the development of specific regulations for mobile food vendors. However, staff is concerned that the resulting ordinance proposed may create many unanticipated consequences for the mobile food vendors and may prove difficult for the City to administer. In its present form, the proposed ordinance appears to assign a principal use designation to the food trucks which will require them to meet commercial development standards including lot coverage, stormwater and parking normally associated with allowable principal uses. Additionally, staff is concerned that allowing permanent food vendor placement may create a conflict with historic regulations that govern the compatibility of development in the City's historic district. Staff therefore recommends tabling this ordinance until such time that additional review may be conducted and revisions made that better identify compatible use standards. We understand that requesting additional time will not make some in the public happy, however we feel it is important in the development of a solid, fair, and enforceable Ordinance. If sufficient support from the Commission exists, staff would still recommend that the Planning and Zoning Board be asked to assist in developing revisions to the proposed Ordinance that contemplates time limits, appropriate locations, permit requirements, insurance requirements, prohibitions of certain operations, parking requirements and other general regulations that address health and safety concerns.

**CITY OF APALACHICOLA, FLORIDA
ORDINANCE 2019-03 “MOBILE FOOD VENDORS”**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA
REGULATING THE OPERATION OF MOBILE FOOD VENDORS WITHIN THE
CITY OF APALACHICOLA, FLORIDA, REQUIRING A PERMIT, REQUIRING
COMPLIANCE WITH FLORIDA STATUTES AND REGULATIONS REGARDING
THE SALE, PREPARATION, STORAGE AND DISPLAYING OF FOOD IN
COMMERCIAL OPERATIONS, PROVIDING OPERATION REQUIREMENTS AND
CONDITIONS, PROVIDING FOR PROCEDURES AND PENALTIES FOR
VIOLATION AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, in an effort to be proactive, the City of Apalachicola, Florida is establishing this Ordinance to allow and regulate the operation of Mobile Food Vendors (including Food Trucks) within the City for the benefit of the health, welfare and safety of the people of the City of Apalachicola, Florida; and,

WHEREAS, the number of mobile food vendors are rising nationwide as well as locally and provide the service of convenient and diverse food choices; and,

WHEREAS, in recent years mobile food vending has allowed creative culinary professionals an avenue to pursue small business ownership and practice their craft; and,

WHEREAS, like many municipalities, the City is realizing an interest in mobile food vendors and must examine its current code, ordinances and regulations; and,

WHEREAS, the City Commission of the City of Apalachicola shall have the authority and power to condition the issuance of Mobile Food Vendor licenses or permits on such other and additional requirements by Resolution adopted by the Commission as they may deem necessary in the interest of health, safety and welfare of the people of the City of Apalachicola including fees for application and permit issuance.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA FLORIDA BY AND THROUGH ITS MAYOR AND BOARD OF CITY COMMISSIONERS THE FOLLOWING ORDINANCE PROVISIONS REGARDING THE REGULATIONS OF MOBILE FOOD VENDORS IN THE CITY OF APALACHICOLA, FLORIDA:

Section 1. Recitals. The above stated recitals are hereby adopted and confirmed and incorporated herein.

Section 2. Definitions: The following definitions shall apply in the interpretation and the enforcement of this Ordinance:

- A. Mobile Food Vendor (MFV): means a portable push cart or a vehicle mounted food service establishment designed to be readily movable and approved by law to travel

- highways, roadways and/or waterways in the state of Florida that is a self-contained mobile food establishment equipped and operated as required by Federal and Florida laws and regulations and local codes, laws and regulations.
- B. Permit: means the document issued by the regulatory authority that authorizes mobile food vending.
 - C. Regulatory authority: means the local, state and federal enforcement body or authorized representative having jurisdiction over Mobile Food Vendors.
 - D. Employee: the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working with or in association with a Mobile Food Vendor.
 - E. Mobile Service Base is a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use of a private home as a mobile service base.
 - F. Vehicle means a motorized vehicle, including a trailer or other portable unit, which is attached to a motorized vehicle that is intended for use in vending.
 - G. Vend means to sell or offer to sell products from a mobile food truck or cart.

Section 3. Operation, Rules and Regulations:

- A. All Mobile Food Vendors shall comply with all applicable laws, rules and regulations pertaining to food establishments set for by the regulatory authority of the United States, State of Florida and City of Apalachicola and will be held in compliance by these authorities.
- B. Mobile Food Vendors shall apply for a business license after first obtaining all applicable Federal and State and all other local permits.
- C. Except as specifically allowed herein mobile food vendors shall only be allowed to operate or conduct business in a commercial zoning district where food and drink establishments are allowed as a principle use and in such commercial zoning district, only on private property as allowed by written permission from the owner(s) with no more than one (1) mobile food vendors (meeting the requirements of this Ordinance) located on any one commercial zoned lot or parcel within the City of Apalachicola, Florida.
- D. Except as specifically allowed herein mobile food vendors must provide parking as is required for any other food or drink establishment within that commercial zoning district and must comply with all setback and other requirements of food or drink establishments in that commercial zoning district including but not limited to setbacks, lot coverage, sidewalk obstruction, noise and other requirements or conditions set by the City.
- E. Mobile Food Vendors must renew their business license every calendar year.
- F. Mobile Food Vendors must have proof of sales tax and use permit.
- G. Mobile Food Vendors must post their permit(s) in the window or display prominently on the vehicle. This permit shall be visible to inspectors. MFV's must also display all other department permits and/or licenses as required by that regulatory authority.
- H. Mobile Food Vendors must provide menu, photo of vending unit, and proposed days of use as a part of the business license application.
- I. Mobile Food Vendors must comply with Federal, State and local laws, rules, regulations and requirements regarding having a fixed-base central preparation facility or a notarized statement from the owner of a central preparation facility stating the MFV uses its facility

as its base of operation. All central preparations facilities and their operations must be approved by the State of Florida and strictly follow all health and safety laws and regulations.

- J. It is a violation to vend any product from a mobile food truck at any location except in compliance with the requirements of this section.
- K. This section excludes and exempts a contractual or other private arrangement between a mobile food truck and an individual or group that wishes to have food catered to a specific location which is not open to the public.
- L. Business Tax Receipt Requirements. A mobile food truck shall comply with all state and local business tax regulations and licensing.
- M. Vehicle Requirements. A mobile food truck shall not be used for vending a product unless the vehicle has been designed and constructed specifically for such purpose. The mobile food truck shall be licensed in accordance with the rules and regulations of any local, state and federal agency having jurisdiction over the mobile food truck or products sold therein.
- N. Open Flame Cooking. Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
- O. Noise Limitations. Amplified sounds, if any, from any mobile food truck shall comply with the noise limitation requirements of the City of Apalachicola.
- P. Waste Collection. The operator shall provide a waste receptacle for public use. The area shall be kept neat and orderly at all times and garbage or trash shall be removed daily.
- Q. Signage. No signage is allowed other than what is painted on or flatly affixed to the surface of the Mobile Food Cart or vehicle.
- R. Special Events. Mobile food trucks may participate in special events, subject to the requirements and conditions of the applicable permit as authorized specifically by the City of Apalachicola.
- S. Disposal. As required by Federal, State and local laws, rules, regulations and requirements, Mobile food trucks or Mobile Food Vendors shall have a current written agreement, with a state licensed facility, for the proper disposal of grease and graywater.
- T. Rights of Way. The vending of products from a Mobile Food Truck or Mobile Food Vendor on rights-of-way shall be and is hereby prohibited.
- U. Permission. Mobile Food Trucks shall be required to have the written, signed and notarized permission of the owner of the property on which it is located. Such written permission shall be available upon request by the representative of any regulating agency.
- V. Frequency. Except as allowed as part of a city issued permit, mobile food trucks are permitted on each property, a maximum of no more than _____ days per calendar week. Mobile Food Trucks may operate at permitted different locations throughout the City subject to the conditions of this Ordinance.
- W. Existing Parking Space. Mobile Food Trucks or Mobile Food Vendors shall not require use of more than twenty-five percent (25%) of existing parking spaces in front of the lot or parcel on which the Mobile Food Vendor or Truck operates.
- X. Access. A Class I mobile food truck shall not be placed in any location that impedes the ingress or egress of other businesses or building entrances or emergency entrances or exits.

- Y Mobile Food Vendors shall not dispense any food or drink when parked within the right-of-way of any public street in the City of Apalachicola (except as otherwise allowed in this section) or in any City owned property without written consent from the City.
- Z. Mobile Food Vendors shall be entitled and authorized to operate any day but only between the hours of 7:00 AM and Midnight except that on Fridays and Saturdays they may continue to operate until 2:00 A.M. the following day.
- aa. Mobile Food Vendors may not conduct business in parking spaces.
- bb. If at one location for more than two hours, Mobile Food Vendors must show proof of permission from a business within 150 feet for employees to have use of restrooms (or other facilities as approved by the health authority) during hours of operation.
- cc. Mobile Food Vendors must supply, in a prominent location, trash containers sufficient in size to collect all waste generated by customers and staff of the mobile vending operation. All trash and debris generated by customers and staff shall be collected by the mobile vendor and deposited in their trash container and removed from the site by the mobile vendor.
- dd. Mobile Food Vendors shall not use stakes, rods, or any method of support that is required to be drilled, driven, or otherwise fixed, in asphalt pavement, curbs, sidewalks or buildings.
- ee. RESERVED,
- ff. Mobile Food Vendors shall not impede access to the entrance or driveway of any adjacent building or business or lot or parcel of land.
- gg. Mobile Food Vendors shall not obstruct sight distance for drivers.
- hh. Mobile Food Vendors are prohibited to the use of PA systems, bells or music.
- ii. Mobile Food Vendors shall be further instructed by the licensing and operating rules set forth by the City Commission of the City of Apalachicola, Florida as duly passed from time to time by Resolution.
- jj. Mobile Food Vendors may not damage required landscaping (bufferyards, parking lot landscaping).
- kk. Mobile Food Vendors must be setback from adjacent residential districts a minimum of 40-feet without a bufferwall, and minimum 15 feet with a concrete bufferwall.
- ll. Mobile Food Vendors may not be located within 5 feet of any right-of-way or public sidewalk.
- mm. Mobile Food Vendors may not disrupt vehicular or pedestrian circulation for ingress and egress to the property.
- nn. The vendor must keep clean all areas of the subject property and public rights-of-way within twenty-five (25) feet of the subject property, including grease, trash, paper, cups, containers, coolers, or cans associated with the vending operation beyond twenty-five feet. This includes emptying city trash receptacles located on the public rights-of-way that contain debris from the operation within twenty-five feet of the property.
- oo. RESERVED.
- pp. Liquid waste or grease may not be disposed of in tree wells, storm drains, or onto the sidewalks, streets, or other public space. The vendor is responsible for removal of grease and liquid waste from the sidewalk and street surfaces resulting from its operation, or the unloading and loading of food carts. The vendor shall comply with all state laws for servicing the vehicle or cart for waste water and grease disposal, including commissary requirements.
- qq. If at any time the State revokes, suspends or expires the issued food vending permit, any permit issued by the City, for the Vendor under this Ordinance is revoked or suspended simultaneously.

- rr. The Mobile Food Vendor is liable for all damages and repairs to the streetscape, trees and vegetation, sidewalks, streets, or other public amenities that relate to its operation.
- ss. Vehicles shall not “hop” curbs or perform any other illegal traffic maneuvers.

Section 5. Insurance Requirements:

- A. The permittee, owner or operator shall at all times maintain any insurance which City Manager determines to be necessary, which may include but is not limited to, General Liability Insurance, Commercial Automobile Liability Insurance, Worker’s Compensation Insurance, and Environmental Liability Insurance, issued by an insurance company licensed to do business in the State of Florida, in the amounts established by the City Manager which shall be reasonably based on industry standards and the risk determined to exist. The insurance policy shall be in occurrence form and the City of Apalachicola shall be named as an additional insured on the certificate of insurance. The permittee, owner or operator shall furnish the City with a certificate of insurance which shall be accepted by the City only after approval by the City Manager. The permittee, owner or operator shall notify the City within three (3) business days of any changes in the insurance coverage. Upon the cancellation or lapse of any policy of insurance as required by this section, the permit shall be immediately revoked unless, prior to the expiration or cancellation date of the insurance policy, another insurance policy meeting all the requirements of the City Manager is obtained and a new certificate of insurance is provided to the City Manager.

Section 6. Penalties for Violation:

- A. In addition to fines and/or penalties for violation of City laws and ordinances, violation of this Ordinance by an applicant on two separate dates shall result in revocation of the license or permit under this Ordinance. Furthermore, this Ordinance may be enforced by the City of Apalachicola as a civil infraction under Apalachicola Ordinance No. 2012-02 as additional and supplemental means of enforcing this Ordinance.

Section 7. Appeals:

Any person who has his permit or license issued this Ordinance revoked or cancelled may appeal that decision within thirty (30) days to the City Commission.

Section 8. Severability:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are severable.

Section 9. Conflict:

All Ordinances or parts of Ordinances in conflict herewith, to the extent of such conflict, are hereby repealed.

Section 10. Effective Date:

This Ordinance shall become effective upon affirmative vote of the majority of the City Commission and when signed by the Mayor and attested by the City Administrator.

Be it Enacted by the People of the City of Apalachicola, Florida.

This Ordinance was first read in open session on the ____ day of _____, 2019. This Ordinance was read for the second time and fully adopted in open session after Public Hearing on the ____ day of _____, 2019. The final adoption and motion were made by Commissioner _____, second by Commissioner _____.

Voting Aye: _____

Voting Nay: _____

**FOR THE CITY COMMISSION OF THE
CITY OF APALACHICOLA, FLORIDA**

VAN W. JOHNSON, SR., MAYOR

ATTEST:

Deborah Guillotte
City Clerk

APPROVED AS TO FORM:

J. Patrick Floyd
City Attorney

APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019

SUBJECT: Rules of Procedure for the City Commission

AGENDA INFORMATION:

Agenda Location: Unfinished Business
Item Number: B
Department: Administration
Contact: Ron Nalley, City Manager
Presenter: Ron Nalley, City Manager

BRIEF SUMMARY: Following a discussion of parliamentary procedure, public comment periods and rules of procedure at a Community Redevelopment Agency Board meeting, Commissioner Gove requested that the City Commission have an opportunity to discuss this same matter. At their February meeting, the City Commission held discussion on creating their own Rules of Procedure and requested that the City Manager prepare a draft Rules of Procedure document for the Commission's review and consideration.

RECOMMENDED MOTION AND REQUESTED ACTIONS: None at this time pending further discussion by the City Commission.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Rules of Procedure for the City Commission of the City of Apalachicola

STAFF'S COMMENTS AND RECOMMENDATIONS: The City of Apalachicola Charter states that, "the Commission shall determine its own rules and order of business and shall keep a journal of its proceedings." Cities in Florida have a lot of discretion in determining how to conduct their business and each Board must therefore fashion rules of procedure that will meet its own particular needs. A draft of the Rules of Procedure is presented for your input and review.

**RULES OF PROCEDURE
FOR THE CITY COMMISSION
OF THE
CITY OF APALACHICOLA**

EFFECTIVE _____

The City of Apalachicola Charter allows the City Council to adopt procedural guidelines for City Council meetings to the extent they do not conflict with local or state law. The current edition of Robert's Rules of Order was adopted under Resolution No. _____ to provide further guidelines for the conduct of efficient and orderly meetings. The following Rules of Procedure will provide more detailed guidelines.

RULES OF CIVILITY

The City of Apalachicola encourages citizen participation in the democratic process and recognizes and protects the right of freedom of speech afforded to all. As the City Commission conducts the business of the City, rules of civility shall apply. City Commission members, City officials, and members of the public are to respectfully communicate according to the City Commission's Rules of Procedure. Persons shall speak only when recognized by the Presiding Officer and, at that time, refrain from engaging in personal attacks or derogatory or offensive language. Comments from citizens being made at a time other than during the period titled "Public Comments" should be focused on the issue at hand. Outbursts will not be tolerated and those who do not conduct themselves in a respectful and lawful manner shall be subject to removal as outlined in the City Commission's Rules of Procedure. It shall be the responsibility of each individual to demonstrate civility.

PREFACE

The City of Apalachicola conducts municipal government, performs municipal functions, and renders municipal services and exercises any power for municipal purposes according to the City Charter, except as otherwise provided for by law. Any conflict or need for clarification arising out of the following Rules of Procedure shall be resolved, where applicable, by provisions of the City Charter which shall prevail, except as otherwise provided for by law. Any Amendments to the City Charter which may require revisions to the Rules of Procedure shall be administratively prepared by the City Clerk and adopted by the City Commission.

These Rules of Procedure are adopted by the City Commission to guide the City Commission through its primary operations and functions. They are designed to provide the structure needed to conduct City business while also maintaining the flexibility needed to efficiently and effectively carry out the public business as circumstances may dictate.

The Government in the Sunshine Act, also known as the Sunshine Law, provides a right of access to governmental proceedings of public boards or commissions at both the state and local levels. The law is equally applicable to elected and appointed boards, and applies to any gathering of two or more members of the same board to discuss some matter which will

foreseeably come before that board for action. Members-elect to such boards or commissions are also subject to the Sunshine Law, even though they have not yet taken office. There are three basic requirements of s. 286.011, F.S.: (1) meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded.

RULE 1 MEETINGS

All City Commission meetings shall be held in the Community Center, 1 Bay Avenue, Apalachicola, Florida, unless advertised otherwise, and shall be open to the public. In case of emergency, the Mayor may designate an appropriate meeting place for a meeting open to the public. Robert's Rules of Order, as revised, so long as they do not conflict with Ordinances, Statutes, these Rules, or the Apalachicola Charter, shall be used as a guide in conducting City Commission meetings.

RULE 2 REGULAR MEETINGS

As noted in City Charter Section 17, the City Commission shall hold regular meetings on the first Tuesday after the first Monday of each month commencing at 6:00 p.m. From time to time, regular meetings may be adjusted by Resolution of the City Commission to accommodate a holiday schedule. Meetings shall also be rescheduled to accommodate Elections as scheduled by the Franklin County Supervisor of Elections. The news media shall be notified and appropriate notice shall be posted at City Hall and on the City's website.

RULE 3 SPECIAL MEETINGS

The Mayor, or in the Mayor's absence, the Mayor Pro-Tem, two (2) or more Commission members, or the City Manager, may call or schedule a Special Meeting of the City Commission. A minimum of six (6) hours' notice shall be given to all City Commission members for all Special City Commission Meetings. Notice of the call of such Special Meetings shall be by majority agreement of the City Commission, or in writing, signed by the party or parties making the call, and shall be served on every member, either by notifying the member in person, by telephone, electronic media, or by leaving a copy of said notice at the member's legal residence. The news media, the City Attorney, the City Clerk, the City Manager, and affected Department Heads shall also be notified. The notice shall state the business to be transacted at such meeting and no other business than that so specified shall be transacted. Only matters on the agenda or matters of an emergency nature may be acted upon by the Commission. Justification of emergency action shall be noted in the minutes of the meeting. Notice shall be posted at City Hall.

RULE 4 EMERGENCY MEETINGS

The Mayor, or in the Mayor's absence, the Mayor Pro-Tem, two (2) or more Commission members, or the City Manager, may call an Emergency Meeting of the City Council upon not less than six (6) hours' notice to every City Commission member. Notice of the call of such Emergency Meetings shall be in writing, signed by the party or parties making the call, and shall be served on every member, either by notifying the member in person, by telephone, electronic media, or by leaving a copy of said notice at the member's legal residence. The news media,

the City Attorney, the City Clerk, the City Manager, and affected Department Heads shall also be notified. The notice shall state the business to be transacted at such meeting and no other business than that so specified shall be transacted. Notice shall be posted at City Hall. If there is no longer a need for an Emergency Meeting, the entity that called the meeting is authorized to cancel such meeting.

RULE 5 WORKSHOPS

A workshop may be called orally or in writing by the Mayor, any two (2) or more City Commission members, or the City Manager. The City Commission can initiate workshops, also known as Special Meetings, that are public meetings to improve communication, to gain information, or to create a stronger working relationship among the elected officials of the general city government. Public attendance is encouraged. Notice shall be posted at City Hall.

RULE 6 QUORUM AND ATTENDANCE

- (a) A Quorum of the City Commission for the transaction of any business shall consist of three (3) members, but a lesser number may adjourn from time to time until a quorum is present. Once a quorum has been established, a majority of the City Commission present at the meeting shall be required to carry a motion, unless, by Statute, Ordinance, or other regulation, an extraordinary majority (4/5ths) of the City Commission is required for approval. Absence from four consecutive regular meetings of the Commission shall operate to vacate the seat of a member, unless such absence is excused by the Commission by Resolution. As stated in City Charter Section 20, "The affirmative vote of three members shall be necessary to adopt any ordinance or resolution, and the passage of all ordinances and resolutions shall be taken by the "yeas" and "nays" and entered upon the journal."
- (b) City Commission members may participate in and vote at all regular, special, or emergency meetings of the City Commission by use of electronic media in those instances where the member is temporarily deployed, reassigned, activated, or transferred by any branch of the United States Military or the Florida National Guard for a period of longer than thirty (30) days. In addition, this policy shall cover any other situation resulting in the absence of the member due to illness, medical related issues of a non-incapacitation nature, or extraordinary circumstances related to their job or family emergencies causing them to be physically unable to attend a meeting. In all instances, participation by electronic media will only be allowed if a quorum is physically present at the site where the meeting is actually being held.
- (c) In addition to the City Commission members, City officials whose regular attendance shall be required at meetings of the City Commission are the: City Attorney, City Clerk, City Manager, or their designees, and City Department Directors as charged by the City Manager. The Chief of Police, or their representative, shall be present to provide security and assistance in maintaining order.

RULE 7 NEW COUNCIL MEMBERS

The term of City Commission members elected to office shall commence on the first Tuesday following the first Monday in October following the general election. A swearing-in ceremony for the new City Commission members will be coordinated by the City Clerk. The City Clerk in conjunction with the City Manager will provide orientation materials.

RULE 8 ELECTION OF MAYOR PRO-TEM

- (a) The election of Mayor Pro-Tem pursuant to Section 16 of the Charter shall occur at the first regular meeting following each regular municipal election at which newly elected Commissioners assume their duties of office.
- (b) In case of the absence or temporary disability of the Mayor, the Mayor Pro-Tem serves as the Presiding Officer during the absence. In case of the absence or temporary disability of the Mayor and Mayor Pro-Tem, an Acting Chair, elected from members of the City Council, serves during the continuance of the absences or disabilities.

RULE 9 PRESIDING OFFICER

- (a) The Mayor, or in the Mayor's absence the Mayor Pro-Tem shall preside over all meetings of the Commission. In the absence of the Mayor and Mayor Pro-Tem, at the hour fixed for any meeting, the City Manager shall call the City Council to order, whereupon a temporary Chair shall be elected by the members present. Upon arrival of the Mayor and Vice-Mayor, the temporary Chair shall relinquish the chair upon conclusion of the business immediately before the Commission.
- (b) The Presiding Officer shall be responsible for enforcing the Rules of Procedure and conducting meetings in a manner which preserves order and decorum, prevents attacks on personalities or the impugning of members' motives, and confine debate or comments to the question under discussion. The Mayor shall endeavor to conduct meetings in a fashion that draws balance between the informality and congeniality possible in a small community while also maintaining the decorum and formality necessary to conduct business in an orderly fashion.
- (c) The Presiding Officer shall take the Chair at the hour fixed for the meeting and call the members to order. The Presiding Officer shall state every question given before the Commission. The City Clerk will record the vote on all matters in which the recording of yeas and nays is required by law or with respect to which any member requests such recording. The Presiding Officer or City Clerk will announce the decision of the City Commission on all subjects and the Presiding Officer will decide on questions of order. Any member may appeal from the decision of the Presiding Officer, in which event a majority vote of the members present shall govern and conclusively determine the ruling appealed. No other business, except a motion to adjourn or to lay on the table, shall be in order until the question on appeal has been decided.

- (d) The Presiding Officer shall remain objective, consistent with Robert's Rules of Order. According to Robert's "Rule Against Chair's Participation in Debate," the Presiding Officer has, as an individual, the same rights in debate as any other member; but the impartiality required of the Chair in an assembly precludes exercising these rights while presiding. On certain occasions, the Presiding Officer may believe that a crucial factor relating to such a question has been overlooked and that their obligation as a member to call attention to the point outweighs their duty to preside at that time. If the Presiding Officer wishes to place a motion, the gavel must be relinquished.

Based upon these Rules of Procedure, the gavel will be relinquished in the following order:

1. Mayor Pro-Tem;
2. Other City Commission members based on seniority of tenure;
3. City Clerk/City Manager.

The "Rule Against Chair's Participation in Debate" further states that the Presiding Officer who relinquished the chair shall not return to it until the pending main question has been disposed of, since they have shown themselves, to be partisan as far as that particular matter is concerned. Unless a Presiding Officer is extremely sparing in leaving the chair to take part in debate, they may destroy members' confidence in the impartiality of their approach to the task of presiding.

Once a motion has been made and second received, the Presiding Officer shall hear comments from the other City Commission members. Following comments from the other City Commission members, the Presiding Officer shall be permitted to provide their input on the motion.

- (e) The Presiding Officer may declare the meeting adjourned at any time in the event of an emergency affecting the safety of those present.

RULE 10 CITY CLERK

- (a) The City Clerk, or Deputy Clerk, serves as parliamentarian, and advises the Presiding Officer as to correct rules of procedure or questions of specific rule application. The City Clerk calls to the attention of the Presiding Officer any error in the proceedings that may affect the substantive rights of any City Commission member, or may otherwise do harm.
- (b) It shall be the duty of the City Clerk of the City Commission, in addition to other duties prescribed by law, to keep and preserve correct minutes of the proceedings of the City Commission. The minutes shall be a public record. Proposed substantive additions or corrections to proposed minutes, other than spelling and grammatical corrections, shall

be furnished in writing to the City Clerk not less than twelve (12) hours prior to the meeting at which approval action is scheduled. The record of every meeting when approved and entered in the minutes shall be signed by the Presiding Officer at such meeting and attested by the City Clerk. The City Clerk shall prepare an Agenda for each regular meeting of the City Commission in the order of business and furnish a copy thereof to each member, the City Attorney, and the City Manager at least seventy-two (72) hours in advance of said meeting. All official meetings of the Commission shall be recorded on an automatic recording device by tape, record, or other device and permanently preserved in the official records of the City or until their destruction as specifically authorized by the State or City Commission.

- (c) Requests for copies of public records regarding a meeting of the City Commission shall be made through the Office of the City Clerk. The cost shall be in accordance with State law.

RULE 11 RULES OF DEBATE

- (a) The Presiding Officer may move, second, and debate subject only to such limitation of debate as are enforced by these standing rules on all members and shall not be deprived of any of the rights and privileges as a member.
- (b) When a member desires to speak in debate on a subject open to debate, the member must address the Presiding Officer. When recognized by the Presiding Officer, the member may speak only on matters germane to the business or questions under debate.
- (c) A member, once recognized, shall not be interrupted while speaking unless the member is called to order for transgressing any rule of the City Commission or failing to maintain proper decorum. If a member is called to order while speaking, the member shall cease speaking until the questions of order is determined by the Presiding Officer.
- (d) After the decision on any question, it shall be in order only for a member voting on the prevailing side to move for reconsideration at the same meeting, but such motion may be seconded by the member. If a motion to reconsider is lost, it shall not be renewed again at the same meeting. A motion to reconsider may be laid on the table or postponed indefinitely, and the effect of such action in either case shall be to defeat the motion to reconsider and to prevent further consideration thereof.

RULE 12 CONDUCT AND RESPONSIBILITY OF MEMBER

- (a) Any member who is unable to attend a City Commission or other meeting due to sickness or for a duly authorized reason shall notify the City Clerk, who shall notify the Presiding Officer before the meeting.

- (b) No member present at any meeting of the City Commission shall leave the meeting without permission from the Presiding Officer.
- (c) While the City Commission is in session, the members shall preserve order and decorum. A member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the City Commission, or disturb any member while speaking, or refuse to obey the Rules of Procedure of the City Commission or the Presiding Officer.
- (d) No member shall speak on any question, discuss any matter, interrupt another, or make a motion without first addressing the Presiding Officer and obtaining recognition.
- (e) No member shall be allowed to vote on any motion or measure, or gain the privilege of the floor, unless the member is at their designated seat.
- (f) Every member, in speaking on any matter, shall be confined to the question, shall not use unbecoming or abusive language, and shall avoid personalities.
- (g) No member shall be permitted to explain his or her vote during a vote, but may do so during discussion and prior to the result of the vote being announced.
- (h) Every member who is present when a question is put, unless excluded by a conflict of interest, shall vote in the affirmative or negative.
- (i) Every member shall observe the Code of Ethics as set forth in the laws of the State of Florida and as required by the Charter or Ordinances of the City. Disclosure to the City Commission of a private interest, as required by the State law on ethics, shall be accomplished in the form as prescribed by the Commission of Ethics, State of Florida.
- (j) No member shall direct the City Manager to forward to another political subdivision or government agency communications on matters under consideration by the City Commission or its committees except where there is clear understanding of approval by the City Commission or in response to routine matters in consonance with the previous actions of the City Commission. Nothing precludes a member from initiating correspondence on City stationery over their own signature indicating the City Commission seat they currently hold. Nothing in this Rule is to be construed to limit or restrict the Mayor acting in his or her official capacity from coordinating with the City Manager in answering or responding to correspondence or communications relative to the business of the City.
- (k) Ex parte Communications – Oral or written communications (sometimes referred to as lobbying or information gathering) between a Commission Member and others,

including staff, where there is a substantive discussion regarding a quasi-judicial decision by the City Commission. The exchanges must be disclosed by the City Commission member so the public may respond to such comments before a vote is taken.

RULE 13 CONFLICT OF INTEREST

No City Commission member shall vote in their official capacity on a matter which would inure to their special private gain or loss, or which the City Commission member knows would inure to the special gain or loss of any principal by whom they are retained, of the parent organization or subsidiary of a corporate principal by which they are retained, or a relative or of a business associate. The City Commission member in conflict shall announce such conflict before any discussion commences. They may participate in the discussion but may not vote. Within 15 days of following that City Commission meeting, they shall file with the City Clerk a Form 8B which describes the nature of their interest in the matter. The Form 8B shall be received by the City Clerk and incorporated into the minutes of the meeting.

RULE 14 ORDINANCES

An enacted Ordinance is a legislative act that prescribes general, uniform, and permanent rules of conduct relating to the corporate affairs of the City. City Commission action shall be taken by Ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. All Ordinances shall be introduced in writing, and scheduled for public hearing after advertisement.

- (a) Any non-emergency Ordinances, with the exception of zoning Ordinances, shall be initiated by either a member of the City Commission, the City Attorney, or the City Manager. Each Ordinance shall be introduced in writing and shall embrace one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. No Ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, or subsection or paragraph of a section or subsection. Rezoning Ordinances shall be scheduled on the City Commission Agenda following the required public hearing(s) before the Planning and Zoning Board and, once scheduled, the same procedure as outlined shall be followed unless State law provides otherwise.
- (b) Any Ordinance or Resolution prepared for consideration by the City Commission shall be reviewed by the City Attorney prior to introduction to the City Commission. Upon request by the Presiding Officer or any member, the City Attorney shall render an opinion to the City Commission concerning the legality of any Ordinance or Resolution pending before it. Every Ordinance and Resolution which amends prior Ordinances or Resolutions shall indicate words being deleted by strike-through, and shall include underlining of words being added to existing provisions.
- (c) In acting upon Ordinances, the Ordinance shall be introduced on first reading as to form only. The City Clerk shall then cause the Ordinance to be published in a newspaper of

general circulation in the City, at least ten (10) days before the second reading, a notice of proposed enactment pursuant to and in compliance with Chapter 166, Florida Statutes. Prior to adoption, on second and final reading, a public hearing shall be held to enable citizens to comment on the proposed Ordinance. On second and final reading, an affirmative vote of the majority of the members present shall be necessary for the passage or adoption of the Ordinance.

- (d) The Council may, by two-thirds (2/3) vote of its membership, declare an Ordinance to be an emergency measure and pass such Ordinance without regard to any reading as required by the City Charter. Every emergency Ordinance, except emergency appropriations, shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the Ordinance under regular procedures, or if the emergency still exists, in the manner specified in the City Charter. An emergency Ordinance may also be repealed by adoption of a repealing Ordinance in the same manner specified in the Charter for adoption of emergency Ordinances.
- (e) Whenever any Ordinance or Resolution has been introduced for the consideration of the City Commission, and the measure failed to be adopted or passed, such measure, unless substantially changed, shall not be introduced again until the lapse of at least three (3) months from the date of the City Commission meeting at which it failed adoption or passage.
- (f) If a Motion to pass an Ordinance fails, the Ordinance shall be considered lost.
- (g) Upon final passage, every Ordinance and Resolution shall be signed by the Presiding Officer of the Commission, attested by the City Clerk and approved as to form by the City Attorney.

RULE 15 RESOLUTIONS

Generally, an enacted Resolution is an internal legislative act that is a formal statement of policy concerning matters of special or temporary character. City Commission action shall be taken by Resolution when required by law and in those instances where an expression of policy more formal than a motion is desired. All Resolutions shall be reduced to writing. A Resolution may be put to its final passage on the same day on which it is introduced.

RULE 16 MOTIONS

An enacted Motion is a form of action taken by the City Commission to direct that a specific action be taken on behalf of the City. A Motion, once approved and entered into the record, is the equivalent of a Resolution in those instances where a Resolution is not required by law. All motions shall be made and seconded before debate.

- (a) A motion is to be worded in a concise, unambiguous, and complete form.

- (b) No speech is to be made in reference to a motion when it is introduced. There will be no debate until a motion has been seconded and, if requested by a City Commission member, the question stated by the Presiding Officer or the City Clerk.
- (c) When the question has been stated, it is before the City Commission and mover is entitled to the floor.
- (d) The order of procedure of motions shall be in accordance with Robert's Rules of Order.

RULE 17 WITHDRAWAL OF MOTIONS

Any motion before the Commission may be withdrawn at any time prior to a vote being taken thereon by the Commissioner making such motion, upon agreement by the Commissioner seconding said motion to withdraw the second.

RULE 18 AMENDING OF MOTIONS

At any time during discussion of a motion on the floor, a motion to amend said motion may be made. If the amending motion is seconded, the Commission shall at the conclusion of discussion, first vote on the amending motion and then upon the original motion in its amended form. An amending motion may be withdrawn in the same manner as set forth in Rule 17.

RULE 19 RECONSIDERATION

A motion to reconsider shall be allowed at any time during a meeting, except when a motion on some other subject is pending. No motion to reconsider shall be made more than once on any subject at the same meeting. A motion to reconsider may be made:

- (a) At the same meeting during which an action was taken, provided that the motion to reconsider is made by a City Commission member of the prevailing side of the original motion.
- (b) At a subsequent meeting by any Commissioner.

Upon passage of a motion to reconsider, no substantive action on the matter may be taken at that meeting so that the public and media may be on notice of the matter to be reconsidered. The subject matter shall be scheduled at the next regular City Commission meeting for any action the City Commission deems advisable.

RULE 20 RESCINDING ACTION PREVIOUSLY TAKEN

City Commission action may be rescinded by a four-fifths (4/5) vote. The motion may be made by any City Commission member after a motion to reconsider has been adopted by a majority vote.

RULE 21 PRIVILEGE OF THE FLOOR

By permission of the Presiding Officer, the privilege of the floor shall be extended to a citizen or citizens to address the Commission on any matter pending before it or which needs the attention of the City Commission. At public hearings required by law or fixed by the City Commission, the Presiding Officer shall extend the floor to a reasonable number of proponents or opponents of the subject matter of the public hearing, and those filing written requests to be heard with the City Clerk shall be heard prior to other persons who appear at the hearing. Each person addressing the City Commission shall proceed to the place assigned for speaking, give his or her name and address in an audible tone of voice for the record and limit his or her address to three (3) minutes, unless a lesser time is fixed for all speakers by the Presiding Officer or further time is granted by the City Commission. The person may speak only to matters germane to City business or to questions under discussion. All remarks shall be addressed to the City Commission as a body and not to any member thereof. All questions of members shall be directed through the Presiding Officer.

RULE 22 PARLIAMENTARY AUTHORITY

Robert's Rules of Order, so far as they are applicable or not in conflict with these standing rules, the Ordinances, or the Charter of the City, shall govern the proceedings of the City Commission.

RULE 23 SUSPENSION OF STANDING RULES

Any standing rule contained herein may be temporarily suspended for special reasons by a vote of four-fifths (4/5) of all City Commission members unless such suspension would conflict with provisions of the Ordinances or the Charter of the City.

RULE 24 EFFECTS OF RULES

No Ordinance, Resolution or action duly passed, adopted or taken by the City Commission shall be held to be invalid because of failure of the City Commission to comply with or abide by any one or more of the provisions of these standing rules if such Ordinance, Resolution or action would otherwise be valid under the Charter or Ordinances of the City or laws of this State but for such provisions of these standing rules alleged to have been violated or ignored.

RULE 25 INFORMAL CONSIDERATION OF MATTERS

When, in the judgment of the Presiding Officer, it becomes necessary to give detailed consideration to a matter under conditions of freedom, approximating those of a Committee, the Presiding Officer may entertain a motion for the City Commission to consider the matter informally. When such a motion is made and properly seconded, the effect is to suspend the standing rule limiting the number of times a member can speak and inquire into matters of fact on the main questions and any amendments, except that the member may not inquire a second time into questions of fact until other members have had an opportunity to do so.

While considering a question informally, the Council may, by four-fifths (4/5) vote, limit the number or length of speeches or in any other way limit or close discussion. Proceedings of the City Commission under informal consideration are recorded in the minutes of the meeting just as they would be if the considerations were under formal standing rules. Informal

consideration ceases automatically as soon as the main question is disposed of. Informal consideration of a matter may also be ended before the main question is disposed of by a majority vote of the City Commission on a motion "that the regular standing Rules of Procedure be enforced."

Under the informal standing rules, members may obtain the floor after being recognized by the Presiding Officer.

RULE 26 PREPARATION OF AGENDAS

The City Manager and City Clerk are responsible for the preparation of the Agenda. The Mayor or any City Commission member may place an item on the Agenda. The City Attorney, City Clerk, and City Manager may also place an item on the Agenda.

As general practice, all supporting documentation and Board Request Form must be provided to the City Manager for review or the item(s) may not be included on the Agenda.

- (a) The agenda will be in five (5) parts: Awards, Recognitions and Presentations; Reports and Communications; Public Hearings; Consent; and Business.
- (b) Deadline for items to be placed on the Agenda is no later than 12:00 noon on the Tuesday before the next meeting.
- (c) Content of items on the Consent Agenda shall be limited to routine items that do not need discussion, which may include but are not limited to such items as the Minutes, Resolutions, payment requests, and reports from committees, etc. During the reading of the Consent Agenda, any member may pull an item for separate discussion.
- (d) The City Manager or any Commission member may, in the event of an emergency, place items on the Agenda after the above deadline.
- (e) Commission members are encouraged to present their reports as Agenda items in order to provide the public and other Commission members prior notification of the report's subject matter.
- (f) Agendas and all necessary background materials will be delivered to the members no later than 5:00 p.m. on the Friday before the next meeting via notification by electronic mail. In the event an item must be placed on the Agenda after it has gone to the City Commission, a Supplemental Agenda will be issued no less than 24 hours prior to all meetings.
- (g) A request from a citizen to be placed on the Agenda shall be received in writing on the Board Request Form provided by the City Clerk no later than the close of business on the Monday of the week preceding the next regular City Commission meeting and

include information and/or back-up documentation on the subject they want to discuss. If a citizen does not present an appropriate topic or information in writing, the citizen will not be placed on the Agenda but will be told that he or she can speak at the beginning of the City Commission meeting under Public Comment or have their Agenda item rescheduled to a future meeting.

- (h) Citizens who wish to address the City Commission on an item on the agenda or an item not on the agenda shall complete a Speaker Card and give it to the City Clerk before the meeting starts. All persons, other than members of the City Commission or Staff, addressing the City Commission shall step up to the microphone and state his or her name and address prior to making his or her statements. The Mayor shall have the authority to waive such requirement in the event of apparent physical disability of the speaker.
- (i) The Agenda, as well as lengthy reports that are part of the Agenda documentation, shall be available for review online on the City's website, or in the Office of the City Clerk.

RULE 27 AGENDAS – ORDER OF BUSINESS

The business of all regular meetings of the City Commission shall be transacted as follows; provided, however, that the Presiding Officer may, by simple majority voice vote or consensus of the City Commission, re-arrange items on the Agenda to more expeditiously conduct the business before the City Commission:

(a) Invocation & Pledge of Allegiance to the Flag

The City Council may maintain a clergy or layperson rotational roster, which may be used to rotate among the local clergy or laypersons the presentation of the invocation at the regular or special meetings. The Presiding Officer shall lead the Pledge or delegate to another party.

(b) Agenda Adoption

(c) Awards, Recognitions and Presentations

Items under this section include Special Award Presentations, Proclamations, scheduled citizen or group presentations, and recognitions. Proclamations, Special Awards, and Letters of Honor shall be requested and processed through the Office of the City and shall be submitted on a form provided by the City Clerk.

(d) City Council Reports and/or Correspondence

During this section, each City Commission member will have the opportunity to make comments or discuss any items of concern.

(e) City Manager and City Attorney Reports and/or Correspondence

During this section, the City Manager and City Attorney will have the opportunity to make comments, provide updates, or discuss any items of concern.

(f) Public Hearings

Public hearings shall be scheduled at regular meetings of the month unless otherwise determined by the City Commission or State Statute. The procedures followed for public hearings are generally as follows:

- (1) The City Manager, or their designee, should describe the Agenda item to be considered and provide the Staff recommendation. The Presiding Officer should then inquire as to whether any City Commission members have questions for the administration. After the City Commissioner's questions are answered, the Presiding Officer opens the public hearing and requests comments from the public. Generally, the petitioner or proponent for the issues in the Public Hearing is invited to address the City Commission first.
- (2) Following public comment (if any), the Presiding Officer closes the Public Hearing. Discussion and consideration of the matter will follow under "Unfinished Business" where a City Commission member may put forth a motion.

(g) Public Comment

The City Commission recognizes the importance of protecting the rights of its citizens and taxpayers to express their opinions on the operation of City government and encourages citizen participation in the local government process. The City Commission also recognizes the necessity for conducting orderly and efficient meetings in order to complete City business in a timely and proper manner.

The purpose of the public comment portion of the meeting is to receive citizen input pertaining to matters over which the City Commission has jurisdiction or control. This period of time is for comments and not for questions directed to the City Commission or Staff for immediate answer or for debate. Questions directed to the City Commission may be referred to Staff to be answered within a reasonable period of time following the date of the meeting. The City Commission shall not take final action at the same meeting on items addressed under this section. Final action can only be taken if the City Commission waives its Rules of Procedures. The City Commission can direct Staff to place any item requiring final action on an upcoming City Commission Meeting or Workshop. The exceptions are items of an emergency nature so declared.

No citizen shall speak until duly recognized by the Presiding Officer, and they shall immediately cease speaking and relinquish the podium when requested by the Presiding Officer. After being recognized, the citizen shall:

- (a) Step up to the podium and give their name and address;
- (b) State the topic or position (for/against) of the item under discussion; and
- (c) Address all remarks and questions to the City Commission as a body, and not a member thereof, except through the Presiding Officer.

Five (5) minutes shall be allotted to each citizen who wishes to speak at this time, unless more time is granted by the Presiding Officer or City Commission. A citizen cannot yield time to another citizen.

NOTE: Citizens are encouraged to call the appropriate City department during regular business hours. If you have contacted the department and for some reason results were not satisfactory, please call the director of the department or the City Manager's office.

Employees of the City may address the City Commission on matters of public concern. Employee comments that address an active grievance/arbitration, employee appeal matter (all of which are covered in the Personnel Policies and Procedures Manual) or a personnel dispute will not be entertained as part of citizen comments. Employees will be advised of the appropriate forum and process for presenting or discussing such matters.

(h) Consent Agenda

The Presiding Officer shall inquire if any City Commission member wishes to withdraw any items from the Consent Agenda. If any item is withdrawn by any member of the City Commission, the Presiding Officer addresses those item(s) individually following the vote on the motion to approve the other Consent Agenda items.

(i) Council Business

Items in this section are reports or requests presented by the City Attorney, City Clerk, City Commission member, City Manager, or Staff for City Commission consideration.

(j) Adjournment

No meeting shall be permitted to continue beyond 10:00 p.m. without the approval of a majority of the City Commission. A new time limit must be established before taking a City Commission vote to extend the meeting. In the event that a meeting has not been closed or continued by City Commission vote prior to 10:00 p.m., the items not acted on are to be continued to 8:30 a.m. on the following day, unless state law requires hearing

at a different time or unless the City Commission, by majority vote of members present, determines otherwise.

RULE 28 BOARDS, COMMITTEES, AND MEETINGS

The City Commission may form ad hoc or special committees from time to time. Citizen advisory boards and committees may be created and dissolved by Resolution, Ordinance, or other act adopted by the City Commission. All members shall serve at the pleasure of the City Commission.

The mission of advisory boards and committees shall be to examine various policy issues referred by the City Commission, staff, or as determined in the work plan. Committees shall provide guidance to the City Commission in the development of policy recommendations. Committees shall not attempt to manage the administrative operations of the City; the committee will not be involved in directing staff.

- (a) The City Manager/City Clerk's office shall furnish the Chair of each advisory board or committee copies of all Resolutions or Ordinances that pertain to that committee. Such information shall be delivered to the committee Chair within one (1) week after adoption by the City Commission, or as soon thereafter as possible.
- (b) Appointment to citizen advisory boards/committees shall be by roll call vote during a regular City Commission meeting. Priority must be given to applicants from the City of Apalachicola.
- (c) All citizen advisory boards/committees or other bodies shall meet at the Community Center, 1 Bay Avenue, Apalachicola, Florida or other public buildings within the City after required public notice is given. Generally, committee meetings should be scheduled on days other than days of the City Commission meetings. The news media shall be notified and appropriate notice shall be posted at City Hall. All meetings shall comply with state law regarding public meetings.
- (d) Committee Chairs and Committee Vice-Chairs shall be elected by the membership and both shall serve for a term of one (1) year or for a different term as the City Commission may decide. Committee members shall be approved by the City Commission. Committee meetings may be called by the Chair, Vice-Chair, Mayor, or the City Manager when sufficient business or timing is appropriate. Such meetings shall have an Agenda published to each Committee member when possible at least seventy-two (72) hours in advance. If the Committee Chair is unwilling or unable to call committee meetings, the Vice-Chair may call the meeting.
- (e) All citizen advisory boards/committees or other bodies shall provide the minutes taken at each meeting to the City Clerk. All communications to the City Commission from such boards, committees, or other bodies shall be received by the City Commission's Presiding Officer with a copy to the City Clerk.

- (f) All Chairpersons of citizen advisory boards/committees or other bodies may provide updates to the City Commission at its regularly scheduled meetings. All requests for presentations shall be submitted to the Office of the City Manager or City Clerk.
- (g) City employees shall not be precluded from serving on citizen advisory or other committees so long as membership requirements are met.
- (h) The City Commission may make exceptions to the above general policy on a case-by-case basis when necessary to: preserve the stability of the board or committee; retain a particular appointee because of his/her special expertise or knowledge; or for such other circumstances as the City Commission deems warranted.
- (i) Appointees' personal and business affairs conducted within the City of Apalachicola must be in substantial compliance with all City regulatory and taxing authorities' rules and regulations. Appointees deemed to be in chronic violation of any City rules, regulations, or policies may be disallowed from membership on citizen advisory boards or committees by a majority vote of the City Commission.
- (j) Citizen advisory boards and committees created by or in response to federal or state statutory requirements shall conduct business consistent with these guidelines unless otherwise provided for by such federal or state statutory requirements.
- (k) Citizen advisory boards and committees are required to adhere to the "Guidelines for Citizen Advisory Boards and Committees" as approved by the City Commission. These guidelines are incorporated below.

GUIDELINES FOR CITIZEN ADVISORY BOARDS AND COMMITTEES

- (1) Committees are to be designated as standing or special (ad hoc).
- (2) A sunset date will be specified for special committees when appropriate.
- (3) Transition between Members: By-laws, enacting Ordinances, guiding document, etc. will include language, which provides for members (whose terms have expired) to continue serving until the appropriate appointments are made.
- (4) Term length for serving on any standing committee will be a minimum of two (2) years unless otherwise specified (e.g. State Statute may require term lengths of less than two (2) years, board/committee enacting Ordinance provisions).
- (5) Attendance:

- (a) Reports/notices of absences are made to the board or committee Chair (or Staff liaison if the Chair is unavailable).
 - (b) The board of committee liaison will provide written notice of attendance violations to the City Commission Presiding Officer. The City Commission will be responsible for removing members who do not meet the attendance requirement.
 - (c) Absence from four (4) consecutive regular meetings of the advisory board or committee shall operate to vacate the seat of a member, unless such absence is excused by the City Commission by Resolution setting forth the fact of such excuse duly entered into the minutes.
- (6) Election of Officers: All board and committee officers (i.e. Chair, Vice Chair, etc.) shall be elected by the membership of the citizen advisory board or committee, unless otherwise specified.
- (7) Meeting Frequency:
- (a) At a minimum, all boards and committees shall meet once per year.
 - (b) The names of those boards and committees that do not meet this minimum requirement shall be submitted to the City Clerk's Office.
 - (c) Recommendations to dissolve committees or other recommended action will be submitted to the City Commission for consideration.
 - (d) Any advisory board or committee whose officers are elected/appointed as prescribed in federal/state statute shall be exempted from Guideline No. 6.
- (8) Parliamentary Procedure: As appropriate, Robert's Rules of Order may be used as a guide in conducting board and committee meetings.

RULE 29 SUSPENSION AND CONSTRUCTION OF RULES

No permanent change in the standing rules shall be made without notice specifying the purpose and wording of the change given at a previous regular meeting of the Commission and the adoption of the permanent change by a vote of four-fifths (4/5) of all members. The Rules of Procedure are for the efficient and orderly conduct of City Commission business only. No violation of such rules shall invalidate any action of the City Commission when approved by a majority vote required by law.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS:
	<input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Ordinance 2019-01 Historic and Cultural Preservation – First Reading

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: A
Department: Administration
Contact: Cindy Clark, City Planner
Presenter: Cindy Clark, City Planner

BRIEF SUMMARY: In 2006, the City Commission adopted Historic Guidelines to help guide development and ensure compatibility in the City's Historic District. Over the years, adherence to the guidelines has proved problematic because the guidelines do not have regulatory standing. In 2018, a group comprised of Planning Board members, volunteer historic preservation enthusiasts, staff and State Planning officials gathered to take on the task of turning the historic guidelines into enforceable regulations. As part of the effort, the group drafted significant changes to Chapter VII (historic preservation) and Chapter II (definitions) with the intent of protecting historic assets, defining requirements for obtaining a Certificate of Appropriateness and providing for protective maintenance of historic structures. In accordance with Policy No. 002, Comprehensive Plan and Land Development Code Amendment Procedure, the ensuing document was presented to the Planning & Zoning Board in at least three public workshops and has been submitted for review in a joint workshop with the City Commission on February 5, 2019. The proposed Ordinance contains revisions made in response to comments received during those meetings.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To Approve the First Reading of Ordinance 2019-01 City of Apalachicola Historic and Cultural Preservation and Proceed with the Adoption Process.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Proposed Ordinance 2019-01

STAFF'S COMMENTS AND RECOMMENDATIONS: None at this time.

**City of Apalachicola, Florida
Historic and Cultural Preservation
Ordinance Number 2019-01**

An Ordinance Repealing Chapter VI in its Entirety and Creating the Purpose and Intent of Protecting Historic Assets, Requirements for Obtaining a Certificate of Appropriateness within the Historic District; Providing for Protective Maintenance of Historic Structures, Providing Required Material Descriptions; Amending Chapter II, Definitions; Amending Chapter VII, part C, 2b and Providing for Severance.

WHEREAS, the protection, preservation, restoration, and enhancement of historic assets is a public purpose essential to public health, safety, and welfare and enhances property values and preserves the City's status as a desirable tourist destination and provides cultural enrichment and civic pride to the City's residents; and,

WHEREAS, the City has adopted a Historic Element within the Apalachicola Comprehensive Plan which has committed to the adoption of regulations to direct and guide the maintenance and improvement of the Historic District; and,

WHEREAS, the preservation of historic assets is necessary to maintain the City's eligibility to receive grants and other forms of aid from state and federal programs that are conditioned on protection of historic assets; and,

WHEREAS, there are numerous economic benefits to historic preservation activities including the creation of jobs, significant contributions to tax collections of state and local governments, investments of private funds in historic projects and partnerships between private investors and local governments, maintenance of property values, and increases in expenditures by tourists visiting historic sites.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING ORDINANCE AMENDMENTS:

Chapter VI. HISTORIC AND CULTURAL PRESERVATION

A. GENERAL PROVISIONS

1. Purpose and Intent

- a) The purpose of this Chapter is to protect, preserve, restore, and enhance the City's historic assets, including the original plat of the City as laid out in 1836, historic sites, structures, areas and objects located in the City, and to ensure that future

development is consistent in scale, height, mass, type and location with the City's historic legacy. The City's Historic plat, sites, structures, areas, and objects are irreplaceable assets of the City. Their protection, preservation, restoration, and enhancement are a public purpose essential to public health, safety, and welfare. Preservation efforts will make available to future generations knowledge of the City's history and accomplishments and enhance property values.

- b) The intent of this Chapter is to implement the City's Comprehensive Plan, and the policy of the State of Florida, as expressed in the State's Constitution and statutes, to protect and preserve the State's scenic beauty, and historic assets. It is also the purpose and intent of this Chapter that it be consistent with policies and programs of the United States Department of the Interior, Standards for the Treatment of Historic Properties, to preserve historic assets and to maintain the City's eligibility to receive grants and other forms of aid from state and federal programs that are conditioned on protection of historic assets.

2. Interpretation of this Chapter

- a) The terms used in this Chapter are defined in Chapter II, Definitions.
- b) The provisions of this Chapter shall be construed in harmony with the regulations for Zoning Districts provided for in Chapter IV. However, in all Zoning Districts lying within the Historic District, the regulations for both the Zoning District and the Historic District shall apply; and in any case of ambiguity the more restrictive standard shall control.

3. Architectural Review Board

As provided in Chapter III, it shall be the duty of the Planning and Zoning Board, sitting as the Architectural Review Board, to implement the provisions of this Chapter.

B. HISTORIC PROTECTION, PRESERVATION, RESTORATION, AND ENHANCEMENT

1. Historic District

A Historic District is established for the City of Apalachicola. As provided in Chapter II, Definitions, the boundaries of the Historic District are established on Map A of the Historic Element of the Apalachicola Comprehensive Plan as the Historic District. Any change in the boundaries of the Historic District shall be adopted pursuant to the general provisions and procedures governing changes to the Apalachicola Comprehensive Plan. Within the Historic District there are Contributing and Non-Contributing Structures. -For the purpose of interpreting Chapter VI, designation as a Contributing or Non-Contributing Structure shall correspond to the Florida Master Site File Listings adopted as part of the City's Comprehensive Plan as the survey documentation, identified as map B City of the Apalachicola Historic District, for

inclusion of the Historic District on the National Register of Historic Places. The 1980 Map B designation of as a Conforming Structure shall mean a Contributing Structure and designation as a Non-Conforming Structure shall mean a Non-contributing Structure.

2. Relationship to Zoning Districts

- a) The regulations provided in this Chapter shall apply to any portion of any Zoning District located within the boundaries of the Historic District, in addition to the regulations for that Zoning District. In any case of ambiguity, the more restrictive standard shall control. It is not the intent of this Chapter to regulate lot coverage, height, setback, or density as those elements are regulated in Chapter IV.
- b) The City shall use the Florida Master Site File listings (FMSFL) for determining whether a structure is contributing or noncontributing and may additionally use the FMSFL to determine historic site plan orientation, and other applicable site plan information.

3. Protection and Enhancement of the Historic Plat

- a) Development that would alter the Historic Plat shall not be permitted.
- b) The City's Historic Squares are identified as Washington Square, Gorrie Square (originally City Square), Chapman Square (Originally Marshall Square), Franklin Square, Madison Square and City Square (originally White Square.)
 - 1) The intent of the City is to preserve the Historic City Squares as public open space. The squares are designated on the City Land Use Map adopted as part of the Apalachicola Comprehensive Plan as Public Facilities, a land use classification broadly defined as open space and passive recreation.
 - 2) With the exception of the Washington Square parcel or State-owned property within the Squares, only public infrastructure projects shall be allowed on Historic Square parcels. Renovation of existing structures will be designed to minimize the footprint of existing structures and maximize open space in accordance with the intent to preserve the Historic Square parcels as public space.
 - 3) New development on any lot abutting the Historic Square parcels must be compatible with the existing structures, squares, streetscapes and places to which it would visually relate. New construction on a lot abutting a square shall have a porch and an entrance on the elevation facing the Square, in addition to any other entrances or porches on the structure.

4. Certificate of Appropriateness

- a) A Certificate of Appropriateness shall be required before any permit is issued for any of the following within the Historic District:
- 1) Demolition of a Contributing Structure;
 - 2) Moving a Contributing Structure;
 - 3) A material change in the exterior appearance of an existing structure by addition, reconstruction, or alteration;
 - 4) New construction of a principal or accessory structure;
 - 5) A material change in an existing wall or fence, or construction of a new wall or fence.
- b) An application for a Certificate of Appropriateness shall be made in the City Office on forms provided by the City as part of the building permit application process. The Certificate of Appropriateness review shall occur at the same time as site plan approval review. An application shall be accompanied by such sketches, drawings, photographs, descriptions or other information showing the proposed exterior alterations, additions, changes or new construction as are reasonably required for the Architectural Review Board to evaluate the application for compliance with the regulations of this Chapter. All applications for commercial structures must be filed in electronic format. A complete application for any proposed development ~~must~~ be filed no later than 30 days prior to any meeting of the Board at which such application is to be heard. The Staff of the City evaluating the application, or the Board, may require additional information necessary to determine whether the application complies with the provisions of this Chapter. The request for additional information shall extend the 30 day deadline until the application is complete.
- c) The Building Department shall transmit the application for a Certificate of Appropriateness, together with the supporting information and material, to the Architectural Review Board for review. Personal attendance of the applicant or his agent is required at the hearing for consideration of the application. If the Board approves the application, a Certificate of Appropriateness shall be issued. If the Board denies an application, the Board shall state the reasons for denial in writing and a Certificate of Appropriateness shall not be issued.

5. Development Standards

- a) A Contributing Structure, or any related appurtenance, including but not limited to walls, fences, light fixtures, steps, paving, and signs shall only be moved, reconstructed, altered, or maintained in a manner that will preserve the architectural character of the building, structure, or appurtenance; and shall be compatible with buildings, structures, squares, streetscapes, and places to which it is or would be visually related. Additional minimum aesthetic and safety standards as identified in Ordinance 2016-01 are also applicable.

- b) A Contributing Structure shall be maintained to meet the requirements of the Florida Building Code.
- c) A new Non-contributing structure built in the Historic District or a Non-contributing structure that's moved within or from outside the District to inside the District shall be generally of such form, type, proportion, mass, scale, configuration, building material, texture and location on a lot as will be compatible with other structures in the Historic District, and particularly with Contributing Structures and squares, streetscapes, and places to which it is visually related.
- d) A Contributing Structure shall not be demolished unless its condition is irrevocably compromised by deterioration. A demolition permit shall be required to demolish any Contributing Structure in accordance with the demolition permit provisions of the City's Land Development Code
- e) A Contributing Structure shall not be relocated to another site unless the Board determines that the relocation is the only reasonable alternative to demolition. When an applicant seeks a Certificate of Appropriateness to relocate a Contributing Structure, evidence must be presented to the Board that the structure can be moved without damage to its structural integrity and without loss of its historic physical characteristics, and that the structure would be compatible with structures, squares, streetscapes and places to which it is visually related at the proposed site.
- f) The following regulations apply to exterior finishes:
 - 1) Wood lapped siding, novelty siding, and board and batten siding and shingles are permitted on structures in the Historic District, with dimensions and trim boards that are visually compatible with structures, squares, streetscapes, and places to which they are visually related.
 - 2) Non-wood lapped siding, board and batten, and shingles, such as fiber cement board (Hardy Board and similar products) are permitted on structures in the Historic District, with dimensions of trim boards that are compatible with structures, squares, streetscapes, and places to which they are visually related.
 - 3) Replacement siding on a Contributing Structure must approximate the original siding in style and dimension of trim boards. Wood or fiber cement materials are permitted for replacement siding. Vinyl or aluminum siding is not allowed unless it replaces existing vinyl or aluminum.
 - 4) Masonry materials, such as brick, stone, stucco, and concrete masonry units are permitted on structures in the Historic District.

- 5) Repairs or replacements to masonry materials, such as brick, stone, stucco and concrete masonry units must be similar in material, dimension, and texture to the historic material on a Contributing Structure. Masonry repointing must be compatible with respect to the historic material and texture.
 - 6) Masonry materials and joints, dimensions, and texture for alteration of a Non-Contributing-structure or new construction, must be similar to and compatible with structures, squares, streetscapes and places to which the structure is visually related.
- g) The following regulations apply to windows, doors, shutters, and awnings:
- 1) Window glass shall be clear and transparent. Laminated impact-resistant glass, wind-resistant films and acrylic sheets are permitted, if the appearance of windows on the exterior is not affected. Doors may include clear glass, cut glass or stained glass, as appropriate to the style of the structure.
 - 2) Replacement windows, doors, transoms and sidelights on a Contributing Structure shall be made to fit the original openings without the use of blocking or infill. Such replacement windows, doors, transoms and sidelights shall have sills, mullions, sashes, surrounds and other features that are similar and compatible with the historic materials and dimensions of the structure. The addition of a new window or door opening in a Contributing Structure is permitted if the new window or door contributes to the historic style of the structure, based on the style, scale, location and proportion of the new window or door.
 - 3) Alteration of windows and doors on a Non-Contributing Structure and windows and doors on new construction shall be compatible with buildings, structures, squares, streetscapes, and places to which they are visually related.
 - 4) Shutters on a Contributing Structure that were historically present must be retained and repaired or replaced with shutters that are similar in style, dimension, and method of attachment.
 - 5) Removable hurricane shutters, with tracks matching the primary structure, are permitted on a Contributing or Non-Contributing Structure and new construction. Roll down and accordion hurricane shutters, which are compatible with the immediate vicinity of the structure and with the Historic District, are permitted on a case-by-case basis.
 - 6) Awnings on a Contributing or Non-Contributing Structure or new construction must be compatible with the building type and style of the structure. Illuminated awnings and colored or clear awnings of acrylic materials are prohibited.

h) The following regulations apply to roof materials and roof alterations:

- 1) Roof materials for a Contributing or Non-Contributing Structure and new construction shall be metal, unless there is historical evidence of other materials, such as asphalt/fiberglass shingles, wood shakes, or other materials, in which case, the Board may approve the use of other materials at the request of the applicant. The Board may approve other roofing materials for new construction at the request of the applicant.**
- 2) The roofs on a Contributing Structure must maintain the historic roof form and pitch. Other roof features, such as chimneys, widow walks and scuttles shall not be removed. New dormers are permitted if the dormer is compatible with the style, form and proportion of the Contributing Structure, as based on similar structures in the Historic District.**
- 3) New roof-mounted solar collectors, scuttles and skylights in a Contributing or Non-Contributing Structure and new construction shall be flat mounted on the roof.**
- 4) Roof decks are prohibited, except for structures with flat or low-slope roofs. Rooftop decks on flat-topped downtown buildings shouldn't be visible from below.**

i) The following regulations apply to porches and storefronts:

- 1) Porches on residential structures are a defining characteristic of the Historic District and all residential structures, whether Contributing, Non-Contributing or new construction must retain, restore, rehabilitate, reconstruct during rehabilitation, or include a new porch, either as a front porch, a side porch, or both.**
- 2) Porches on a Contributing Structure shall not be demolished and shall be restored or rehabilitated when the structure is renovated to be compatible with the original porch. If a porch has been previously demolished, a new porch is required when the structure is renovated and shall be compatible with the historic type and style of the Contributing Structure.**
- 3) Porch enclosures are permitted with transparent screening to be minimally visible from the adjacent street or avenue. New full or partial enclosures are not permitted on a Contributing Structure, but may be allowed on a Non Contributing Structure and new construction if it would be compatible with similar structures in the Historic District.**
- 4) The historic storefront on a Contributing Structure shall be preserved, restored or reconstructed, including the style, dimension and materials of windows,**

doors, transoms, awnings and other features that contribute to the historic style of the structure. Blinking or chasing lighting is prohibited; fluorescent lighting must be concealed from view, and neon lighting is permitted only if replacing historic features in the building. See Chapter V for additional sign regulation standards.

j) The following regulation applies to exterior decorative details:

- 1) Exterior architectural details on a Contributing Structure, including porches, entries, roof gable ends, and friezes, windows and doors, must be preserved or replaced in kind.

k) The following regulations apply to an Accessory Structure:

- 1) Accessory structures such as garages, carports, boat sheds, guesthouses, pools, storage sheds, pool cabanas, studios and similar structures shall be compatible with the principal structure on the lot in materials, style, height, scale and massing, and shall only be permitted in the rear or side yard.
- 2) Accessory structures shall not exceed the height of the principal structure.

l) The following regulations apply to site improvements:

- 1) Decks, swimming pools, hot tubs, exterior HVAC units, antennas and satellite dishes and other such equipment shall be located only in rear and side yards.
- 2) Parking shall be encouraged to be located in the rear or side yards.
- 3) Fences are permitted in accordance with the regulations of the City's Land Development Code.
- 4) Temporary ramps necessary to meet ADA building codes are permitted, but must be removed when no longer necessary. Permanent ramps are not permitted except for structures requiring public access in which case the ramp must be compatible in material, detail and scale with the structure.
- 5) Archeological resources found on site or during excavations shall be reported to the City of Apalachicola, prior to disturbing such resources, for the purposes of assessment of value and recovery.

Chapter 2 of the Apalachicola Land Development Regulations

Chapter 2 - Definitions to include:

Contributing Structure means a site, structure or object in the Historic District which adds to the historical/architectural qualities, historic associations or archaeological values for which a the Historic District is significant and is on the Florida Master Site File of Historic Places as a Contributing or Altered Structure. For the purpose of interpreting Chapter VI, designation as a Contributing Structure shall correspond to the Florida Master Site File Listings adopted as part of the City's Comprehensive Plan as the survey documentation, identified as map B City of the Apalachicola Historic District. Contributing Structures are considered historic structures.

Exterior Architectural Features includes, but is not limited to, the architectural style, scale, massing, siting, general design and general arrangement of the exterior of the building or structure, including the type, style, and material of roofs, windows, doors, siding, masonry, porches, storefronts, and other architectural features.

Florida Master Site File: a listing of the Contributing Structures within the Historic District that have been recorded with the National Register of Historic Places.

Irrevocably Compromised: A structure that is unfit for habitation as determined by the Building Official and the cost to bring the structure to a standard of fit for habitation exceeds 80 percent of the value of the structure, excluding the value of the land, as determined by an architect, engineer, or credentialed historic preservationist.

Non-Contributing Structure: a site, structure or object in the Historic District which does not meet the criteria for a Contributing Structure. For the purpose of interpreting Chapter VI, designation as a Non-Contributing Structure shall correspond to the Florida Master Site File Listings adopted as part of the City's Comprehensive Plan as the survey documentation, identified as map B City of the Apalachicola Historic District.

Plat -Historic: the original plat of the city made in 1836 including city squares, streets, and alleys. The original document establishing the 1836 plat is shown on a document dated 1837 contained in the Archives of the University of Florida Smathers Library. The 1837 map shall be considered an accurate representation of the Historic Plat and used as such whenever necessary.

Restoration: the process of accurately recovering the form and details of a property and its setting as it appeared during the historic period that qualifies the structure as a Contributing Structure by means of removal of later work or by replacement of missing earlier work.

Repeal Chapter VII, part C 2b and replace with: For a proposed site plan to appear on the agenda for an upcoming Planning and Zoning Board meeting, the plan must be complete and be submitted at least 30 days before the meeting.

City staff evaluating the application may request additional information necessary to determine whether the application completely addresses this Code's requirements. An application shall not be placed on the Board's meeting agenda until a complete application is received at least 30 days prior to the meeting.

Conflict. All Ordinances or Code provisions in conflict herewith are hereby repealed.

Severability. If any section, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Effective Date. This Ordinance shall be filed with the Secretary of State within ten days of adoption and shall take effect upon final agency action of the Department of Economic Opportunity.

PASSED AND ADOPTED in Regular Session this ____ day of _____ 2019.

CITY OF APALACHICOLA

BY: _____
Van W. Johnson, Sr., Mayor

ATTEST:

Deborah Guillotte
City Clerk

APPROVED AS TO FORM:

J. Patrick Floyd
City Attorney

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Ordinance 2019-04 Amending Article 17 – Elections of the City of Apalachicola Charter

AGENDA INFORMATION:

Agenda Location: New
Item Number: B
Department: Administration
Contact: Heather C. Riley, Franklin County Supervisor of Elections
Ron Nalley, City Manager
Presenter: Ron Nalley, City Manager

BRIEF SUMMARY: At the February Commission meeting, Franklin County Supervisor of Elections Heather C. Riley presented information to the City Commission regarding a proposal to move Apalachicola’s municipal elections to the first Tuesday in November in even-numbered years to coincide with the State of Florida General Elections. The proposal is similar to a proposal approved recently by the City of Carrabelle. Following the presentation, the City Commission requested that the City Manager work with Supervisor Riley to present options for making such a change to the Commission. A change to the City Charter will be required if the Commission chooses to move forward with the proposal and staff has attached an Ordinance that amends the Charter making the proposed change to the election schedule along with updating Article 17 to conform to the Florida Election Code found in Florida Statute Chapters 97 through 106. It is estimated that this change will save the City five to six thousand dollars a year and increase voter turnout.

RECOMMENDED MOTION AND REQUESTED ACTIONS: None at this time pending further discussion or action by the City Commission.

FUNDING SOURCE: Election Expense – Governing Body

ATTACHMENTS: Ordinance 2019-04 along with Attachment A

STAFF’S COMMENTS AND RECOMMENDATIONS: Clearly the Florida Statutes allow adoption of Ordinances to change municipal election dates, qualifying periods for candidates and for the adjustment of terms of office necessitated by such date changes in a City Charter. Additional legal work is needed to determine if the other suggested changes updating Article 17 can be made by Ordinance or if they would require being made through a Referendum. Attorney Floyd is reviewing this matter and will have an update at your meeting.

**CITY OF APALACHICOLA, FLORIDA
ORDINANCE NO. 2019-04**

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA PROVIDING FOR AN AMENDMENT TO ARTICLE 17 OF THE CHARTER OF THE CITY OF APALACHICOLA, FLORIDA; UPDATING ARTICLE 17 - ELECTIONS; CHANGING THE YEAR AND MONTH OF ELECTION FOR THE MAYOR AND CITY COMMISSION FROM SEPTEMBER OF EACH ODD-NUMBERED YEAR TO NOVEMBER OF EACH EVEN-NUMBERED YEAR; PROVIDING FOR EXTENSION OF THE TERMS OF SITTING COMMISSIONERS IN ORDER TO MAKE AN ORDERLY TRANSITION; PROVIDING FOR THE REPEAL OF ANY ORDINANCE OR PARTS THEREFROM IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 17 – Elections of the City of Apalachicola Charter has not been updated since 1947 and does not conform to the Florida Election Code found in Florida Statute Chapters 97 through 106; and

WHEREAS, Franklin County approached the City of Apalachicola about conducting its elections in November to coincide with the County, State and National election dates; and

WHEREAS, the City of Apalachicola could realize cost savings by conducting its elections in November on even numbered years in order to coincide with the County, State and National election dates; and

WHEREAS, moving the City election date to coincide with County, State and National election dates is anticipated to increase voter participation; and

WHEREAS, Article 17, of the City Charter states that the biannual election of offices for the City shall be held on the first Tuesday after the first Monday in September of odd-numbered years; and

WHEREAS, the City Commission deems it appropriate to update Article 17 to conform to the Florida Election Law as well as change the month of the elections from September of odd-numbered years to November of even-numbered years in order to coincide with other Local, State and National elections; and

WHEREAS, pursuant to Florida Statutes Section 100.3605 and 166.021(4) the governing body of a municipality may by Ordinance change the dates for election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING ORDINANCE PROVISIONS REGARDING ARTICLE 17 OF THE CHARTER FOR THE CITY OF APALACHICOLA:

Section 1. Adoption of Representations.

The foregoing Whereas clauses are hereby ratified and confirmed as being true and the same are hereby made part of this Ordinance.

Section 2. Approval.

The City Commission hereby amends Article 17 of the City Charter in the manner found in Attachment A.

Section 3. Extension of Terms of Office for Current Mayor and Commissioners.

The terms of office for the sitting Mayor and Commissioners are hereby extended through 2020 and 2022 as necessary to provide for an orderly transition to the election dates set forth herein.

Section 4. Conflict.

All Ordinances or Code provisions in conflict herewith are hereby repealed.

Section 5. Severability.

If any section, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon adoption by the City of Apalachicola, Florida.

CITY OF APALACHICOLA

BY: _____
Van W. Johnson, Sr., Mayor

ATTEST:

Deborah Guillotte
City Clerk

APPROVED AS TO FORM:

J. Patrick Floyd
City Attorney

**CITY OF APALACHICOLA, FLORIDA
ORDINANCE NO. 2019-04
ATTACHMENT A**

ARTICLE 17 - ELECTIONS

Section 140. Applicability of State Election Code.

The Florida Election Code, Florida Statute Chapters 97—106, shall govern the conduct of the City's elections in the absence of any applicable special act, Charter or Ordinance provision. No Charter or Ordinance provision shall be adopted which conflicts with or exempts the City from any provision in the Florida Election Code that expressly applies to municipalities. The City Commission may, by Ordinance, change the dates for qualifying and for the election of members of the City Commission and provide for the orderly transition of office resulting from such date change.

Section 141. Primaries; election dates.

(a) There shall be no primary elections. (b) The biannual election of offices for the City shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

Section 142. Qualified electors.

All persons registered to vote and residing within the limits of the City are recognized as qualified electors for all City elections.

Section 143. Notice of general elections.

The City Clerk shall, in any year in which a general election is held, make out a notice stating what offices and vacancies are to be filled at the general election in the City. The City Clerk shall submit a list of offices and vacancies to be filled to the Supervisor of Elections Office by December of each odd numbered year to be properly noticed with each even numbered years General Election.

Section 144. Polls administration.

For each City election, there shall be one poll. The City races will only appear on the ballot of those electors registered to vote within the City limits of Apalachicola. The electors will vote at the designated precinct within the City limits. The supervisor of Elections will appoint and train all poll workers and a poll deputy to govern the poll on Election Day.

Section 145. Vote counting and certification.

Precinct results are tabulated at the precinct on election night and a tape with results will be placed on the polling place door after 7:00 p.m. on election night. All election results will then be transmitted electronically to the Supervisor of Elections office to be certified by the Franklin County Canvassing Board. A copy of unofficial results will be forwarded to the City on Election Night, followed by a copy of the official results once they have been certified and filed with the State Division of Elections.

Section 146. Listing of names on ballot; result of election.

(a) The names of all candidates qualified for nomination for the office of City Commissioner or Mayor shall be placed upon the ballot in alphabetical order. (b) The candidate who shall receive the highest number of votes shall be elected to that office.

Section 147. Tie votes.

In the case of a tie vote for Mayor or City Commissioner, the candidate elected shall be determined by lot drawn by a person designated by the Canvassing Board in the presence of the tied candidates.

Section 148. Unopposed candidates.

If only one candidate shall be certified and approved for placement on the ballot of the election for a particular office, that candidate shall be declared by the City Commission to be the winner, without the requirement for election by the electors.

Section 149. Candidate Qualifications.

Any qualified elector of the City is eligible for candidacy for any elective City office.

Section 150. Filing and certification requirements.

Each person seeking to qualify for nomination or election to a City office shall file their qualification papers with the City Clerk, and pay the qualifying fee and election assessment, if any has been levied, to the City Clerk, at any time after noon of the first day of qualifying, which shall be the 50th day prior to the general election, but not later than noon of the 46th day prior to the date of the general election. Immediately following the qualifying of candidates, the City Clerk shall forward the names of all qualified candidates to the Supervisor of Elections office for placement on the General Election ballot. Nothing in this section shall preclude pre-filing in accordance with Florida Statute Chapter 106. Any person desiring to have their name placed on the ballot for any elective office to be filled shall be required to sign an affidavit certifying that the person is a qualified elector of the City. Candidates shall be certified in accordance with State law.

Section 151. Reporting

Candidates for City office will file paper campaign reports with the City on date such reports are due unless required by the City to file online with the Supervisor of Elections Office. If required to file online, candidate information will need to be submitted to the Supervisor of Elections Office at the time the DSDE 9 Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates (Section 106.021(1), F.S.) is filed, declaring intent to run.

Section 152. Procedure for filling vacancy in candidacy.

(A) If the death, withdrawal or removal of a qualified candidate occurs following the end of the qualifying period leaving less than two candidates remaining on the ballot for a seat in that particular group, alternate procedures may be followed as provided in this Section. The City Commission has the option of reopening qualifying or calling a special election, depending on the time remaining prior to the election, as follows:

- (1) More than 21 days before election. The City Commission may vote to reopen qualifying to allow candidates to qualify for election to that seat in that particular group and any candidate wishing to qualify shall file in compliance with the requirements of the Charter, but no later than noon of the 21st day prior to the date of the election.
 - (a) The remaining candidate for the open seat in that group shall not be required to requalify or to pay a second qualifying fee.
 - (b) If no additional candidate qualifies for election during the supplemental qualifying period, the remaining candidate shall be declared elected by virtue of being unopposed. The remaining candidate may continue to accept contributions until declared unopposed.

- (c) If other candidates qualify for election during the supplemental qualifying period, supplemental absentee ballots shall be mailed by the City Clerk to all absentee voters who were mailed an absentee ballot for the regular election. If an absentee voter only returns the initial ballot they were mailed, their vote for that seat in that particular group for which the supplemental qualifying period was called will be null and void, but their votes on all other officers and issues will be counted.
 - (d) If both the initial ballot and supplemental ballot are returned, only the supplemental ballot will be counted, which supplemental ballot shall contain the full slate of candidates for the election.
- (2) Less than 21 days before election. The City Commission may vote to hold a special election following an election in progress, which special election shall be held not less than 60 days and not more than 90 days after the vacancy in candidacy has occurred.
- (a) The remaining candidate for the open seat in that group shall not be required to requalify or to pay a second qualifying fee.
 - (b) If no additional candidate qualifies for election during the special election qualifying period, the remaining candidate shall be declared elected by virtue of being unopposed and the special election shall be cancelled.
 - (c) If other candidates qualify, the filing of campaign expense statements, including by the remaining candidate, shall not be later than such dates as fixed by the City Clerk. In fixing such dates, the City Clerk shall take into consideration and be governed by the practical time limitations and the dates established for such statements in a regular election, pursuant to Florida Statute Chapter 106.
 - (d) The dates for qualifying and processing of absentee ballots shall be fixed by the City Clerk, taking into consideration and governed by the practical time limitations and dates established for such procedures in a regular election pursuant to the Charter and this Code.

(B) The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.

(C) A candidate who has withdrawn or been removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

Section 153. Recall

Florida Statute Chapter 100.361 shall govern the process for a municipal recall.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Proposed T-Mobile Site Lease Agreement

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: C
Department: Administration
Contact: Ron Nalley, City Manager
Presenter: Ron Nalley, City Manager

BRIEF SUMMARY: In February, a representative of T-Mobile approached the City about leasing a portion of the water tower on Coach Wagoner Boulevard and Avenue L for the location, installation and operation of an antenna facility. T-Mobile has provided the City a standard lease agreement for the Commission's consideration. The Agreement contains an Option Period of one year with three one year renewals to allow T-Mobile an opportunity to determine if the site is suitable for the proposed use and to obtain all government approvals. Once T-Mobile decides to exercise its option, the Agreement sets forth the terms and rental payment of \$1,800 per month for the first 5 years, which will increase upon each successive renewal term. If the full term is realized, the lease would extend for 39 years. The property is located in the R-2 Zoning District and allows the antenna through a Special Exception as a "Public Facility or Structure."

RECOMMENDED MOTION AND REQUESTED ACTIONS: None at this time pending further discussion by the City Commission.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Site Lease Transmittal, Site Lease Agreement and Site Map

STAFF'S COMMENTS AND RECOMMENDATIONS: Should the Commission decide to move forward with consideration of the lease of the water tank property, the Agreement will need further review by staff and a complete review by the City Attorney. This information is being presented to you with the idea that if the Commission is interested in pursuing this Agreement, a revised Agreement, if needed, can be brought back to the Commission for approval at a later meeting.

SITE LEASE TRANSMITTAL

Site Number: 9JK1395

Date Turned In: February 4, 2019

Site Name: Apalachicola

Market: Jacksonville

Site Acquisition Coordinator: Richard Shirah

<p><u>Attached please find:</u></p> <p>2 Landlord-signed leases</p> <p>1 Landlord-signed/notarized memorandums</p> <p>Select Owner Authorization Agreement</p> <p>Select Landlord-signed W-9</p> <p>Select Authorization to sign lease (if applicable)</p>	<p><u>Market Information</u></p> <p>Market Entity Name: T-Mobile South LLC</p> <p>Type of Entity: limited liability company</p> <p>Authorized Signor Name:</p> <p>Authorized Signor Title:</p>
--	---

NOTE: Enter a space (" ") into any fields which do not apply

<p><u>Landlord Information</u></p> <p>Landlord Name: City of Apalachicola</p> <p>Landlord Entity: incorporated <small>(i.e. individual, corporation, LLC, etc.)</small></p> <p>Mailing Address: 1 Bay Avenue Apalachicola, Florida</p> <p>Phone No.: 32320</p> <p>Email: 850-653-8222 LL Email</p>	
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<p><u>Site Information</u></p> <p>Site Address: Southeast quadrant of Avenue L and 14th Street</p> <p>Square Footage: 450 square feet</p> <p>Parcel Number: 01-09S-08W-8330-0141-0060</p>	<p><u>Option Terms</u></p> <p>Option Amount: \$500 (e.g. 100.00) = five hundred (e.g. one hundred) dollars</p> <p>Option Term: one (1) year</p> <p>Option Renewal Term: three (3) additional one (1) year period(s)</p>
--	--

Lease Terms

Site Type:

Lease Use

Please choose one item below:

- Ground only
- Tower only
- Tower and Ground
- Rooftop
- Watertank
- In-building
- Easement only
- Other, please specify

Payee Name: City _____ of Apalachicola

Payee 1 Bay Avenue, Apalachicola, FL 32320

Address:

Rent \$1800= one thousand eight hundred

Amount:

Rent Frequency: month

Rent 110% = one hundred ten percent (*over preceding term*)

Increase:

Utilities: \$ Utilities amt number (e.g. 200) = Utilities amt written (e.g. two hundred) dollars

Lease Term: five (5) years

Renewal five (5) additional five-year (5) terms

Terms:

Cancel Terms: ninety (90) days prior

Instructions: *The above table form section of this document is protected so fill-in fields will populate in the lease and MOL, which are unprotected. Be sure to check fill-in fields and other sections carefully for accuracy and proper format – make corrections. BE CAREFUL!*

Non-Standard Changes: (Bullet point summaries only; no copying and pasting from lease)

Approved by:

Real Estate Manager

Date

General Manager/Director

Date

Legal Department

Date

Vice President (if applicable) Date

SITE LEASE AGREEMENT

This **SITE LEASE AGREEMENT** (this "**Lease**") is effective the date of the last signature on this Lease (the "**Effective Date**") by and between City of Apalachicola City of Apalachicola, a(n) incorporated ("**Landlord**") and T-Mobile South LLC, a Delaware limited liability company ("**Tenant**").

Landlord and Tenant agree to the following:

1. **Property Description.** Landlord is the owner of the real property located at Southeast quadrant of Avenue L and 14th Street, as further described on **Exhibit A** (the "**Property**"). The Property includes the premises which is comprised of approximately 450 square feet plus any additional portions of the Property which Tenant may require for the use and operation of its facilities as generally described on **Exhibit B** (the "**Premises**"). Tenant reserves the right to update the description of the Premises on **Exhibit B** to reflect any modifications or changes.

2. **Option.** Landlord grants to Tenant an option to lease the Premises on the terms and conditions described in this Lease (the "**Option**"). The Option shall commence on the Effective Date and shall continue for a period of one (1) year (the "**Option Period**"). The Option Period will be automatically extended for successive three (3) additional one (1) year period(s), unless Tenant provides written notice to the Landlord of its election to exercise or not renew its Option. For each Option Period, Tenant shall pay Landlord five hundred and no/100 dollars (\$500).

3. **Landlord Cooperation.** During the Option Period and Term (as defined below), Landlord shall cooperate with Tenant's due diligence activities, which shall include, but not be limited to, access to the Property for inspections, testing, permitting related to the Permitted Uses (as defined below). Landlord authorizes Tenant to sign, file, submit and obtain all zoning, land use and other applications for permits, licenses and approvals required for the Permitted Uses from all applicable governmental and quasi-governmental entities (collectively, the "**Governmental Approvals**"), and to the fullest extent necessary, Landlord grants Tenant and its agents power of attorney to take all such actions on behalf of and in the name of Landlord. Landlord's cooperation shall include the prompt execution and delivery of any documents necessary to obtain and maintain Government Approvals or utility services. Additionally, Landlord shall not take any actions which are in conflict with or interfere with Tenant's Governmental Approvals.

4. **Antenna Facilities and Permitted Uses.** Tenant leases the Premises for its equipment, personal property and improvements associated with Tenant's wireless communications business (the "**Antenna Facilities**"). The Premises may be used for the construction, installation, operation, maintenance, repair, addition, modification, upgrading, removal or replacement of any and all Antenna Facilities (the "**Permitted Uses**") for no fee or additional consideration. The Antenna Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant, at its expense, may use any and all reasonable means as Tenant deems necessary to control, secure or restrict access to the Antenna Facilities. Landlord hereby waives any and all lien rights it may have concerning the Antenna Facilities. If necessary to maintain service, Tenant shall have the right to locate a cell-on-wheels, or other temporary antenna facility on the Property. Landlord shall cooperate with the placement of the temporary facility at a mutually acceptable location.

5. **Lease Term.**

a) The Initial Term of the Lease shall be five (5) years commencing on the date of Tenant's exercise of the Option (the "**Commencement Date**"), and ending on the day immediately preceding the fifth (5th) anniversary of the Commencement Date (the "**Initial Term**"). The Initial Term, together with any Renewal Terms and Extended Periods are referred to collectively as the "**Term**."

b) The Initial Term shall automatically renew for five (5) successive renewal terms of five (5) years each (each a "**Renewal Term**"), provided, however, that Tenant may elect not to renew by providing notice prior to the expiration of the then current Term.

c) Upon the expiration of the final Renewal Term, Tenant shall have the right to continue to occupy the Premises and the Term shall automatically extend for up to nine (9) successive one (1) year periods (each, an "**Extended Period**"). Landlord may terminate the renewal of any Extended Period by delivery of notice at least six (6) months prior to the end of the then current Extended Period. Tenant may terminate any Extended Period at any time by delivery of notice to Landlord.

6. Rent/Other Charges.

a) Upon the Commencement Date, Tenant shall pay Landlord rent in the amount of one thousand eight hundred dollars (\$1800) per month (the "**Rent**"). Tenant shall deliver Rent to Landlord at the address specified in Section 15, or by electronic payment. The first Rent payment shall be due within thirty (30) days after the Commencement Date. Subsequent Rent shall be payable by the fifth day of each month.

b) The Rent for each successive Renewal Term shall be an amount equal to one hundred ten percent (110%) of the Rent for the immediately preceding Term. The Rent for each Extended Period shall be an amount equal to one hundred one percent (101%) of the Rent for the immediately preceding Term.

c) Rent for any partial month shall be prorated on a per day basis, based on the number of days in the month in question. Landlord shall cooperate with Tenant regarding the use of any electronic rent payment systems or the provision of any associated documentation. Tenant may condition payment of Rent and any other sums payable under this Lease upon Tenant's receipt of a duly completed IRS form W-9, or similar governmental form.

d) Any charges payable under this Lease other than Rent shall be billed by Landlord to Tenant within twelve (12) months from the date the charges were incurred or due; otherwise the charges shall be deemed time-barred and forever waived and released by Landlord.

7. Interference. Tenant shall not interfere with the radio frequency communications of Landlord or any of Landlord's existing tenants as of the Effective Date. After the Effective Date, Landlord shall not install, or permit any third party to install, any equipment or structures that interfere with or restrict the operations of Tenant. Any such interference shall be deemed a material breach of this Lease by Landlord and Landlord shall remove the cause of the interference within forty-eight (48) hours of notice. Tenant shall have the right to exercise all legal and equitable rights and remedies to end the interference.

8. Utility Services.

a) Tenant shall have the right to connect to, maintain, repair, upgrade, remove or replace existing utility related equipment and shall have the right to install new utility related equipment, including a

generator , optical fiber facilities, and alternative energy related equipment, to service its Antenna Facilities, or cell-on-wheels on the Property (collectively, the "Utility Facilities").

b) Tenant shall be responsible for all utilities charges for electricity, or any other utility service used by Tenant on the Premises. Tenant may install separate meters for Tenant's utility usage. If Tenant does not install a separate meter, Tenant shall pay Landlord Utilities amt written (e.g. two hundred) dollars (\$Utilities amt number (e.g. 200)) per month for its utility usage.

9. Access and Easements.

a) Landlord shall furnish, at no additional charge to Tenant, unimpeded and secure access to the Premises on a 24-hours-a-day, 7-days-a-week basis to Tenant and Tenant's employees, agents, contractors and other designees.

b) Landlord grants Tenant, at no additional Rent or charge, easements on, over, under and across the Property for ingress, egress, communications, power and other utilities, construction, demolition and access to the Premises and any Utility Facilities (collectively, the "Easements"). Landlord shall not modify, interrupt or interfere with any communications, electricity, or other utility equipment and easements serving the Property, except with the prior written approval of Tenant.

10. Termination. Tenant may terminate this Lease without further liability, upon thirty (30) days prior written notice to Landlord, for any of the following reasons: (i) changes in local or state laws or regulations which adversely affect Tenant's ability to operate; (ii) a Federal Communications Commission ("FCC") ruling or regulation that is beyond the control of Tenant; (iii) technical or economic reasons; or (iv) if Tenant is unable to obtain any Governmental Approval required for the construction or operation of Tenant's Antenna Facilities. Upon ninety (90) days prior written notice to Landlord, Tenant may terminate this Lease for any or no reason.

11. Casualty and Condemnation. If the Premises or Antenna Facilities are damaged or destroyed by wind, fire or other casualty, Tenant shall be entitled to negotiate, compromise, receive and retain all proceeds of Tenant's insurance and other claims and Tenant may terminate the Lease by written notice to Landlord. If the Premises, any Easements or Antenna Facilities are taken or condemned by power of eminent domain or other governmental taking, then: (a) Tenant shall be entitled to negotiate, compromise, receive and retain all awards attributable to (i) the Antenna Facilities, (ii) Tenant's leasehold interest in the Property, (iii) any moving or relocation benefit available to Tenant and (iv) any other award available to Tenant that is not attributable to Landlord's title to or interest in the Property. If the Antenna Facilities are not operational due to casualty or condemnation, Tenant shall have the right to abate the Rent for that period time. In addition, Tenant may terminate the Lease by written notice to Landlord.

12. Default and Right to Cure. A party shall be deemed in default under this Lease if it fails to make any payment, or to perform any obligation required of it within any applicable time period specified and does not commence curing such breach within thirty (30) days after receipt of written notice of such breach from the non-defaulting party ("Default"). This Lease, or Tenant's rights of possession shall not be terminated due to any Tenant Default unless: (a) the Default is material; (b) Landlord shall have given Tenant not less than thirty (30) days prior written notice, after the expiration of the cure period described above, and Tenant fails to cure or commence the cure of such Default within the second thirty (30) day notice period; and (c) Landlord lacks any other adequate legal or equitable right or remedy.

13. Taxes. Landlord shall pay when due all real estate taxes and assessments for the Property, including the Premises. Notwithstanding the foregoing, Tenant shall reimburse Landlord for any personal property tax paid for by Landlord which is solely and directly attributable to the presence or installation of Tenant's Antenna Facilities during the Term. Landlord shall provide prompt and timely notice of any tax or assessment for which Tenant is liable. Tenant shall have the right to challenge any tax or assessment and Landlord shall cooperate with Tenant regarding such challenge.

14. Insurance and Subrogation and Indemnification.

a) During the Term, Tenant and Landlord each shall maintain Commercial General Liability Insurance in amounts of One Million and no/100 Dollars (\$1,000,000.00) per occurrence and Two Million and no/100 Dollars (\$2,000,000.00) aggregate. Each party may satisfy this requirement by obtaining the appropriate endorsement to any master insurance policy such party may maintain. Tenant and Landlord shall each maintain "all risk" or "special causes of loss" property insurance on a replacement cost basis for their respectively owned real or personal property.

b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of an insured loss, neither party's insurance company shall have a subrogated claim against the other party.

c) Subject to the property insurance waivers set forth in the preceding subsection (b), Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities, including reasonable attorneys' fees, to the extent caused by or arising out of: (i) any negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, (ii) any spill or other release of any Hazardous Substances (as defined below) on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, or (iii) any breach of any obligation of the indemnifying party under this Lease. The indemnifying party's obligations under this subsection are contingent upon its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party and the indemnified party's granting it the right to control the defense and settlement of the same.

d) Tenant shall not be responsible or liable to Landlord or any third party for any claims, damages, costs, expenses, including liens, fines, penalties or other enforcement actions, attributable to any pre-existing violations of applicable laws, codes, ordinances or other regulations relating to the Property (collectively, "Pre-Existing Violations"). To the extent Tenant is or may be required to cure such Pre-Existing Violations in order to obtain any Governmental Approvals for its Permitted Uses of the Premises, however, Tenant shall have the right, but not the obligation, to cure such Pre-Existing Violations and deduct the curative costs from Rent payable under this Lease.

e) The provisions of subsections (b) and (c) above shall survive the expiration or termination of this Lease.

15. Notices. All notices, requests, demands and other communications shall be in writing and shall be effective three (3) business days after deposit in the U.S. mail, certified, return receipt requested or upon

receipt if personally delivered or sent via a nationally recognized courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

If to Tenant, to:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attn: Lease Compliance/9JK1395

If to Landlord, to:

City of Apalachicola
1 Bay Avenue
Apalachicola, Florida 32320

Per the W-9 Form Rent is to be paid to:

City of Apalachicola
1 Bay Avenue, Apalachicola, FL 32320

16. Quiet Enjoyment, Title and Authority. Landlord covenants and warrants that: (a) Landlord has full right, power and authority to execute and perform this Lease and to grant Tenant the leasehold interest and Easements contemplated under this Lease; (b) Landlord has good and unencumbered title to the Property, free and clear of any liens or Mortgages (defined below) which will interfere with Tenant's Permitted Uses and any rights under this Lease; (c) the execution and performance of this Lease shall not violate any laws, ordinances, covenants, or the provisions of any Mortgage, lease, or other agreement binding on Landlord; (d) Tenant's use and quiet enjoyment of the Premises will not be disturbed; and (e) Landlord will be responsible, at its sole cost and expense, for maintaining all portions of the Property in good order and condition and in compliance with all applicable laws, including without limitation, the roof, any support structure owned by Landlord, HVAC, plumbing, elevators, landscaping and common areas.

17. Environmental Laws. Landlord and Tenant shall comply with all federal, state and local laws in connection with any substances brought onto the Property that are identified by any law, ordinance or regulation as hazardous, toxic or dangerous (collectively, the "**Hazardous Substances**"). Tenant agrees to be responsible for all losses or damage caused by any Hazardous Substances that it may bring onto the Property and will indemnify Landlord for all such losses or damages. Landlord agrees to be responsible for all losses or damage caused by any Hazardous Substances on or entering the Property, except those brought onto the Property by Tenant, and will indemnify Tenant for all such losses or damages including the cost of any investigation or remediation, or other actions required to comply with applicable law. Landlord represents that it has no knowledge of any Hazardous Substances on the Property.

18. Assignment.

a) Tenant shall have the right to assign, sublease or otherwise transfer this Lease, upon written notice to Landlord. Upon an assignment or transfer, Tenant shall be relieved of all liabilities and obligations and Landlord shall look solely to the transferee for performance under this Lease. Upon receipt of a written request from Tenant, Landlord shall promptly execute an estoppel certificate.

b) Landlord shall have the right to assign and transfer this Lease only to a successor owner of the Property. Only upon Tenant's receipt of written verification of a sale, or transfer of the Property shall Landlord be relieved of all liabilities and obligations and Tenant shall look solely to the new landlord for performance under this Lease. Until Tenant receives required information and documents, Tenant shall not be responsible for any failure to make payments under this Lease and reserves the right to hold payments due under this Lease. Landlord shall not attempt to assign, or otherwise transfer this Lease separate from a

transfer of ownership of the Property (the "Severance Transaction"), without the prior written consent of Tenant, which consent may be withheld or conditioned in Tenant's sole discretion. If Tenant consents to a Severance Transaction, Landlord and its successors and assigns shall remain jointly and severally responsible for the performance of all duties and obligations of the Landlord under this Lease.

19. Relocation. Landlord must provide Tenant at least six (6) months written notice of any repairs, maintenance or other work (the "Work") during the Term of the Lease which would require the temporary relocation of the Antenna Facilities. Landlord agrees that the Work will not interfere with or alter the quality of the services provided by the Antenna Facilities. Landlord will reimburse Tenant for all expenses incurred by Tenant required to accommodate the Work.

20. Marking and Lighting Requirements. If any tower or other support structure for Tenant's Antenna Facilities is owned by Landlord, Landlord acknowledges that Landlord shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration and the FCC. Landlord shall indemnify and hold Tenant harmless from any fines or other liabilities caused by Landlord's failure to comply with these requirements.

21. Miscellaneous.

a) The prevailing party in any litigation or other legal proceedings arising under this Lease (including any appeals and any insolvency actions) shall be entitled to reimbursement from the non-prevailing party for reasonable attorneys' fees and expenses.

b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements with respect to the subject matter and Property. Any amendments to this Lease must be in writing and executed by both parties.

c) Landlord agrees to cooperate with Tenant in executing any documents which Tenant deems necessary to insure and protect Tenant's rights in, or use of, the Premises. Landlord shall execute and deliver: (i) a Memorandum of Lease in substantially the form attached as Exhibit C; and (ii) if the Property is encumbered by a deed, mortgage or other security interest (each, a "Mortgage"), a subordination, non-disturbance and attornment agreement using Tenant's form.

d) This Lease shall be construed in accordance with the laws of the state or territory in which the Property is located, without regard to the principles of conflicts of law.

e) If any term of this Lease is found to be void or invalid, the remaining terms of this Lease shall continue in full force and effect. Any questions of particular interpretation shall be interpreted as to their fair meaning.

f) Each party hereby represents and warrants to the other that this Lease has been duly authorized, executed and delivered by it, and that no consent or approval is required by any lender or other person or entity in connection with the execution or performance of this Lease.

g) If either party is represented by any broker or any other leasing agent, such party is responsible for all commission fee or other payment to such agent.

h) This Lease and the interests granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

i) This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. Signed facsimile and electronic copies of this Lease shall legally bind the parties to the same extent as original documents.

LANDLORD: City of Apalachicola

By: _____

Printed Name: _____

Title: _____

Date: _____

TENANT: T-Mobile South LLC Jacksonville

By: _____

Printed Name: _____

Title: _____

Date: _____

T-Mobile Legal Approval

EXHIBIT A
Legal Description

Property address of Southeast quadrant of Avenue L and 14th Street
Assessor's tax parcel number of 01-09S-08W-8330-0141-0060

The Property is legally described as follows:

[Enter legal description below or as an attachment(s) A-2, etc.]

EXHIBIT B

Subject to the terms and conditions of this Lease, the location of the Premises is generally described and depicted as shown below or in the immediately following attachment(s).

However, it is expressly agreed and understood by and between the Landlord and Tenant that the exact and precise location of the Tenant's Antenna Facilities are subject to review and approval by the planning and/or zoning Boards having jurisdiction over the Property.

Notwithstanding anything to the contrary, the specific number and type of equipment described in the Exhibit is for illustrative purposes only and in no way limits Tenant's ability to alter, replace, add to, expand, enhance, modify, supplement, replace, refurbish, relocate or upgrade any such equipment within the Premises.

[Enter Premises description here or on attachment(s).]

EXHIBIT C

Memorandum of Lease

[CONFIRM HEADING/MARGINS/FORMAT CONFORM TO STATE AND LOCAL REQUIREMENTS]

After Recording, Mail To:

APN: 01-09S-08W-8330-0141-0060

Loan No.

MEMORANDUM OF LEASE

A Site Lease Agreement (the "Lease") by and between City of Apalachicola, a(n) incorporated ("Landlord") and T-Mobile South LLC Jacksonville, a Delaware limited liability company T-Mobile South LLC ("Tenant") was made regarding a portion of the following property (as more particularly described in the Lease, the "Premises"):

See Attached Exhibit A incorporated herein for all purposes.

Without limiting the terms and conditions of the Lease, Landlord and Tenant hereby acknowledge the following:

1. Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Lease.
2. Pursuant to the Lease, Landlord has granted Tenant an option to lease the Premises (the "Option") on the terms and conditions described in the Lease. The Option is for an initial term of one (1) year commencing on the effective date of the Lease, and will be extended for up to three (3) additional and successive one (1) year periods unless Tenant provides written notice to exercise or not renew its Option.
3. Provided that the Option has been exercised by Tenant, the initial term of the Lease shall be for five (5) years and will commence on the date that Tenant exercises its Option.
4. Tenant shall have the right to extend the Lease for five (5) additional and successive five(5)-year terms which may be extended for up to nine (9) additional and successive one-year periods.
5. This memorandum is not a complete summary of the Lease. It is being executed and recorded solely to give public record notice of the existence of the Option and the Lease with respect to the Premises. Provisions in this memorandum shall not be used in interpreting the Lease provisions and in the event of conflict between this memorandum and the said unrecorded Lease, the unrecorded Lease shall control.

6. This memorandum may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

LANDLORD: City of Apalachicola

By: _____

Printed Name: _____

Title: _____

Date: _____

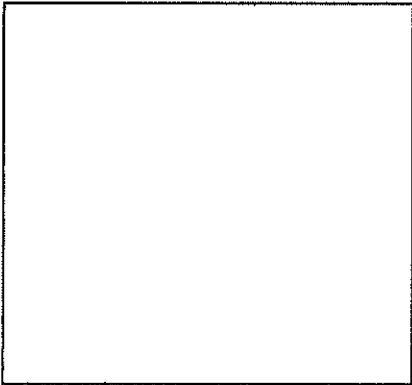
TENANT: T-Mobile South LLC Jacksonville

By: _____

Printed Name: _____

Title: _____

Date: _____



 Notary Public
 Print Name _____
 My commission expires _____

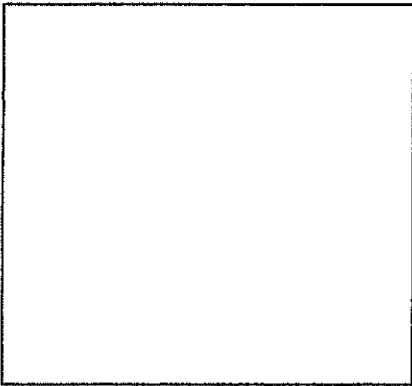
(Use this space for notary stamp/seal)

[Notary block for Tenant]

STATE OF _____)
) ss.
 COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of T-Mobile South LLC Jacksonville, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



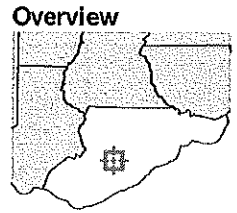
 Notary Public
 Print Name _____
 My commission expires _____

(Use this space for notary stamp/seal)

**Memorandum of Lease - Exhibit A
Legal Description**

The Property is legally described as follows:

Tax Parcel # 01-09S-08W-8330-0141-0060



- Legend**
- Parcels
 - Roads
 - City Labels

Parcel ID	01-09S-08W-8330-0141-0060	Alternate ID	08W09S01833001410060	Owner Address	APALACHICOLA CITY OF
Sec/Twp/Rng	1-9S-8W	Class	MUNICIPAL		1 AVE E
Property Address		Acreage	n/a		APALACHICOLA, FL 32320
District	3				
Brief Tax Description	BL 141 LOTS 67				
	(Note: Not to be used on legal documents)				

Date created: 2/28/2019
 Last Data Uploaded: 2/28/2019 6:44:08 AM

Developed by  **Schneider**
 GEOSPATIAL

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: CDBG Grant Agreement 19DB-ON-02-29-02-N18

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: D
Department: Administration
Contact: Deborah Belcher, CDBG Program Manager
Presenter: Ron Nalley, City Manager

BRIEF SUMMARY: In August 2018, the City submitted an application to the Florida Department of Economic Opportunity (DEO) for a \$650,000 Florida Small Cities Community Development Block Grant (CDBG). The grant was awarded effective December 10, 2018, but the City has just received the subgrant agreement with DEO. The City must execute the agreement and return it to DEO for their signature. In addition, the City will need to contract with a consultant grant administrator for the CDBG project. Following the development of a request for proposals and advertisement, Roumelis Planning and Development Services, Inc. (RPDS) was the only response. The proposed fee of \$51,500 is \$500 less than the CDBG grant administration budget. RPDS has prepared the attached contract for the Commission's review and approval. Because the City was not certain of funding, the CDBG project was not included in the adopted budget and a budget amendment is needed prior to approving the attached agreements. A local contribution of \$25,000 is needed for the project, which the City Commission approved as part of the grant application.

RECOMMENDED MOTION AND REQUESTED ACTIONS:

- 1) To Dispense of the Two-Reading Requirement for Ordinances as Allowed for in the City Charter so that the Budget Amendment may be Allowed to Pass Upon First Reading by Unanimous Vote.
- 2) To Approve Budget Amendment 2 Amending the Sewer Fund to Reflect Award of the Community Development Block Grant Project.
- 3) To Approve the CDBG Subgrant Agreement 19DB-ON-02-29-02-N18 and Authorize the Mayor to Execute the Agreement.

- 4) To Award the Contract for CDBG Grant Administration Services to Roumelis Planning and Development Services, Inc. in the Amount of \$51,500 and Authorize the City Manager to Execute the Agreement.

FUNDING SOURCE: Sewer Fund – CDBG Manhole Replacement Project

ATTACHMENTS: Budget Amendment #2; CDBG Subgrant Agreement 19DB-ON-02-29-02-N18; and Agreement for CDBG Administration Services with Roumelis Planning and Development Services, Inc.

STAFF'S COMMENTS AND RECOMMENDATIONS: Staff has reviewed the DEO agreement and recommends its approval. Staff has also reviewed the proposed agreement with RPDS and is comfortable with RPDS performing all required CDBG administration services for a proposed fee of \$51,500.

CITY OF APALACHICOLA
 BUDGET AMENDMENT FY 2018-2019
 BUDGET AMENDMENT NUMBER: 2

Be it ordained by the City Commission of the City of Apalachicola that the following amendment be made to the budget ordinance for the fiscal year ending September 30, 2019.

Department: Sewer Department – Enterprise Fund

Purpose: To Amend the Sewer Department Budget to Reflect the award of CDBG Grant Neighborhood Revitalization 19DB-ON-02-29-02-N18

Section 1: To amend the Enterprise Fund Budget – Sewer Department, the expenditures are to be added as follows:

Line Item	Account Number	Amount Decrease	Amount Increase	Amended Budget
CDBG Sewer Manhole Rehab Project	550-462		\$675,000.00	\$675,000.00
Capital Outlay	550-600	\$25,000.00		

To provide the additional revenue for the above, the following revenue will be increased:

Account Name: CDBG Manhole Rehab
 Account Number: 460052
 Amount: \$650,000.00

Section 2: I certify that the accounting records provide for this budget amendment, and that the revenue source(s) are available:

 Finance Officer

 Date

Section 3: Copies of this amendment shall be delivered to the Budget/Finance Officer and City Auditing Firm.

Adopted this _____ day of _____, 2018.

Subgrant Contract Number: 19DB-ON-02-29-02-N18

FLAIR Contract Number: H2345

CFDA Number: 14.228

State of Florida
Department of Economic Opportunity
Federally-Funded
Subgrant Agreement – FFY 2017 Funding Cycle

THIS AGREEMENT is entered into by the State of Florida, Department of Economic Opportunity, (hereinafter referred to as “DEO”), and the City of Apalachicola, hereinafter referred to as the “Recipient” (each individually a “Party” and collectively “the Parties”).

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) administers the Small Cities Community Development Block Grant (CDBG) Program at the Federal level and distributes CDBG grant funds to the states. The State of Florida has received these grant funds from HUD.

WHEREAS, DEO is the CDBG grantee agency for the State of Florida, designated to receive funds annually for program purposes. DEO is authorized to distribute CDBG funds to the Recipient so that the Recipient may develop and preserve affordable housing, provide services to communities, and create and retain jobs.

WHEREAS, Pursuant to the requirements of Title 2, Code of Federal Regulations (“C.F.R.”), part 200 and 24 C.F.R. § 570.500, the Recipient is a Subrecipient of federal funds, and is qualified and eligible to receive these subgrant funds in order to provide the services identified herein.

NOW THEREFORE, DEO and the Recipient agree to the following:

(1) Scope of Work.

The Scope of Work for this Agreement includes Attachment A, Project Detail Budget and Deliverables, Attachment B, Project Narrative, and Part 7 and Appendix A from Part 9 of the Recipient’s Florida Small Cities CDBG FFY 2017 Application for Funding submitted by the Recipient on August 13, 2018.

(2) Incorporation of Laws, Rules, Regulations, and Policies.

The Recipient agrees to abide by all applicable State and Federal laws, rules, and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at Subpart K of 24 C.F.R. (except that the Recipient does not assume DEO’s responsibilities described at § 570.604 and the Recipient does not assume DEO’s responsibility for initiating the review process under the provisions of 24 CFR part 52); and chapter 73C-23, Florida Administrative Code (F.A.C.), Effective: May 27, 2018.

(3) Period of Agreement.

This Agreement begins on December 10, 2018, (the “Effective Date”) and ends on June 09, 2021, unless otherwise terminated as provided in this Agreement. DEO shall not grant any extension of this Agreement unless the Recipient provides justification satisfactory to DEO in its sole discretion, and DEO’s Director of the Division of Community Development approves such extension. The justification must document that project delays are due to events beyond the Recipient’s control, and include a performance plan that demonstrates the Recipient’s capacity to perform and complete the remaining project tasks within the extension period. DEO will also take into consideration the Recipient’s progress and verifiable achievements at DEO’s sole and absolute discretion. Upon expiration or termination of this Agreement, the Recipient shall follow the agreement closeout procedures set forth in Attachment H.

(4) Modification of Agreement.

(a) Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by the Recipient, including any request using form SC-44, constitutes a request to negotiate the terms of this Agreement and DEO may accept or reject any proposed modification based on DEO's determination, and in its sole discretion, that any such acceptance or rejection is in the State's best interest.

(b) When requesting a modification, the Recipient shall electronically submit the following documents to DEO:

1. A cover letter signed by the Recipient's Chief Elected Official or by a duly-authorized Recipient's employee, officer, or board member, as evidenced by a written resolution or similar document. The letter must describe the need for the proposed changes and the effect that they will have on the project. If the modification requests a time extension, the letter must provide the justification for the extension;

2. A draft copy of the Modification to the Subgrant Agreement, Form SC-44;

3. If there are changes to the subgrant budget or the number of beneficiaries or accomplishments, a draft copy of the Request to Modify Agreement, Form SC-35, and a copy of Attachment A - Project Detail Budget and Deliverables;

4. If there are budget changes involving non-CDBG funds, a draft copy of Sources and Uses of Funds, Form SC-36;

5. If there are changes to the timeline, accomplishments or the line item budget, draft copies of the Attachment C - Activity Work Plan pages;

6. If there are changes to the number of beneficiaries or accomplishments, including Unaddressed Need being added to the Agreement as Addressed Need, a copy of the Attachment B - Project Narrative;

7. If there is a change in the location of an activity, a copy of a revised map from the Application for Funding indicating the proposed changes;

8. If the changes being requested in the modification required that a public hearing be held, copies of the public hearing notice and the minutes from the hearing; and

9. For Economic Development subgrants, if a new Participating Party is being added to the Agreement, a copy of the Participating Party Agreement signed by the Recipient and the Participating Party.

(c) DEO will review the modification request, and if DEO approves the request, at DEO's sole and absolute discretion, then DEO shall transmit electronically the modification documents to the Recipient. The modification documents must be signed by the Recipient's Chief Elected Official or by a duly-authorized Recipient's employee, officer, or board member, as evidenced by a written resolution or similar document. The Recipient shall return three signed original modifications to DEO via regular mail for DEO's review and signature.

(5) Records.

(a) The Recipient's performance under this Agreement shall be subject to 2 C.F.R. part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(b) Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, or representatives of the Federal government and their duly authorized representatives shall have access to any of the Recipient's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) The Recipient shall maintain books, records, and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by DEO under this Agreement.

(d) The Recipient will provide a financial and compliance audit to DEO, if applicable, and ensure that all related party transactions are disclosed to the auditor.

(e) The Recipient shall retain sufficient records on-site to show its compliance with the terms of this Agreement, and the compliance of all subrecipients, contractors, subcontractors, and consultants paid from funds under this Agreement, for a period of six years from the date DEO issues the final closeout (as defined in rule 73C-23.0031(14), F.A.C.) for this award. The Recipient shall ensure that audit working papers are available upon request for a period of six years from the date this Agreement is final closed, unless extended in writing by DEO. The six-year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the six-year period expires, and extends beyond the six-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for six years after final disposition.
3. Records relating to real property acquired shall be retained for six years after the closing on the transfer of title.

(f) The Recipient shall maintain all records and supporting documentation for the Recipient and for all subrecipients, contractors, subcontractors, and consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Scope of Work and all other applicable laws and regulations.

(g) The Recipient shall either (i) maintain all funds provided under this Agreement in a separate bank account (the Recipient shall maintain all funds advanced under this Agreement in a separate bank account) or (ii) the Recipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement (this option is not allowed for advanced funds). There shall be no commingling of funds provided under this Agreement with any other funds, projects, or programs. "Commingling" of funds is distinguishable from "blending" of funds, which is specifically allowed by law. DEO may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, in Subparagraph (19)(e), Repayments.

(h) The Recipient, its employees or agents, including all subrecipients, contractors, subcontractors, and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, or representatives of the Federal government and their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday.

(i) The Recipient shall include the aforementioned audit and record keeping requirements in all approved subrecipient subcontracts and assignments.

(6) Audit Requirements.

(a) The Recipient shall conduct a single or program-specific audit in accordance with the provisions of 2 C.F.R. part 200 if it expends \$750,000 or more in Federal awards from all sources during its fiscal year.

(b) The requirements listed in Attachment J, Part II: State Funded, are not applicable to this subgrant agreement, which is a Federal pass-through award.

(c) Within 60 calendar days of the close of the fiscal year, on an annual basis, the Recipient shall electronically submit a completed Audit Compliance Certification, a blank version of which is attached hereto as Attachment K, to audit@deo.myflorida.com. The Recipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between DEO and the Recipient. This form is in addition to the Audit Certification Memo, Form SC-47, that must be sent to DEO if an audit is not required because the local government spent less than \$750,000 in Federal funds during the fiscal year.

(d) In addition to the submission requirements listed in Attachment J, the Recipient should send an electronic copy of its audit report or an Audit Certification Memo, Form SC-47, by June 30 following the end of each fiscal year in which it had an open CDBG subgrant to the grant manager listed in Paragraph (14) Notice and Contact. The forms referenced in this Agreement are available online at www.FloridaJobs.org/CDBGRecipientInfo or upon request from the grant manager listed in Paragraph (14) Notice and Contact.

(7) Reports.

The Recipient shall provide DEO with all reports and information as set forth in Attachment H. The quarterly and administrative closeout reports must include the current status and progress by the Recipient and all subrecipients and subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement. The Recipient shall provide any additional program updates or information upon request by DEO. If all required reports and copies are not sent to DEO or are not completed in a manner acceptable to DEO, payments may be withheld until the reports are properly completed, or DEO may take other action as stated in Paragraph (11) Remedies or otherwise allowable by law.

(8) Monitoring.

(a) The Recipient shall monitor its performance under this Agreement, including the performance of any subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that the project activities are being accomplished within the specified time periods included in Attachment C - Activity Work Plan and that other performance goals are being achieved. The Recipient shall perform a review for each function or activity in Attachment A - Project Detail Budget and Deliverables and Attachment C - Activity Work Plan, and shall include the results in the quarterly report.

(b) In addition to reviews of audits conducted in accordance with Paragraph (6) Audit Requirements, monitoring procedures may include, but are not limited to, on-site visits by DEO staff and limited scope audits. The Recipient shall comply and cooperate with any monitoring deemed appropriate by DEO. If DEO determines a limited scope audit of the Recipient is appropriate, the Recipient shall comply with any additional instructions provided by DEO to the Recipient regarding such audit. The Recipient shall comply and cooperate with any inspections, reviews, investigations, audits, or hearings deemed necessary by HUD, the Comptroller General of the United States, the Florida Chief Financial Officer, or Auditor General, in accordance with section 20.055(5), Florida Statutes (F.S.), or any Federal Office of the Inspector General.

(c) DEO shall monitor the Recipient's performance through desk monitorings and on-site monitoring visits. The Recipient shall always and contemporaneously maintain at Recipient's work sites and make available to DEO immediately upon DEO's request all Subgrant's records and documentation, including but not limited to: all Recipient's consultants' work products produced in contemplation of this Agreement for Recipient's Application and pertinent to this Agreement and its implementation. The Recipient shall supply data and make records available as necessary for DEO staff to complete an accurate evaluation of contracted activities. DEO will issue a monitoring report to the Recipient after each monitoring event. The Recipient shall reply in writing to any monitoring findings or concerns that require a response within 45 days of its receipt of DEO's monitoring report. DEO will clear any findings or concerns in writing once the Recipient has successfully addressed them. DEO will reject a Recipient's financial reimbursement request if a required response to a monitoring report is late.

(9) Liability.

(a) If the Recipient is a state agency or subdivision, as defined in section 768.28(2), F.S., pursuant to section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) The Recipient is solely responsible to the parties it deals with in carrying out the terms of this Agreement, and shall hold DEO harmless against all claims of whatever nature by third parties arising from the work and services performed under this Agreement. For purposes of this Agreement, the Recipient agrees that it is not an employee or agent of DEO, but is an independent contractor.

(c) If the Recipient is a state agency or subdivision, as defined in section 768.28, F.S., then the Recipient agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against DEO, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, F.S. Nothing herein is intended to serve as a waiver of sovereign immunity by the Recipient if sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, subrecipient agreement, contract, or subcontract.

(10) Events of Default.

If any of the following events occur (“Events of Default”), DEO may, in its sole discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in Paragraph (11) Remedies, or pursue any remedy at law or in equity, without limitation. DEO may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment:

(a) If any warranty or representation made by the Recipient in the Recipient’s Application for Funding, this Agreement, or any previous agreement with DEO is or becomes false or misleading in any respect, notwithstanding any knowledge on the part of DEO of any untruth of any such representation or warranty, or if the Recipient fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with DEO and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

(b) If any material adverse change occurs in the financial condition of the Recipient at any time during the term of this Agreement, and the Recipient fails to cure this adverse change within 30 calendar days from the date written notice is sent by DEO;

(c) If the Recipient fails to submit any required report, or submits any required report with incorrect, incomplete, or insufficient information, or fails to submit additional information as requested by DEO; or

(d) If the Recipient has failed to perform, or timely complete, any of its obligations under this Agreement, including attending DEO’s Implementation Workshop.

(11) Remedies.

If an Event of Default occurs, then DEO shall, upon 30 calendar days written notice to the Recipient and upon the Recipient’s failure to cure within those 30 calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement upon 24-hour written notice from the date notice is sent by DEO, in conformity with Paragraph (14) Notice and Contact;

(b) Begin any appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Demand that the Recipient return to DEO any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule, or regulation governing the use of the funds; or

(e) Exercise any corrective or remedial actions, including but not limited to:

1. Request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance;

2. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected;

or

3. Advise the Recipient to suspend, discontinue, or refrain from incurring costs for any activities in question.

(f) Pursuing any of the above remedies does not preclude DEO from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement, or failure to insist upon strict performance by DEO will not affect, extend, or waive any other right or remedy available to DEO, or affect the later exercise of the same right or remedy by DEO for any other default by the Recipient.

(12) Dispute Resolution.

Disputes concerning the performance of the Agreement shall be decided by DEO, which shall reduce the decision to writing and serve a copy on the Recipient. The decision will be final and conclusive unless within 21 days from the date of receipt, the Recipient files a petition for administrative hearing with DEO. DEO's decision on the petition shall be final, subject to the Recipient's right to review pursuant to chapter 120, F.S. Exhaustion of administrative remedies is an absolute condition precedent to the Recipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in chapter 120, F.S.

(13) Termination.

(a) DEO may suspend or terminate this Agreement for cause upon 24-hour written notice, from the date notice is sent by DEO. Cause includes, but is not limited to the Recipient's: improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies or directives, or laws; failure, for any reason, to timely and/or properly perform any of the Recipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect; and refusal to permit public access to any document, paper, letter, or other material subject to disclosure under law, including chapter 119, F.S., as amended. The Recipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) DEO may terminate this Agreement, in whole or in part, for convenience by providing the Recipient 14-days written notice from the date notice is sent by DEO, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, DEO determines that the remaining portion of the award will not accomplish the purpose for which the award was made, DEO may terminate the portion of the award which will not accomplish the purpose for which the award was made. The Recipient shall continue to perform any work not terminated. The Recipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, agreed upon by the Parties. The termination must include the effective date of the termination.

(d) If this Agreement is terminated, the Recipient shall not incur new obligations for the terminated portion of the Agreement after the Recipient has received the notification of termination. The Recipient shall cancel as many outstanding obligations as possible. DEO shall disallow all costs incurred after the Recipient's receipt of the termination notice. The Recipient shall not be relieved of liability to DEO because of any breach of the Agreement by the Recipient. DEO may, to the extent authorized by law, withhold payments to the Recipient for the purpose of set-off until the exact amount of damages due DEO from the Recipient is determined.

(e) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(14) Notice and Contact.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of the grant manager for this Agreement is:

Patrick Howard, Government Operations Consultant III
Florida Small Cities CDBG Program
Department of Economic Opportunity
107 East Madison Street – MSC 400
Tallahassee, Florida 32399-6508
Telephone: (850) 717-8418 – Fax: (850) 922-5609
Email: Patrick.Howard@deo.myflorida.com

(c) The name and address of the Local Government Project Contact for this Agreement is:

~~Ms. Lee Mathes, Finance Director~~ Ron Nalley, City Manager
City of Apalachicola
~~1 Avenue E~~ 192 Coach Wagoner Boulevard
Apalachicola, Florida, 32320
Telephone: (850) 653-9319 - Fax: (850) 653-1529
Email: ~~leemathes@cityofapalachicola.com~~ rnalley@cityofapalachicola.com

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as stated in (14)(a) above.

(15) Contracts.

(a) If the Recipient contracts any of the work required under this Agreement, a copy of the proposed contract, and any proposed amendments, extensions, revisions or other changes thereto, must be forwarded to DEO for prior written approval. For each contract, the Recipient shall report to DEO as to whether that contractor, or any subcontractors hired by the contractor, is a minority vendor, as defined in section 288.703, F.S. Documentation must also be maintained on-site by the subgrant Recipient. The Recipient shall include the following conditions in any contract:

1. that the contractor is bound by the terms of this Agreement;
2. that the contractor is bound by all applicable State and Federal laws, rules, and regulations;
3. that the contractor shall hold DEO and the Recipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
4. provisions addressing bid, payment, and performance bonds, if applicable, and liquidated damages. The Recipient shall document in the quarterly report the contractor's progress in performing its work under this Agreement; and
5. the contractor shall include the foregoing provisions in any contract for the performance of any work contemplated by this Agreement.

(b) For any contract that the Recipient executes for administrative services with a consultant that produced work products in contemplation of this Agreement for Recipient's Application and pertinent to this Agreement and its implementation, the Recipient shall include the following conditions:

1. that all original income survey forms shall be turned over to the Recipient; and
2. that copies of any spreadsheets produced to compile survey results shall be given to the Recipient.

(16) Terms and Conditions.

This Agreement, and the attachments and exhibits hereto, contains all the terms and conditions agreed upon by the Parties with respect to the subject matter hereof. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the Parties. If a court of competent jurisdiction voids or holds unenforceable any provision of this Agreement, then that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable, and all other provisions shall remain in full force and effect. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

(17) Attachments.

(a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Agreement contains the following attachments:

Attachment A – Project Detail Budget and Deliverables

Attachment B – Project Narrative

Attachment C – Activity Work Plan

Attachment D – Program and Special Conditions

Attachment E – Category Specific Conditions for Neighborhood Revitalization

Attachment F – State and Federal Statutes, Regulations, and Policies

Attachment G – Civil Rights Requirements

Attachment H – Reports

Attachment I – Warranties and Representations

Attachment J – Audit Requirements

Exhibit 1 to Attachment J – Funding Sources

Attachment K – Audit Compliance Certification

(18) Funding/Consideration.

(a) The funding for this Agreement shall not exceed \$650,000, subject to the availability of funds. The State of Florida and DEO's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with chapter 216 F.S., or the Florida Constitution.

(b) DEO will provide funds to the Recipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through DEO's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions, or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, the Recipient agrees to comply with all terms, conditions, assurances, restrictions, or other instructions listed in the NFA.

(c) The Recipient hereby certifies to DEO that written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG program for which the Recipient receives funds from DEO. The written administrative procedures, processes, and fiscal controls described in this paragraph must, at minimum, comply with applicable state and federal law, rules, regulations, guidance, and the terms of this Agreement. DEO has included, and the Recipient shall perform, any necessary special conditions added to Attachment D by DEO, where DEO's grant manager determined at the site visit that any of the Recipient's procedures were deficient.

(d) The Recipient shall expend funds only for allowable costs and eligible activities, and in accordance with the Scope of Work.

(e) The Recipient shall request all funds in the manner prescribed by DEO. The authorized signatory for the Recipient set forth on the SERA Access Authorization Form, provided by DEO, must approve the submission of payment requests on behalf of the Recipient.

(f) Except as set forth herein, or unless otherwise authorized in writing by DEO, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer, or under Subparagraph (20)(i), Mandated Conditions, of this Agreement, all obligations on the part of DEO to make any further payment of funds will terminate, and the Recipient shall submit its administrative closeout report and subgrant agreement closeout package within 30 calendar days of receiving notice from DEO.

(h) The Recipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by the Recipient to complete any Project Implementation Deliverables listed in Attachment B. The Recipient shall send a representative, either an employee or an elected official, to DEO's Implementation Workshop for the funding cycle so that it learns its responsibilities under the Agreement. DEO shall reimburse the travel costs of the representative in accordance with section 112.061, F.S. Failure to send a representative to the Implementation Workshop is an Event of Default as set forth in Paragraph (10) Events of Default.

(19) Repayments.

(a) The Recipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. The Recipient shall ensure that its subrecipients, contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. Pursuant to 24 C.F.R. § 570.489(b), the Recipient may request reimbursement for eligible application preparation costs that were listed in the Recipient's Application for Funding.

(b) In accordance with section 215.971, F.S., the Recipient shall refund to DEO any unobligated funds which have been advanced or paid to the Recipient.

(c) The Recipient shall refund to DEO any funds paid in excess of the amount to which the Recipient or its contractors, subcontractors, or consultants are entitled under the terms and conditions of this Agreement.

(d) The Recipient shall refund to DEO any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 C.F.R. § 570.483(b), (c) and (d); provided however, the Recipient is not required to repay funds for subgrant administration unless DEO, in its sole discretion, determines the Recipient is at fault for the ineligibility of the activity in question.

(e) The Recipient shall refund to DEO any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to DEO, by the Recipient, within 30 calendar days after DEO has notified the Recipient of such non-compliance.

(f) In accordance with section 215.34(2), F.S., if a check or other draft is returned to DEO for collection, the Recipient shall pay to DEO a service fee of \$15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to DEO under this Agreement are to be made payable to the order of "Department of Economic Opportunity" and mailed directly to DEO at the following address:

Department of Economic Opportunity
Community Development Block Grant Programs
Cashier
107 East Madison Street – MSC 400
Tallahassee, Florida 32399-6508

(20) Mandated Conditions.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in its Application for Funding, in this Agreement, in any later submission or response to a DEO request, or in any submission or response to fulfill the requirements of this Agreement. All said information, representations, and materials are incorporated by reference. DEO may terminate this Agreement upon 24-hours written notice if any information, representation, or material submitted by the Recipient is inaccurate or false.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial. If any provision of this Agreement conflicts with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from, and shall not invalidate, any other provision of this Agreement.

(c) Any power of approval or disapproval granted to DEO under the terms of this Agreement shall survive the term of this Agreement.

(d) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient shall comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. § 12101 *et seq.*) and the Florida Civil Rights and Fair Housing Acts (§§ 760.01 – 760.37, F.S.), which prohibit discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, state and local government services, and telecommunications.

(f) Pursuant to section 287.133(2)(a), F.S., a person or affiliate, as defined in section 287.133(1), F.S., who has been placed on the convicted vendor 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 \$35,000 for a period of 36 months following the date of being placed on the convicted vendor list. The Recipient warrants that neither it nor any of its affiliates is currently on the convicted vendor list. The Recipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(g) Pursuant to section 287.134(2)(a), F.S., an entity or affiliate, as defined in section 287.134(1), 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 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. The Recipient warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. The Recipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(h) If the Recipient is not a local government or state agency and it receives funds under this Agreement from the Federal government, the Recipient certifies, to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;

2. Have not, within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any offenses enumerated in Subparagraph (20)(h)2., Mandated Conditions, of this Agreement; and

4. Have not within a five-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

5. If the Recipient is unable to certify to any of the statements in this certification, then the Recipient shall attach an explanation to this Agreement. In addition, the Recipient shall send a completed Form SC-37, Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions), to DEO for each contractor, and a completed Form SC-38, Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (Subcontractor), to DEO for each subcontractor. A completed Form SC-37 must be received by DEO before the Recipient enters into a contract with the respective contractor, and a completed Form SC-38 must be received by DEO before a contractor enters into a subcontract with the respective subcontractor.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(j) Any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder, and 2 C.F.R. § 200.474.

(k) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to DEO or be applied against DEO's obligation to pay the Agreement award amount.

(l) The Recipient is subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with chapter 119, F.S.

(m) The Recipient shall comply with section 519 of Public Law 101-144 and section 906 of Public Law 101-625 by having, or adopting within 90 days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(n) Upon expiration or termination of this Agreement the Recipient shall transfer to DEO any CDBG funds on hand at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG funds.

(o) Any real property under Recipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or

2. If not used to meet a national objective, Recipient shall pay to DEO an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition or improvement of the property, for five years after expiration or termination of this Agreement.

(21) Lobbying Prohibition.

(a) No funds or other resources received from DEO under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; and

3. The Recipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Paragraph (21), above.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(22) Copyright, Patent, and Trademark.

(a) Any and all patent rights accruing under or in connection with the performance of this agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by the Recipient to the State of Florida.

(b) If the Recipient has a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(c) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Recipient shall refer the discovery or invention to DEO for a determination whether the State of Florida will seek patent protection in its name. Any 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 Recipient shall notify DEO. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Recipient to the State of Florida.

(d) Within 30 calendar days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and DEO shall have the right to all patents and copyrights which accrue during performance of the Agreement.

(23) Legal Authorization.

(a) The Recipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Recipient certifies that the undersigned person has the authority to legally execute and bind the Recipient to the terms of this Agreement. DEO may, at its discretion, request documentation evidencing the undersigned has authority to bind the Recipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) The Recipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish the Recipient's ability to satisfy its Agreement obligations. The Recipient shall immediately notify DEO in writing if its ability to perform is compromised in any manner during the term of the Agreement.

(24) Public Record Responsibilities.

(a) In addition to the Recipient's responsibility to directly respond to each request it receives for records made or received by the Recipient in conjunction with this Agreement and to provide the applicable public records in response to such request, the Recipient shall notify DEO of the receipt and content of such request by sending an email to PRRequest@deo.myflorida.com within one business day from receipt of such request.

(b) The Recipient shall keep and maintain public records, on-site as required by DEO, to perform the Recipient's responsibilities hereunder. The Recipient shall, upon request from DEO's custodian of public records, provide DEO with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by chapter 119, F.S., or as otherwise provided by law. The Recipient shall allow public access to all documents, papers, letters or other materials made or received by the Recipient in conjunction with this Agreement, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), F.S. For records made or received by the Recipient in conjunction with this Agreement, the Recipient shall respond to requests to inspect or copy such records in accordance with chapter 119, F.S. For all such requests for records that are public records, as public records are defined in section 119.011, F.S., the Recipient shall be responsible for providing such public records per the cost structure provided in chapter 119, F.S., and in accordance with all other requirements of chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by DEO for refusal by the Recipient to comply with Florida's public records laws or to allow public access to any public record made or received by the Recipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, the Recipient is a “contractor” as defined in section 119.0701(1)(a), F.S. (“Recipient-contractor”), the Recipient-contractor shall transfer to DEO, at no cost to DEO, all public records upon completion including termination, of this Agreement, or keep and maintain public records required by DEO to perform the service. If the Recipient-contractor transfers all public records to the public agency upon completion of the Agreement, the Recipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Recipient-contractor keeps and maintains public records upon completion of the Agreement, the Recipient-contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to DEO, upon request from DEO’s custodian of public records, in a format that is compatible with the information technology systems of DEO.

(e) If DEO does not possess a record requested through a public records request, DEO shall notify the Recipient-contractor of the request as soon as practicable, and the Recipient-contractor must provide the records to DEO or allow the records to be inspected or copied within a reasonable time. If the Recipient-contractor does not comply with DEO’s request for records, DEO shall enforce the provisions set forth in this Agreement. A Recipient-contractor who fails to provide public records to DEO within a reasonable time may be subject to penalties under section 119.10, F.S.

(f) The Recipient shall notify DEO verbally within 24 chronological hours and in writing within 72 chronological hours if any data in the Recipient’s possession related to this Agreement is subpoenaed or improperly used, copied, or removed (except in the ordinary course of business) by anyone except an authorized representative of DEO. The Recipient shall cooperate with DEO, in taking all steps as DEO deems advisable, to prevent misuse, regain possession, or otherwise protect the State’s rights and the data subject’s privacy.

(g) The Recipient acknowledges that DEO is subject to the provisions of chapter 119, F.S., relating to public records and that reports, invoices, and other documents the Recipient submits to DEO under this Agreement constitute public records under Florida Statutes. The Recipient shall cooperate with DEO regarding DEO’s efforts to comply with the requirements of chapter 119, F.S.

(h) If the Recipient submits records to DEO that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by the Recipient prior to submittal to DEO. Failure to identify the legal basis for each exemption from the requirements of chapter 119, F.S., prior to submittal of the record to DEO serves as the Recipient’s waiver of a claim of exemption. The Recipient shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Recipient-contractor does not transfer the records to DEO upon completion, including termination, of the Agreement.

(i) IF THE RECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT-CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at PRRequest@deo.myflorida.com, or by mail at Department of Economic Opportunity, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.

(j) To the extent allowable by law, the Recipient shall be fully liable for the actions of its agents, employees, partners, subrecipients, contractors, and subcontractors and shall fully indemnify, defend, and hold harmless the State and DEO, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by the Recipient, its agents, employees, partners, subrecipients, contractors, or subcontractors, provided, however, that the Recipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or DEO. DEO, in its sole discretion, has the right, but the not obligation, to enforce this indemnification provision.

(k) DEO does not endorse any Recipient, commodity, or service. No public disclosure or news release pertaining to this Agreement shall be made without the prior written approval of DEO. The Recipient is prohibited from using Agreement information, or DEO customers in sales brochures or other promotions, including press releases, unless prior written approval is obtained from DEO.

(l) The Recipient shall comply with the requirements set forth in section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. The Recipient shall amend each of the Recipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. DEO may terminate this Agreement if the Recipient does not comply with this provision.

(25) Employment Eligibility Verification.

(a) Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, requires DEO contracts in excess of nominal value to expressly require the Recipient to:

1. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the Agreement term; and,
2. Include in all contracts under this Agreement the requirement that contractors, subcontractors, consultants and subrecipients performing work or providing services pursuant to this Agreement use the E-Verify system to verify the employment eligibility of all new employees hired by the contractors, subcontractors, consultants and subrecipients during the term of the contract.

(b) The Department of Homeland Security's E-Verify system can be found at:

<https://www.e-verify.gov/>

(c) If the Recipient does not have an E-Verify Memorandum of Understanding in effect, the Recipient must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Agreement.

(26) Program Income.

(a) The Recipient shall report to DEO all program income (as defined at 24 C.F.R. § 570.489(e)) generated by activities carried out with CDBG funds made available under this Agreement as part of the Recipient's Quarterly Progress Report, Form SC-65. The Recipient shall use program income in accordance with the applicable requirements of 2 C.F.R. part 200, 24 C.F.R. part 570, sections 290.046-290.048, F.S., chapter 73C-23.0051, F.A.C., and the terms of this Agreement.

(b) The Recipient shall return all program income generated after closeout to DEO. The Recipient shall return all program income generated prior to closeout to DEO unless the program income is used to fund additional units of CDBG activities, specified in a modification to this Agreement, and duly executed prior to administrative closeout. DEO or the State may require remittance of all or a portion of any balance of a Recipient's program income at the end of a program year.

(27) Independent Contractor.

(a) In the Recipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed that the Recipient is always acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. The Recipient shall always remain an independent contractor with respect to the services to be performed under this Agreement.

(b) The Recipient, its officers, agents, employees, subcontractors, or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida. Nor shall the Recipient represent to others that, as the Recipient, it has the authority to bind DEO unless specifically authorized to do so.

(c) Neither the Recipient, nor its officers, agents, employees, subcontractors, or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) The Recipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer, or partner of the State of Florida.

(e) Unless justified by the Recipient, and agreed to by DEO in the Scope of Work, DEO will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial, or clerical support) to the Recipient or its subcontractor or assignee.

(f) DEO shall not be responsible for withholding taxes with respect to the Recipient's use of funds under this Agreement. The Recipient shall have no claim against DEO for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. The Recipient shall ensure that its employees, subcontractors, and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) The Recipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of chapter 443, F.S.

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**State of Florida
Department of Economic Opportunity
Federally Funded Subgrant Agreement
Signature Page**

Subgrant Contract Number: 19DB-ON-02-29-02-N18

FLAIR Contract Number: H2345

IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth above and in all Attachments and Exhibits hereto, the Parties, through their duly-authorized representatives, sign this Agreement and represent and warrant that they have read and understand the Agreement and Attachments and Exhibits' terms and conditions on the day, month, and year set forth below.

City of Apalachicola

Department of Economic Opportunity

By: _____ Date: _____ By: _____ Date: _____
(Authorized Signature) (Authorized Signature)

Name: Van W. Johnson, Sr. Name: Brian McManus

Title: Mayor Title: Chief of Staff

Federal Tax ID#: 59-6000264

DUNS#: 024717639

Approved as to form and legal sufficiency,
subject only to the full and proper execution
by the Parties

Office of the General Counsel
Department of Economic Opportunity

By: _____

Approved Date: _____

Attachment A – Project Detail Budget and Deliverables

Recipient: City of Apalachicola Modification Number: N/A Contract Number: 19DB-ON-02-29-02-N18

Activity		Accomplishments		Beneficiaries				Budget			
Activity #	Description	Unit	Number	VLI	LI	MI	All	CDBG Amount	Other Funds	Source*	Total Funds
1. Project Implementation											
21A	Administration							\$52,000			\$52,000
2. Engineering Services											
03J	Engineering Inspection Services							\$14,930	\$25,000	1	\$39,930
3. Construction											
03J	Sewer Line Replacement	Manholes	25	312	91	152	645	\$583,070			\$583,070
Totals:								\$650,000	\$25,000		\$675,000

* Show the sources and amounts of "Other Funds" needed to complete the project below, including local funds, grants from other agencies and program income.

Source	Other Funds Counted as Leverage	Other Funds Not Counted as Leverage
1. City of Apalachicola's Sewer Fund	\$25,000	
2.		
3.		
4.		
5.		

Attachment A – Project Detail Budget and Deliverables

Recipient: City of Apalachicola Modification Number: N/A Contract Number: 19DB-ON-02-29-02-N18

Deliverable	Minimum Level of Service (to submit for request for payment)	Financial Consequences
<p>Project Implementation The Recipient shall complete eligible project implementation tasks as detailed in Attachment B – Project Narrative.</p> <p>Total Deliverable 1 cost reimbursement not to exceed: \$52,000</p>	<p>The Recipient shall be reimbursed upon completion of a minimum of one project implementation task on a per completed task basis as detailed in Attachment B – Project Narrative; evidenced by invoice(s) noting completed tasks as well as payroll and other supporting documentation, as applicable.</p>	<p>Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.</p>
Deliverable	Minimum Level of Service (to submit for request for payment)	Financial Consequences
<p>Engineering Services The Recipient shall complete an eligible task as detailed in Attachment B - Project Narrative.</p> <p>Total Deliverable 2 cost reimbursement not to exceed: \$14,930</p>	<p>The Recipient shall be reimbursed upon completion of a minimum of one task on a per completed task basis as detailed in Attachment B – Project Narrative; evidenced by invoice(s) noting completed tasks.</p>	<p>Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.</p>
Deliverable	Minimum Level of Service (to submit for request for payment)	Financial Consequences
<p>Construction The Recipient shall complete infrastructure construction as detailed in Attachment B – Project Narrative.</p> <p>Total Deliverable 3 cost reimbursement not to exceed: \$583,070</p>	<p>Following a draw for mobilization*, the Recipient shall be reimbursed upon completion of a minimum of 10 percent of overall project as detailed in Attachment B – Project Narrative. As evidence of percent completed, the Recipient shall provide AIA forms G702/G703 or similar DEO-approved industry-standard forms, signed by the contractor and certified by the engineer performing inspection services for the project, documenting the costs for which reimbursement is being requested, and noting overall percent completion of the project.</p> <p>* Mobilization refers to a contractor’s mobilization of equipment, materials and barriers to the work site(s).</p>	<p>Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.</p>

Attachment B – Project Narrative

The Recipient will use its \$650,000 in CDBG Neighborhood Revitalization to make improvements to public infrastructure in one service area within the city limits. A portion of the CDBG funds will be expended for project administration and engineering services. The Recipient claimed, "Readiness to Proceed" points on its Application for Funding; plans and specifications for the project have been developed. The Recipient will utilize \$25,000 in local funds to supplement the costs for engineering inspection services.

Addressed Need

Service Area (SA) 1 - \$583,070

The Recipient will replace or rehabilitate 25 sewer manholes located within its city limits, along 24th and 25th Avenues, Timothy Simmons/17th Street, 16th Street and Avenue L/Bobby Cato Street. The replacement or rehabilitation of the 25 sewer manholes will serve 250 households, with 216 of the households being low-to-moderate income (LMI). The beneficiaries of the project are 645 individuals, of which 555 (86.05%) are LMI, thus meeting the LMI National Objective.

Unaddressed Need

The following activities are not currently funded in the Project Detail Budget. If CDBG funds remain available after the "Addressed Need" activity is procured, the Recipient has the option to request a modification to bring one or more of the "Unaddressed Need" activities into the Agreement.

SA 2 - \$18,000

The Recipient will replace two fire hydrants that have deteriorated and and install one water line valve on 24th Avenue between Brownsville Road and Fred Meyer Street. The work will serve 18 households, with 12 of the households being LMI. The beneficiaries of the project are 33 individuals, of which 21 (63.6%) are LMI, thus meeting the LMI National Objective.

SA 3 - \$6,300

The Recipient will replace 400 linear feet of water lines in the alley between 13th and 14th Streets and between Dr. Martin Luther King Avenue and Avenue I. The work will serve three households, with all three being LMI. The beneficiaries of the project are six individuals, of which all six (100%) are LMI, thus meeting the LMI National Objective.

SA 4 - \$18,200

The Recipient will replace 28 water meters at the Apalachicola Housing Authority public housing complex on Bluf Road, 12th Street and 11th Street between Avenue M and South Avenue. The work will serve 28 households, with 27 being LMI. The beneficiaries of the project are 67 individuals, of which 64 (95.52%) are LMI, thus meeting the LMI National Objective.

Attachment B – Project Narrative

SA 5 -\$16,900

The Recipient will replace 26 water meters at the Apalachicola Housing Authority public housing complex on 14th Street, 15th Street, and 16th Street west of Avenue I. The work will serve 26 households, with 25 being LMI. The beneficiaries of the project are 64 individuals, of which 62 (96.88%) are LMI, thus meeting the LMI National Objective.

Project Implementation Deliverable

Tasks that are eligible for reimbursement under the Project Implementation Deliverable are as follows:

- Paid application preparation costs,
- Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement,
- Prepared list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area,
- Conducted activities related to the HUD-required environmental review,
- Prepared public notices for publication,
- Submitted public notices for publication,
- Maintained financial records related to project activities on-site,
- Conducted a Fair Housing activity,
- Attended prebid conference, bid opening or preconstruction meeting,
- Reviewed contractor payrolls and interview employees to determine compliance with the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-kickback" Act,
- Reviewed Household Income Certification Forms for households being hooked up to new utility services,
- Maintained client files,
- Attended meetings of the Recipient's local governing body to provide progress reports on subgrant activities,
- Prepared documentation for and attend on-site monitoring visits by DEO,
- Prepared requests for funds for submission by the Recipient's authorized employee,
- Prepared subgrant modification documents for the Recipient to submit to DEO,
- Prepared the Administrative Closeout Report for submission by the Recipient,
- Prepare and submit detailed quarterly progress report, Section 3 or MBE/WBE report to DEO,
- Responded to citizen complaints,
- Prepared responses to monitoring findings and concerns for Recipient to submit to DEO or HUD,
- Paid advertising costs of public notices and invitations to bid,
- Paid permit fees,
- Paid legal fees,
- Paid invoices for environmental review activities other than advertising,

Attachment B – Project Narrative

- Paid CDBG portion of required audit,
- Submitted requests for funds to DEO,
- Prepared subgrant modification documents, and
- Prepared the Administrative Closeout Report.

Engineering Services Deliverable

Tasks that are eligible for reimbursement under the Engineering Services Deliverable are as follows:

- Basic Engineering Services
 - a) Attended pre-bid/pre-construction conference,
 - b) Prepared change orders, and
 - c) Reviewed construction bids and make recommendation to the Recipient.
- Resident Inspection
 - a) Inspected construction activities for consistency with plans and specifications, and
 - b) Reviewed construction invoices and certify costs.
- Additional Engineering Services
 - a) Conducted site surveys for water treatment plants, sewage treatment works, dams, reservoirs, and other similar special surveys as may be required, such as route surveys,
 - b) Conducted laboratory tests, well tests, borings, and specialized geological soils, hydraulic, or other studies recommended by the engineer,
 - c) Conducted property surveys, detailed description of sites, maps, drawings, or estimates related to them, assistance in negotiating for land and easement rights,
 - d) Gathered necessary data and file maps for water rights,
 - e) Conducted redesigns ordered by the owner after final plans have been accepted by the owner and the local government, except redesigns to reduce the project cost to within the funds available and projects which received "readiness to proceed" points or a planning and design grant,
 - f) Appeared before courts or boards on matters of litigation or hearings related to the project,
 - g) Conducted environment assessments or environmental impact statements,
 - h) Performed detailed staking necessary for construction of the project in excess of the control staking,
 - i) Provided an operation and maintenance manual for a facility,
 - j) Conducted activities required to obtain state and federal regulatory agency construction permits,
 - k) Designed hookups, and
 - l) Paid the cost of engineering specialties such as electrical; hydro-geological services; biologists; and heating, ventilation, and air conditioning (HVAC).

Attachment C – Activity Work Plan

Recipient: City of Apalachicola Activity: 21A- Administration Project Budget: \$52,000
 Contract Number: 19DB-ON-02-29-02-N18 Date Prepared: 11/29/2018 Modification Number: N/A

Start Date (month/year)	End Date (month/year)	Describe Proposed Action to be Completed by the "End Date." <i>Examples of Actions: Procure Administrator or Engineer, Complete Environmental Review and Obtain Release of Funds, Request Wage Decision, Complete and Submit Design and Specifications, Advertise for and Open Bids, Issue Notice to Proceed, Construction Completion (20, 40, 60, 80, and 100 percent or 25, 50, 75, and 100 percent), Complete Construction Procurement Process, Advertise Availability of Housing Rehabilitation Funds, Complete Rankings of Homes per HAP, Number of Houses Rehabilitated, and Submit Closeout Package to DEO.</i>	Estimated Units to be Completed by the "End Date"	Estimated Funds to be Requested by the "End Date"
12/18	04/19	Submit documentation to clear Program Conditions for procurement and acquisition.		\$5,000
12/18	06/19	Submit Request for Release of Funds and Environmental Clearance; submit initial request for funds.		
12/18	06/19	Submit any design changes required by permitting agencies for review by DEO; receive DEO approval of the plans and specifications. Request wage decision.		\$15,000
07/19	08/19	Advertise and receive bids.		\$20,000
09/19	10/19	Prepare contractor procurement package and receive approval from DEO; hold preconstruction conference; issue Notice to Proceed; take preconstruction photos.		\$25,000
11/19	03/20	Construction phase – 25% complete, review labor standards.		\$30,000
04/20	07/20	Construction phase – 50% complete, review labor standards, take construction photos.		\$35,000
08/20	11/20	Construction phase – 75% complete, review labor standards, take construction photos.		\$40,000
12/20	04/21	Construction phase – 100% complete, review labor standards.		\$45,000
05/21	06/21	Take photos of completed activities, submit Administrative Closeout Package to DEO.		\$52,000

Attachment C – Activity Work Plan

Recipient: City of Apalachicola Activity: 03j - Engineering Project Budget: \$14,930
 Contract Number: 19DB-ON-02-29-02-N18 Date Prepared: 11/29/2018 Modification Number: N/A

Start Date (month/year)	End Date (month/year)	Describe Proposed Action to be Completed by the "End Date." <i>Examples of Actions: Procure Administrator or Engineer, Complete Environmental Review and Obtain Release of Funds, Request Wage Decision, Complete and Submit Design and Specifications, Advertise for and Open Bids, Issue Notice to Proceed, Construction Completion (20, 40, 60, 80, and 100 percent or 25, 50, 75, and 100 percent), Complete Construction Procurement Process, Advertise Availability of Housing Rehabilitation Funds, Complete Rankings of Homes per HAP, Number of Houses Rehabilitated, and Submit Closeout Package to DEO.</i>	Estimated Units to be Completed by the "End Date"	Estimated Funds to be Requested by the "End Date"
12/18	04/19	Submit documentation to clear Program Conditions for procurement and acquisition.		
12/18	06/19	Submit Request for Release of Funds and Environmental Clearance; submit initial request for funds.		
12/18	06/19	Submit any design changes required by permitting agencies for review by DEO; receive DEO approval of the plans and specifications. Insert wage decision and CDBG Supplemental Conditions in specifications.		
07/19	08/19	Assist with preparation of construction bid. Advertise and receive bids. Attend bid opening and pre-construction meetings. Attend pre-bid meeting.		\$2,500
09/19	10/19	Prepare bid tabulation recommendation of award to construction contractor and receive approval from DEO; issue Notice of Award, hold preconstruction conference; issue Notice to Proceed.		\$5,000
11/19	03/20	Construction phase - 25% complete, review and approve contractor's progress and approve draws.		\$7,500
04/20	07/20	Construction phase - 50% complete, review and approve contractor's progress and approve draws.		\$10,000
08/20	11/20	Construction phase - 75% complete, review and approve contractor's progress and approve draws.		\$12,500
12/20	04/21	Construction phase -- 100% complete, review and approve contractor's progress and approve draws.		\$14,930
05/21	06/21	Provide Engineer's Certification of Completion.		

Attachment C – Activity Work Plan

Recipient: City of Apalachicola Activity: 03j - Sewer Line Replacement (Manholes) Project Budget: \$583,070
 Contract Number: 19DB-ON-02-29-02-N18 Date Prepared: 11/29/2018 Modification Number: N/A

Start Date (month/year)	End Date (month/year)	Describe Proposed Action to be Completed by the "End Date." <i>Examples of Actions: Procure Administrator or Engineer, Complete Environmental Review and Obtain Release of Funds, Request Wage Decision, Complete and Submit Design and Specifications, Advertise for and Open Bids, Issue Notice to Proceed, Construction Completion (20, 40, 60, 80, and 100 percent or 25, 50, 75, and 100 percent), Complete Construction Procurement Process, Advertise Availability of Housing Rehabilitation Funds, Complete Rankings of Homes per HAP, Number of Houses Rehabilitated, and Submit Closeout Package to DEO.</i>	Estimated Units to be Completed by the "End Date"	Estimated Funds to be Requested by the "End Date"
06/19	10/19	Preconstruction conference; Notice to Proceed issued.		
11/19	03/20	Sewer manhole replacement construction phase - 25% complete.	7 manholes	\$146,000
04/20	07/20	Sewer manhole replacement construction phase - 50% complete.	15 manholes	\$291,000
08/20	11/20	Sewer manhole replacement construction phase - 75% complete.	20 manholes	\$437,000
12/20	04/21	Sewer manhole replacement construction phase – 100% complete.	25 manholes	\$583,070
05/21	06/21	Provide after photos of completed activities, as built drawing if required, and submit Administrative Closeout Package to DEO.		

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Attachment D – Program and Special Conditions

Program Conditions

1. The Recipient shall demonstrate that progress is being made in completing project activities in a timely fashion.
 - a. Within 120 calendar days of the subgrant award, the Recipient shall complete the following activities:
 - Request approval for all professional service contracts; and
 - Submit an initial payment request for administrative services, if applicable.
 - b. Within 180 calendar days of the subgrant award, the Recipient shall complete the following activities:
 - Complete the environmental review and submit the Request for Release of Funds and Certification (form HUD-7015.15) to DEO for review; and
 - Request a wage decision(s) using DEO form SC-56 for applicable construction activities if points were received on the application for “Readiness to Proceed;”
 - c. The Recipient shall advertise for its construction procurement within 30 calendar days after receiving its Authority to Use Grant Funds (form HUD-7015.16) and DEO’s written acceptance of the plans and specifications if Recipient received points for “Readiness to Proceed” on its Application for Funding.
 - d. If the Recipient did not receive points for “Readiness to Proceed,” it must request a wage decision(s) using DEO form SC-56 at least 30 days before advertising for its construction procurement.

Financial Consequences:

Failure to comply with any one of the conditions listed above within 15 business days after the specified due date will result in a financial consequence of \$1,000 and \$1,000 per month beyond the due date until the requirement is met; and loss of “Readiness to Proceed” points, where applicable, which will impact the overall score of the application. DEO shall deduct the amount of the assessed financial consequence from the disbursement amount due to Recipient. If Recipient has only one (1) instance of failure to comply with this agreement, DEO, in its sole discretion, may waive assessment of the financial consequence if the submittal is made within 15 business days of the due date.

A justification for the delay and a plan for timely accomplishment shall be submitted to DEO within 15 calendar days of the due date. Any subgrant agreement for which the Recipient has not completed two or more of the activities listed in a. through d. above shall be rescinded unless DEO agrees that the Recipient has provided adequate justification for the delay.

2. The Recipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in Attachment A - Project Detail Budget and Deliverables and Attachment C - Activity Work Plan.
3. No costs may be incurred prior to the effective date of this Agreement, except for those eligible application preparation costs outlined in the original Small Cities CDBG Application for Funding submitted to DEO, unless pre-agreement costs were approved in writing by DEO.
4. The Recipient shall not exclude any firm from submitting a bid or proposal for any work funded partially or wholly with CDBG funds based on a minimum experience requirement. However, a firm’s experience can be considered as an evaluation factor in the ranking for professional services and taken into account in evaluating the “responsibility” of a firm when determining the “low, responsive, responsible bidder” for services procured through bids, as required by 2 C.F.R. § 200.319(a).

Attachment D – Program and Special Conditions

5. CDBG procurement for consultant services and construction activities requires public notice in a newspaper of general circulation in the county where the Recipient is located. The public notice shall include the following criteria for the procurement process to meet legal requirements and be approved:
 - a. If the notice is published in a newspaper that is located in an Office of Management and Budget (OMB) designated metropolitan statistical area (MSA), only one responsible and responsive bid or proposal is needed to complete the procurement process. If the notice is not published in a newspaper that is located in a MSA, at least three responsible and responsive bids or proposals must be received by the Recipient to complete the procurement process;
 - b. A Recipient, whose newspaper of general circulation is not located in a MSA, may advertise in both a local newspaper and a newspaper in a nearby MSA. In this case, only one responsible and responsive bid or proposal would be needed to complete the procurement process;
 - c. The public notice must be published at least 12 days before the deadline for receipt of the proposals or bids. For construction activities, the public notice period shall conform to section 255.0525, F.S. regarding the numbers of days between publishing the notice and bid opening;
 - d. Nothing in subparagraphs a., b., or c. above shall preclude the Recipient from using additional media to solicit bids related to procurement of professional services and construction activities;
 - e. Each public notice for procurement of CDBG professional services, except for application preparation, must identify either the CDBG funding cycle or the CDBG contract number. In the absence of any identifier, the procurement will be presumed to be for the CDBG funding cycle closest to the publication date of the notice;
 - f. In procuring services for subgrant administration, the public notice or the Request for Proposals must include all the criteria that will be used to evaluate and score the proposals. Any firm that assists the Recipient in developing or drafting criteria used in the Request for Proposals (RFP) shall be excluded from competing for the procurement as required by 2 C.F.R. § 200.319(a); and
 - g. Any RFP which includes more than one service shall provide the following:
 - Proposals may be submitted for one or more of the services;
 - Qualifications and proposals shall be separately stated for each service; and
 - Separate evaluations shall be done on the proposals for each service.If separate procurements result in one firm being selected for both application and administration services, those services may be combined into one contract provided there are separate scopes of work and a separate fee for each service.
6. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published RFP.
7. The Recipient is not required to publish a RFP for subgrant administration if it decides to contract with its Regional Planning Council to administer the subgrant.
8. A Recipient whose application received “Readiness to Proceed” points may use the design engineer for services during construction if DEO determines that the procurement for design services is compliant with 2 C.F.R. part 200 and the RFP specifically included services during construction in the scope of work.
9. For construction procurement, if other funding sources will be included in the bid documents, the activities to be paid for with CDBG funds must be shown separately so that the bid proposal identifies the CDBG activities and the amount of the contract to be reimbursed with CDBG funding.

Attachment D – Program and Special Conditions

10. Construction contracts shall be awarded to the low, responsive and responsible bidder. If all bids exceed the available funds, the Recipient can apply one or more deductive bid alternates to determine the low, responsive and responsible bidder. The Recipient can reject all bids if they exceed the available funds and republish the notice.
11. The Recipient shall request approval of all professional services contracts and/or agreements that will be reimbursed with CDBG funds. Copies of the following procurement documents must be provided to DEO for review:
 - a. A copy of the Request for Proposals (RFP);
 - b. A copy of the RFP advertisement, including an affidavit of publication from the newspaper;
 - c. A list of entities to whom a notification of the RFP was provided by mail or fax (if applicable);
 - d. Documentation of all efforts to get MBE/WBE firms to submit proposals;
 - e. For engineering/architecture contracts, a list of firms that submitted a proposal (only if short-listing procedure was used);
 - f. Completed and signed final evaluation/ranking forms for all firms submitting a proposal and a scoring summary sheet;
 - g. A copy of the cost analysis for administrative services procurements, or if multiple responses to the RFP were received, a copy of the price analysis;
 - h. A copy of a cost analysis for all procurements of engineering services;
 - i. A copy of the minutes from the commission/council meeting approving contract award;
 - j. A copy of the proposed contract;
 - k. Truth-in-Negotiation certification (if not in the contract) for engineering contracts over \$150,000;
 - l. If a protest was filed, a copy of the protest and documentation of resolution;
 - m. The Recipient shall request DEO's approval of a single source procurement if only one firm was considered and the contract exceeds \$35,000. The Recipient shall not enter into a contract to be paid with CDBG funds based on a sole source or single proposal procurement without prior written approval from DEO. Failure to secure prior written approval shall relieve DEO of any obligation to fund the said procurement contract or agreement. DEO shall disallow any payments to the Recipient to fund any contract or agreement based on a sole source or single proposal procurement for which the Recipient has not obtained DEO's approval; and
 - n. If a regional planning council or another local government is selected to administer subgrant activities, the Recipient shall submit only a copy of the contract or agreement and cost analysis information.

DEO will either approve the procurement or notify the Recipient that the procurement cannot be approved because it violates State, Federal, or local procurement guidelines.

The Recipient shall notify DEO in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG funds to pay for professional services.

12. Prior to the obligation or disbursement of any funds, except for administrative expenses for all subgrants other than Economic Development subgrants, not to exceed \$5,000, and for Economic Development Grants, not to exceed \$8,000, the Recipient shall complete the following:
 - a. Submit for DEO's approval the documentation required in paragraph 11 above for any professional services contract. The Recipient proceeds at its own risk if more than the specified amount is incurred before DEO approves the procurement. If DEO does not approve the procurement of a professional services contract, the local government will not be able to use CDBG funds for that contract beyond \$5,000 [\$8,000 for Economic Development].

Attachment D – Program and Special Conditions

- b. Comply with 24 C.F.R. part 58, and the regulations implementing the National Environmental Policy Act, 40 C.F.R. §§ 1500-1508. When the Recipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. DEO will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of DEO. **The Recipient shall not commit funds or begin construction before DEO has issued the “Authority to Use Grant Funds.”**
13. The Recipient shall obtain approval from DEO prior to requesting CDBG funds for engineering activities and costs which are additional engineering services as defined in rules 73C-23.0031(1)(a)-(l), F.A.C.
14. The Recipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655; hereinafter, the “URA”), implementing regulations at 24 C.F.R. part 42, 49 C.F.R. part 24 and 24 C.F.R. § 570.606(b), the requirements of 24 C.F.R. § 42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. § 5304(d)), and the requirements in 24 C.F.R. § 570.606(d), governing optional relocation assistance policies.
- If the Recipient undertakes any activity subject to the URA, the Recipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that DEO can determine whether remedial action may be needed. The Recipient shall provide relocation assistance to displaced persons as defined by 24 C.F.R. § 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.
15. For Neighborhood Revitalization, Commercial Revitalization and Economic Development projects, the Recipient shall, prior to being reimbursed for more than \$15,000 for administrative services, provide to DEO a copy of all engineering specifications and construction plans, if required, for the activities described in the Agreement. The Recipient shall also furnish DEO, prior to soliciting bids or proposals, a copy of bid documents for services and/or materials to provide those services and/or materials for construction activities when the bids are expected to exceed \$35,000. Additionally, the Recipient shall not publish any request for bids for construction purposes or distribute bid packages until DEO has provided its written acceptance of the engineering specifications, construction plans, and bid documents.
16. For each procured construction contract or agreement in the Neighborhood Revitalization, Commercial Revitalization and Economic Development categories for which CDBG funding will be requested, the Recipient shall submit the following procurement documents:
- a. A copy of the bid advertisement, including an affidavit of publication;
 - b. Documentation of the Recipient’s efforts made to inform minority- and woman-owned businesses of the opportunity to bid on the construction contract;
 - c. A copy of the bid tabulation sheet;
 - d. A copy of the engineer’s recommendation to award;
 - e. A letter requesting sole source approval, if applicable;
 - f. A copy of the bid bond (five percent of the bid price) for the prime contractor(s) selected to do the work, and;
 - g. Completed copies of the following forms for all prime contractors and subcontractors:
 - Form SC-51 – Bidding Information and Contractor Eligibility;
 - Form SC-37 – Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions);

Attachment D – Program and Special Conditions

- Form SC-52 – Section 3 Participation Report (Construction Prime Contractor);
- Form SC-38 (if applicable) – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor);
- Form SC-53 (if applicable) – Section 3 Participation Report (Construction Subcontractor), and;
- Form SC-54 (if applicable) – Documentation for Business Claiming Section 3 Status

For each procured construction contract or agreement in Housing Rehabilitation projects for which CDBG funding will be requested, the Recipient shall submit the following procurement documents for all prime contractors and subcontractors:

- a. Form SC-37 – Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions);
 - b. Form SC-52 – Section 3 Participation Report (Construction Prime Contractor);
 - c. Form SC-38 (if applicable) – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor); and
 - d. Form SC-53 (if applicable) – Section 3 Participation Report (Construction Subcontractor).
17. For each procured construction contract or agreement in the Neighborhood Revitalization, Commercial Revitalization and Economic Development categories, if a job classification needed to complete a construction activity is not included in the Davis-Bacon Act wage decision that was previously obtained from DEO, the Recipient shall request an additional classification using Form SC-57 - Employee/Employer Wage-Scale Agreement after the construction contract has been awarded.
18. For each Commercial Revitalization, Economic Development and Neighborhood Revitalization projects, when the Recipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to DEO:
- a. Notice to Proceed;
 - b. The contractor's performance bond (100 percent of the contract price) if the contract exceeds the Simplified Acquisition Threshold as listed in 2 C.F.R. § 200.88; and
 - c. The contractor's payment bond (100 percent of the contract price) if the contract exceeds the Simplified Acquisition Threshold as listed in 2 C.F.R. § 200.88.
19. The Recipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 C.F.R. § 570.487(b)(4).
20. All leveraged funds shall be expended concurrently and, to the extent feasible, proportionately with the expenditure of CDBG funds for the same activity. The Recipient shall document the expenditure of leveraged funds required for the points claimed in the application as it may have been amended through the completeness process and as reflected on the Project Detail Budget. All funds claimed for leverage shall be expended after the date that the Authority to Use Grant Funds is issued and prior to Recipient's submission of the administrative closeout package for this Agreement, except for the following costs:
- Eligible administrative, engineering and environmental review costs expended after the site visit but prior to the date when the Authority to Use Grant Funds is issued, and
 - The CDBG portion of the cost of post-administrative closeout audits.
21. The resulting product of any activity funded under this Agreement as amended shall be ineligible for rehabilitation or replacement with CDBG funds for a period of five years.

Attachment D – Program and Special Conditions

22. The Recipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of the Recipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 C.F.R. § 570.505. Any future change of use of real property shall be in accordance with 24 C.F.R. § 570.489(j).
23. The Recipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 C.F.R. part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 C.F.R. 67, and Guidelines for Rehabilitating Historic Buildings.
24. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. § 3545, the Recipient shall update and submit Form HUD 2880 to DEO within 30 calendar days of the Recipient's knowledge of changes in situations which would require that updates be prepared. The Recipient must disclose:
 - a. All developers, contractors, consultants, and engineers involved in the application or in the planning, development, or implementation of the project or CDBG-funded activity; and
 - b. Any person or entity that has a financial interest in the project or activity that exceeds \$50,000 or 10 percent of the grant, whichever is less.
25. If required, the Recipient shall submit a final Form HUD 2880, to DEO with the Recipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.
26. Conflicts of interest relating to procurement shall be addressed pursuant to 24 C.F.R. § 570.489(g). Title 24 C.F.R. § 570.489(h) shall apply in all conflicts of interest not governed by 24 C.F.R. § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG financial assistance to beneficiaries, businesses, or other third parties; or any other financial interest, whether real or perceived. Additionally, the Recipient agrees to comply with, and this Agreement is subject to, chapter 112 F.S., and rule 73C-23.0051(7), F.A.C.
27. Any payment by the Recipient using CDBG funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by DEO prior to distribution of the funds. Should the Recipient fail to obtain DEO pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG funds.
28. The Recipient shall take photographs of all activity locations from multiple angles prior to initiating any construction. As the construction progresses, additional photography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to DEO with the administrative closeout package for this Agreement.
29. If an activity is designed by an engineer, architect, or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

Attachment D – Program and Special Conditions

30. If necessary, the Recipient shall retain sufficient administration funds to ensure internet access, including email, for the duration of the Agreement, including any time extensions. If the Recipient does not already have a computer designated to the person responsible for grant oversight, which is located in the program office and capable of internet access, administrative funds may be used as needed to obtain, at reasonable cost, a computer to allow internet access.

Special Conditions

1. Within 90 days following the award of this agreement, the City must adopt a policy which complies with the requirements of Section 906 of Public Law 101-625 and Section 104 of the Housing and Community Development Act of 1974, as amended. The law and act require subrecipients of federal funds to adopt and enforce policies that
 - (a) prohibits the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
 - (b) commits to enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

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Attachment E – Category Specific Conditions for Neighborhood Revitalization

1. The Recipient must meet a “National Objective” for each service area addressed with CDBG funds. If a National Objective is not met for a service area, all CDBG funds received for the activities conducted in that service area must be repaid.
2. If the Recipient installs water lines with CDBG funds for the purpose of fire protection, those lines shall only be converted to a potable water distribution system if the housing units of all low- and moderate-income families in the service area are hooked up to the potable water system at no cost to low- and moderate-income households. Hookups must be accomplished prior to or concurrent with conversion of the water lines to a potable water distribution system.
3. The Recipient is responsible for verifying and maintaining documentation that households receiving direct benefits, in the form of hookups to potable water and/or sewage collection lines, meet program requirements regarding the low- and moderate-income National Objective. The Recipient shall maintain homeowner files locally and at a minimum include the following:
 - a. The name of the owner, the address of the property, and family size;
 - b. The method and source documentation used to verify household income;
 - c. Documentation that the income of the household is below Section 8 income limits based on family size;
 - d. The method and source documentation used to verify home ownership; and
 - e. If rental property is involved, an acceptable five-year written agreement with the owner(s) related to affordability and subsequent rate increases.

The information must be maintained for review and verification during on-site monitoring visits.

4. The Recipient shall provide the following data in its Administrative Closeout Report for each CDBG-funded activity:
 - a. For activities which provide indirect benefits (e.g., road paving, water and sewer improvements, parks, fire protection), beneficiary data shall be provided for all residents of the households being served. For activities that provided direct benefits (e.g., utility hookups, housing rehabilitation, temporary relocation), beneficiary data shall be provided based solely on the head of household. The number of females and female heads of households, the number of handicapped persons, the number of elderly persons;
 - b. The number of moderate-income (MI), low-income (LI), and very low-income (VLI) beneficiaries proposed and actually served;
 - c. The name of each head of household, owner’s name (if different), and address of each housing unit hooked up to water or sewer service with CDBG funds, the date the construction was completed on the housing unit, and the amount of CDBG funds spent on that housing unit; and
 - d. The racial demographics and ethnicity of the head of each household using the following descriptions:
 - 1) White,
 - 2) African American,
 - 3) Asian,
 - 4) American Indian or Alaskan Native,
 - 5) Native Hawaiian/Pacific Islander,
 - 6) American Indian or Alaskan Native and White
 - 7) Asian and White,
 - 8) African American and White,
 - 9) American Indian/Alaskan Native and African American, or
 - 10) Other Multi-Racial; and
 - 11) If the head of household is Hispanic

Attachment F – State and Federal Statutes, Regulations, and Policies

The Recipient agrees to, and, by signing this Agreement, certifies that, it will comply with the requirements of 24 C.F.R. part 570, subpart I, and § 570.200(j) and § 570.606 (HUD regulations concerning State Community Development Block Grant Programs). The Recipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. The Recipient further agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement, including, but not limited to the following:

1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200);
2. Florida Small Cities Community Development Block Grant Program Act (§§ 290.0401-290.048, F.S.);
3. Florida Small Cities Community Development Block Grant Program rules (chapter 73C-23, F.A.C.);
4. Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §§ 5301-5321);
5. Rules and Procedures for Efficient Federal-State Funds Transfers (31 C.F.R. part 205);
6. Community Planning Act (§ 163.3164, F.S.);
7. Florida Small and Minority Business Assistance Act (§§ 288.703-288.706, F.S.);
8. CDBG Technical Memoranda (<https://www.hudexchange.info/community-development/cdbg-memoranda/>);
9. Applicable HUD Community Planning and Development Notices (<https://www.hudexchange.info/manage-a-program/cpd-notices/>);
10. Single Audit Act Amendments of 1996 (31 U.S.C. §§ 7501-7507);
11. Environmental Review Procedures for Entities Assuming HUD Responsibilities (24 C.F.R. part 58);
12. Environmental Criteria and Standards (24 C.F.R. part 51);
13. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. §§ 4001-4129), Floodplain Management and Protection of Wetlands (24 C.F.R. part 55), and Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands);
14. National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4370h) and other provisions of law which further the purpose of this act;
15. National Historic Preservation Act of 1966, as amended (54 U.S.C. §§ 300301-320303), Protection of Historic Properties (36 C.F.R. part 800), and other provisions of law which further the purpose of this act;
16. Archaeological and Historic Preservation Act of 1974 and Reservoir Salvage Act of 1960, as amended (54 U.S.C. §§ 312501-312508);
17. Coastal Zone Protection Act of 1985 (§§ 161.52-161.58, F.S.);
18. Safe Drinking Water Act of 1974, as amended (42 U.S.C. §§ 1400-1465);
19. Federal Water Pollution Control Act of 1972, as amended (33 U.S.C. §§ 1251-1387);
20. Davis-Bacon Act of 1931, as amended (40 U.S.C. §§ 3141-3148) and Labor Standards Provisions of 29 C.F.R. part 5;
21. Contract Work Hours and Safety Standards Act of 1962, as amended (40 U.S.C. §§ 3701-3708);
22. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1975 (42 U.S.C. §§ 6901-6992k);
23. Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) and the Uniform Accessibility Standards, as applicable;
24. Federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201-219);
25. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601-4655), and the applicable rules for Federal and Federally-Assisted Programs at 49 C.F.R. part 24;
26. Copeland “Anti-Kickback” Act (18 U.S.C. § 874);
27. Hatch Act of 1939, as amended (5 U.S.C. §§ 1501-1508);
28. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856); and the applicable implementing regulations at 24 C.F.R. part 35 and 24 C.F.R. part 570, subparts A, B, J, K, and R;
29. Section 102 of HUD Reform Act of 1989 (42 U.S.C. § 3545) and HUD Reform Act regulations at 24 C.F.R. part 4;
30. False Claims Act (31 U.S.C. §§ 3729-3733);
31. Comprehensive Procurement Guideline for Products Containing Recovered Materials (40 C.F.R. part 247);
32. Clean Air Act (42 U.S.C. §§ 7401-7671q), and National Primary and Secondary Ambient Air Quality Standards (40 C.F.R. part 50); and
33. Whistleblower Protection enacted by Section 828 of P.L. 112-239 and permanently extended under P.L. 114-261.

Attachment G – Civil Rights Requirements

Fair Housing

As a condition for the receipt of CDBG funds, each Recipient must certify that it will “affirmatively further fair housing” in its community. The Recipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Recipient shall do the following:

- 1) Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion, and sex);
- 2) Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
- 3) Publish the Fair Housing Coordinator’s contact information quarterly in a newspaper of general circulation in the Recipient’s jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, the Recipient can post the coordinator’s contact information throughout the quarter on the home page of its website;
- 4) Establish a system to record the following for each fair housing call:
 - a) The nature of the call,
 - b) The actions taken in response to the call,
 - c) The results of the actions taken, and
 - d) If the caller was referred to another agency, the results obtained by the referral agency;
- 5) Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
- 6) Display a fair housing poster in the CDBG Office. (This does not count as a fair housing activity.)

The Recipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

- Define where discriminatory practices are occurring,
- Help the community measure the effectiveness of its outreach efforts, and
- Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

- Making fair housing presentations at schools, civic clubs, and neighborhood association meetings;
- Conducting a fair housing poster contest or an essay contest;
- Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales, and church festivals; and
- Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents, and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a DEO-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

The Recipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG project file and include information about the activities in the comment section of each quarterly report.

Attachment G – Civil Rights Requirements

Equal Employment Opportunity

As a condition for the receipt of CDBG funds, each Recipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. The Recipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Recipient shall do the following:

- 1) Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age, or genetics;
- 2) Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
- 3) Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in the Recipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, the Recipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
- 4) Establish a system to record the following for each EEO call:
 - a) The nature of the call,
 - b) The actions taken in response to the call, and
 - c) The results of the actions taken;

Each Recipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. The Recipient shall use this list to solicit companies to bid on CDBG-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Department of Management Services maintains a list of certified minority and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: <https://osd.dms.myflorida.com/directories>.

Section 504 and the Americans with Disabilities Act (ADA)

As a condition for the receipt of CDBG funds, the Recipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. The Recipient shall demonstrate its commitment to abide by the laws through the actions listed below.

The Recipient shall do the following:

- 1) Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
 - a) Has a physical or mental impairment which substantially limits one or more major life activities,
 - b) Has a record of such an impairment, or
 - c) Is regarded as having such an impairment;
- 2) Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;
- 3) Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in the Recipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, the Recipient can post the coordinator's contact information throughout the quarter on the home page of its website; and

Attachment G – Civil Rights Requirements

- 4) Establish a system to record the following for each Section 504/ADA call:
 - a) The nature of the call,
 - b) The actions taken in response to the call, and
 - c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 C.F.R. part 84) apply to service availability, accessibility, delivery, employment, and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A recipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services, or other benefits,
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
- Deny employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 C.F.R. part 35, and Title III, 28 C.F.R. part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities. Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons

Each Recipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-funded projects in the community. The Recipient and its contractors shall keep records to document the number of low- and moderate-income people who are hired to work on CDBG-funded projects. The number of low- and moderate-income residents who are hired to work of the project shall be reported in the comment section of the quarterly report.

The following clause from 24 C.F.R. § 135.38 is required to be included in CDBG-funded contracts of \$100,000 or more.

Attachment G – Civil Rights Requirements

Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The Parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Whistleblower Protection

The following clause, is required to be included in all federally funded subawards and contracts over the simplified acquisition threshold:

Pursuant to Section 828 of Pub. L 112-239, "National Defense Authorization Act for Fiscal Year 2013" and permanently extended through the enactment of Pub. L 114-261 (December 14, 2016), this award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower right and remedies established at 41 U.S.C. § 4712. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. § 4712. This clause shall be inserted in all subawards and in contracts over the simplified acquisition threshold related to this award; best efforts should be made to include this clause in any subawards and contracts awarded prior to the effective date of this provision.

Attachment G – Civil Rights Requirements

Civil Rights Regulations

As a condition for the receipt of CDBG funds, each Recipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex, or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 C.F.R. § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 C.F.R. § 570.490(b) – Unit of general local government's record;
6. 24 C.F.R. § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving CDBG funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 C.F.R. part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that the City of Apalachicola shall comply with all the provisions and Federal regulations listed in this attachment.

By: _____

Date: _____

Name: Van W. Johnson, Sr.

Title: Mayor

Attachment H – Reports

The following reports must be completed and submitted to DEO in the time frame indicated. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.

1. A **Quarterly Progress Report**, Form SC-65, must be submitted to DEO 15 calendar days after the end of each quarter. The reports are due by the following dates: April 15, July 15, October 15 and January 15. The quarterly report shall include: a summary of work performed during the reporting period; photographs taken to date; a percent of work completed for each task; a summary of expenditures since the effective date; and a summary of any issues or events occurring which affect the ability of the Recipient to meet the terms of this Agreement.
2. A **Contract and Subcontract Activity** form, Form HUD-2516, currently available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05360>; which is incorporated herein by reference, must be submitted by April 15 and October 15 each year through the DEO's SERA reporting system at <https://deosera.my.salesforce.com/>. The form must reflect all contractual activity for the period, including Minority Business Enterprise and Woman Business Enterprise participation. If no activity has taken place during the reporting period, the form must indicate "no activity".
3. The **Administrative Closeout Report**, Form SC-62, must be submitted to DEO within 45 calendar days of the Agreement end date or within 45 days of the completion of all activities. The Recipient must provide all applicable information requested on the closeout report form. The Administrative Closeout Report cannot be submitted to DEO before the Recipient has submitted its Final Request for Funds.

Recipients of an Economic Development agreement shall not submit an administrative closeout package until the cost per job is less than \$10,000 or until one year after the date that all CDBG-funded activities were completed, whichever comes first.

The following documentation shall be provided with the Administrative Closeout Report:

- a. Certification that all construction has been completed, inspected and approved by all parties prior to the subgrant end date and submission of the closeout report;
 - b. Documentation of any leverage expended after the last on-site monitoring visit;
 - c. Documentation of fair housing activities conducted after the last on-site monitoring visit;
 - d. Documentation that all citizen complaints related to the project have been resolved;
 - e. A list of the homes receiving direct benefit, if applicable; and,
 - f. Certification that each housing unit assisted was located within the Recipient's jurisdictional boundaries for Housing Rehabilitation subgrants.
 - g. For housing rehabilitation projects, documentation that all homeowners have signed forms stating that they have accepted the improvements.
 - h. Copies of all remaining pre-construction, construction and post-construction photographs of all CDBG-funded activities submitted as .jpeg or .tiff files not previously submitted with quarterly reports.
4. In accordance with 2 C.F.R. part 200, should the Recipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 C.F.R. part 200, and submitted to DEO no later than nine months from the end of the Recipient's fiscal year. If the Recipient did not meet the audit threshold, an **Audit Certification Memo**, Form SC-47, must be provided to DEO no later than nine months from the end of the Recipient's fiscal year.

Attachment H – Reports

5. A copy of the **Audit Compliance Certification** form, Attachment K, must be emailed to audit@deo.myflorida.com within 60 calendar days of the end of each fiscal year in which this subgrant was open.
6. The **Section 3 Summary Report**, form HUD-60002, must be completed and submitted through DEO's SERA reporting system by July 31, annually. The form must be used to report annual accomplishments regarding employment and other economic opportunities provided to persons and businesses that meet "Section 3" requirements.
7. **Requests for Funds** payment requests must be submitted in accordance with the timelines included on Attachment C - Activity Work Plan. DEO will not reimburse a payment request for less than \$5,000 unless it is the final payment request. Each payment request must include an invoice from the Recipient to DEO and copies of all invoices that the Recipient received from its consultants for services rendered and the documentation listed below. The invoices must document that the Recipient and each consultant/contractor met the Minimum Level of Service listed on the Deliverables page of Attachment A.

For each Commercial Revitalization, Economic Development and Neighborhood Revitalization payment request that includes reimbursement of construction costs, the Recipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by DEO, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by DEO. The Recipient shall, at a minimum, submit reimbursement requests upon completing 20, 40, 60, 80 and 100 percent of the project (or 25, 50, 75 and 100 percent of the project if so listed on Attachment C – Activity Work Plan).

For each Housing Rehabilitation payment request that includes construction costs, the Recipient shall provide a copy of AIA form G702, or a comparable form approved by DEO, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by DEO, if applicable. For homes being rehabilitated and site-built demolition/replacement houses, the Recipient shall, at a minimum, request reimbursement upon completion of each 20 percent of the work. For demo/replacement involving a new mobile home, the Recipient shall request reimbursement as soon as the mobile home is installed and the invoice received.

If the Recipient needs to remit funds to DEO, including reimbursement of subgrant funds, program income or interest income paid with CDBG funds (collectively "reimbursements"), Recipient shall submit such reimbursements concurrently with a copy of the Return of Funds Form, SC-68.

8. All forms referenced herein are available online at www.FloridaJobs.org/CDBGRecipientInfo or upon request from the DEO grant manager for this Agreement.

Financial Consequences: The Recipient's failure to submit any report or required supporting documentation as specified under "Reports" by its due date will result in the assessment by DEO of a financial consequence in the amount of \$200 after the specified due date and \$200 per month beyond the due date for each deliverable until it is received. DEO shall deduct the amount of the assessed financial consequence from the disbursement amount due to the Recipient. If the Recipient has only one (1) instance of failure to timely submit a report or required supporting documentation, DEO, in its sole discretion, may waive assessment of the financial consequence if the submittal is made within 15 business days of the due date.

Attachment I – Warranties and Representations

Financial Management

The Recipient's financial management system must comply with the provisions of 2 C.F.R. part 200, section 218.33, F.S., and the rules promulgated thereunder. Recipient's financial management system shall include the following:

- (1) Accurate, current and complete disclosure of the financial results of this project or program.
- (2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- (3) Effective control over and accountability for all funds, property and other assets. The Recipient shall safeguard all assets and assure that they are used solely for authorized purposes.
- (4) Comparison of expenditures with budget amounts for each payment request. Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 C.F.R. part 200 and the terms and conditions of this Agreement.
- (6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions must follow the provisions of 2 C.F.R. §§ 200.318-200.326 and be conducted in a manner providing full and open competition. The Recipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Recipient. All bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees, or agents of the Recipient. (*See* 2 C.F.R. § 200.318(c)(1).)

Business Hours

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

Licensing and Permitting

All contractors or employees hired by the Recipient shall have all current licenses and permits required for all the particular work for which they are hired by the Recipient.

Attachment J – Audit Requirements

The administration of resources awarded by DEO to the Recipient may be subject to audits and/or monitoring by DEO as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 C.F.R. 200 Subpart F (Audit Requirements) and section 215.97, F.S., as revised (see “AUDITS” below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by 2 C.F.R. part 200, as revised, and/or other procedures. By entering into this Agreement, the Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by DEO staff to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the Recipient is a State or local government or a non-profit organization as defined in 2 C.F.R. part 200, as revised.

1. In the event that the Recipient expends \$750,000 or more in federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200 Subpart F (Audit Requirements), as revised. In determining the federal awards expended in its fiscal year, the Recipient shall consider all sources of federal awards, including federal resources received from DEO. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 C.F.R. 200 Subpart F (Audit Requirements), as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 C.F.R. 200 Subpart F (Audit Requirements), as revised.
3. If the Recipient expends less than \$750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, is not required. In the event that the Recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Recipient resources obtained from other than federal entities).
4. Although 2 C.F.R. 200 Subpart F (Audit Requirements) does not apply to commercial (for-profit) organizations, the pass-through entity has an obligation to ensure that for-profit subrecipients that expend \$750,000 or more in federal awards must comply with federal awards guidelines (see 2 C.F.R. 200.501(h)). Additionally, for-profit entities may be subject to certain specific audit requirements of individual federal grantor agencies.

Additional Federal Single Audit Act resources can be found at:

<https://harvester.census.gov/facweb/Resources.aspx>

Attachment J – Audit Requirements

PART II: STATE FUNDED

This part is applicable if the Recipient is a non-state entity as defined by section 215.97(2), F.S.

1. In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from DEO, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the Recipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. In the event that the Recipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).

Additional information regarding the Florida Single Audit Act can be found at:

<https://apps.fldfs.com/fsaa/>

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

N/A

PART IV: REPORT SUBMISSION

1. Copies of reporting packages, to include any management letter issued by the auditor, for audits conducted in accordance with 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, and required by PART I of this Exhibit Agreement shall be submitted by or on behalf of the Recipient directly to each of the following at the address indicated:
 - A. Department of Economic Opportunity
Financial Monitoring and Accountability (FMA)
The copy submitted to the FMA section should be sent via email to: FMA-RWB@deo.myflorida.com
 - B. The Federal Audit Clearinghouse designated in 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, electronically at: <https://harvester.census.gov/facweb/>

Attachment J – Audit Requirements

2. Copies of audit reports for audits conducted in accordance with 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, and required by Part I (in correspondence accompanying the audit report, indicate the date that the Recipient received the audit report); copies of the reporting package described in Section .512(c), 2 C.F.R. 200 Subpart F (Audit Requirements), as revised, and any management letters issued by the auditor; copies of reports required by Part II of this Exhibit must be sent to DEO at the addresses listed in paragraph three (3) below.
3. Copies of financial reporting packages required by PART II of this Agreement shall be submitted by or on behalf of the Recipient directly to each of the following:
 - A. DEO at the following address:

Electronic copies: Audit@deo.myflorida.com
 - B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, FL 32399-1450

Email Address: flaudgen_localgovt@aud.state.fl.us
4. Any reports, management letter, or other information required to be submitted to DEO pursuant to this Agreement shall be submitted timely in accordance with 2 C.F.R. 200 Subpart F, 215.97 F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
5. Recipients and subrecipients, when submitting financial reporting packages to DEO for audits done in accordance with Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient/subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, or five (5) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow DEO, or its designee, the Chief Financial Officer (CFO), or Auditor General access to such records upon request. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer. The Recipient shall ensure that audit working papers are made available to DEO, or its designee, CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by DEO.

Exhibit 1 to Attachment J – Funding Sources

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Recipient:	\$650,000
Catalog of Federal Domestic Assistance Title:	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
Catalog of Federal Domestic Assistance Number:	14.228
Project Description:	Funding is being provided for needed infrastructure improvements to benefit low- and moderate-income persons residing in the Recipient's jurisdiction.

This is not a research and development award.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

Federal Program

1. The Recipient shall perform its obligations in accordance with sections 290.0401- 290.048, F.S.
2. The Recipient shall perform its obligations in accordance with 24 C.F.R. §§ 570.480 – 570.497.
3. The Recipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. The Recipient shall perform the obligations in accordance with chapter 73C-23, F.A.C.
5. The Recipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Attachment F – State and Federal Statutes, Regulations, and Policies

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following: *N/A*

Matching Resources for Federal Programs: *N/A*

Subject to Section 215.97, Florida Statutes: *N/A*

Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows:
N/A

NOTE: Title 2 C.F.R. § 200.331 and section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Recipient.

Attachment K – Audit Compliance Certification

<p><i>Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@deo.myflorida.com.</i></p>	
<p>Recipient: City of Apalachicola</p>	
<p>FEIN: 59-6000264</p>	<p>Recipient's Fiscal Year:</p>
<p>Contact Name: Lee Mathes</p>	<p>Contact's Phone: 850-653-9319</p>
<p>Contact's Email: leemathes@cityofapalachicola.com</p>	
<p>1. Did the Recipient expend state financial assistance, during its fiscal year, that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Recipient and the Department of Economic Opportunity (DEO)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, answer the following before proceeding to item 2.</p> <p>Did the Recipient expend \$750,000 or more of state financial assistance (from DEO and all other sources of state financial assistance combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the Recipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of section 215.97, Florida Statutes, and the applicable rules of the Department of Financial Services and the Auditor General.</p>	
<p>2. Did the Recipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Recipient and DEO? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, also answer the following before proceeding to execution of this certification:</p> <p>Did the Recipient expend \$750,000 or more in federal awards (from DEO and all other sources of federal awards combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the Recipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 C.F.R. part 200, subpart F, as revised.</p>	
<p>By signing below, I certify, on behalf of the Recipient, that the above representations for items 1 and 2 are true and correct.</p>	
<p>Signature of Authorized Representative</p>	<p>Date</p>
<p>Printed Name of Authorized Representative</p>	<p>Title of Authorized Representative</p>

AGREEMENT FOR CDBG ADMINISTRATION SERVICES

This Contract is entered into this 5th day of March, 2019, by and between the City of Apalachicola, Florida, hereinafter referred to as the "CITY," and **Roumelis Planning and Development Services, Inc.**, 5378 Carisbrooke Lane, Tallahassee, Florida 32309, hereinafter referred to as **RPDS** or **CONSULTANT**. The Contract shall become effective immediately.

The CDBG grant for which administration services are to be provided under this agreement is the CITY'S \$650,000 Neighborhood Revitalization grant 19DB-ON-02-29-02-N18 (FFY 2017), from the Florida Department of Economic Opportunity (DEO).

I. Covenant for Services

The CITY does hereby contract with RPDS to perform the services described herein and RPDS does hereby agree to perform such services under the terms and conditions set forth in this Contract.

II. Scope of Services

The scope of services relevant to the CDBG project is included as a separate attachment to this agreement as provided in **Attachment A**.

III. Consideration and Method of Payment

(A) Amount of Payment

Subject to the conditions set forth above and elsewhere in this agreement, RPDS shall be paid by the CITY for Administration Services, as specified in the Scope of Administration Services and Payment of Fee, **Attachment A**.

(B) Method of Payment

Payment for Administration Services will be made by the CITY to RPDS using CDBG funds, according to **Attachment A**.

IV. Access to Records

The local government, the Florida Department of Economic Opportunity, the Florida Department of Financial Services, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, other state or federal agencies with jurisdiction over the CDBG grant program, and duly authorized representatives of these agencies, or local, state or federal auditors, shall have access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions. Access shall be granted upon reasonable request during normal business hours.

V. Subcontracts

- (A) RPDS may subcontract any of the work required under this Contract only with written permission of the CITY. RPDS agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this Contract with the CITY.
- (B) RPDS agrees to include in the subcontract that the subcontractor shall hold the DEO, the CITY, and RPDS harmless against all claims of whatever nature by the subcontractor arising out of the subcontractor's performance or obligation to perform work under this Contract.

VI. Modification of Contract

Modifications of the provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by the parties hereto, and attached to the original of this Contract. The amount of compensation to be paid to RPDS will not be amended without mutual agreement of the CITY and RPDS, formally executed in writing.

VII. Termination

- (A) This Contract hereunder may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract, or for the convenience of the terminating party. Termination may be effected when the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.
- (B) For any termination, an equitable adjustment shall provide for payment to RPDS for services rendered prior to termination based upon the agreed contract rate as specified in Attachment A, in addition to termination settlement costs reasonably incurred by RPDS relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.
- (C) Upon receipt of a termination action, RPDS shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) upon payment for services rendered to the extent required herein, deliver or otherwise make available to the CITY all documents which should properly be filed in the CITY's grant file, except for duplicate items or notes which are and shall remain the property of RPDS.
- (D) Upon termination, the CITY may take over the work and may award another party a contract to complete the work described in this contract.

VIII. Notice and Contact

- (A) The CITY's Contract Manager and party to receive official notice of actions pertaining to this Contract is: Ron Nalley, City Manager, or his/her successor, whose address is City Hall, 192 Coach Wagoner Boulevard, Apalachicola, FL 32320.

- (B) RPDS's Contract Manager and party to receive official notice of actions pertaining to this contract is: Deborah Roumelis Belcher, President, whose address is 5378 Carisbrooke Lane, Tallahassee, Florida 32309.
- (C) In the event that different representatives are designated by either party after execution of this Contract, or if there is a change in address for notice, notice of the name and address of the new representative or the current party's new address will be rendered in writing to the other party and said notification attached to the original of this Contract.

IX. Terms and Conditions

This Contract contains all the terms and conditions agreed upon by the parties.

X. Eligibility

RPDS certifies that it is eligible to receive state and federally funded contracts. RPDS also certifies that no party which is ineligible for such work will be subcontracted to perform services under this Contract.

XI. Retention of Records

The CONSULTANT shall retain all records relating to this Contract for six years after the local government makes final payment and all other pending matters are closed.

PUBLIC RECORDS

CITY and RPDS shall keep records and accounts which shall be available at all reasonable times for examination and audit by the CITY and shall be kept in a manner consistent with Florida State Record Retention Laws.

IF RPDS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO RPDS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF THE CITY CLERK, City Hall, 192 Coach Wagoner Boulevard, Apalachicola, FL 32320, (850) 653-8715, deborahguillotte@cityofapalachicola.com.

RPDS must comply with the public records laws, Chapter 119, F.S.; specifically RPDS shall:

- a. Keep and maintain public records required by the CITY to perform the service.
- b. Upon request from the CITY's custodian of public records, provide CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if RPDS does

not transfer the records to CITY.

- d. Upon completion of the contract, transfer, at no cost, to CITY all public records in possession of RPDS or keep and maintain public records required by CITY to perform the service. If RPDS transfers all public records to CITY upon completion of the contract, RPDS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If RPDS keeps and maintains public records upon completion of the contract, RPDS shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to CITY, upon the request from CITY's custodian of public records, in a format that is compatible with the information technology systems of CITY.

XII. Conflict of Interest

No member of or Delegate to the Congress of the United States, or Resident Commissioner, and no elected state official or state employee of the funding agency shall share in any proceeds of this Contract, or in any benefit to arise from same.

No officer or employee of the local jurisdiction or its designers or agents, no member of the governing body, and no other official of the locality who exercises any function or responsibility with respect to this Contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, RPDS and the CITY shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

XIII. Remedies and Controlling Law

- (A) Unless otherwise provided in this Contract, all claims, counterclaims, disputes and other matters in question between the CITY and RPDS, arising out of or relating to this Contract, or the breach of it, will be decided by non-binding three person arbitration and, if not successful, then by litigation through the appropriate court.
- (B) The arbitration panel shall consist of three (3) members, approved by both parties, one of whom shall be a CDBG grant writer and administrator working in the Florida Small Cities Program.

XIV. Prohibition Against Contingent Fees

RPDS warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for RPDS, to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporations, individual, or firm, other than a bona fide employee working solely for RPDS any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement.

XV. Conflicts with Other Clauses

If this Contract contains any clauses which conflict with each other, then this Contract will be

governed by the more specific clause(s) in the section directly applying and shall overrule any general clauses.

XVI. General Provisions

- (A) The parties hereto shall execute and deliver, or cause to be executed and delivered, such additional instruments as any party may reasonably request for the purpose of carrying out the duties of this agreement.
- (B) This Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement.
- (C) This Agreement is binding upon and shall inure to the benefit of the parties' executors, administrators, representatives, successors and assigns.
- (D) All exhibits attached hereto are incorporated in this Agreement and are made a part hereof by reference.
- (E) No party has agreed to or made promises to do any act or thing not contained in this Agreement.
- (F) This Agreement shall become effective when executed by all the parties hereto. This Contract Agreement is subject to the following special provisions:
RPDS hereby agrees to be bound by all applicable requirements of the CITY's grant agreement with DEO. RPDS acknowledges the requirement to utilize e-Verify prior to hiring any new employees, and will comply with the requirement if any new employee is hired.
- (G) The following attachment is hereby incorporated into this agreement and made a part thereof.
Attachment A - Scope of Administration Services and Payment of Fee

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their undersigned officials as duly authorized.

Roumelis Planning and Development Services, Inc.

By: _____
Deborah Roumelis Belcher, President

Date: _____

CITY of Apalachicola, Florida

By: _____ Date _____
Signature, Van Johnson, Mayor

Attest to CITY:

By: _____ Seal _____
City Clerk

ATTACHMENT A
SCOPE OF ADMINISTRATION SERVICES AND PAYMENT OF FEE

Neighborhood Revitalization CDBG Administration Tasks to be Provided If/As Needed - Full Service

1. Review the grant agreement provided by DEO. If appropriate, recommend modifications.
2. Prepare the Program Information form, Civil Rights Profile, and other documents for submission to DEO.
3. Establish the grant filing system.
4. Perform the environmental review. Prepare the environmental review record. Advertise the floodplain/wetland notice(s) if applicable, finding of no significant impact and request for release of funds. Submit the documentation to DEO and obtain the environmental clearance. Advertising costs are included in the administration fee. RPDS's contract does not include special studies, such as archaeological or biological investigations, which could be required by the state under certain circumstances, but we will assist in procuring and monitoring the studies.
5. Establish (along with local staff) the financial procedures for receiving, depositing, disbursing and tracking grant funds.
6. Establish and maintain program files adequate to document activities and compliance with grant requirements.
7. Coordinate with the Engineer to develop project plans and specifications.
8. Obtain federal wage decisions for construction contracts.
9. Participate in project design, budget and schedule review and approval.
10. Assist the Engineer in developing the bid packages and bid notices, to include appropriate clauses, forms and documents and to comply with procurement policies, such as
 - a. Section 3,
 - b. Contractor efforts to utilize minority businesses,
 - c. Equal opportunity and labor standards clauses,
 - d. Debarment certification and clearance
 - e. Subcontractor and supplier listing
 - f. Records access and retention
 - g. Environmental compliance
 - h. Public entity crime statement
 - i. Labor standards compliance forms and certifications
11. Submit project plans and permits (provided by Engineer) to DEO for review, as required.
12. Prepare the request for bid notice, have published as required.
13. Solicit minority and woman owned business participation.
14. Assist in conducting the pre-bid meeting.
15. Assist in the evaluation of bids and approve the recommendation for a contract award.
16. Obtain funding agency approval of bids/bidders.
17. Assist in conducting the preconstruction conference.
18. Review all contract documents and submit to the local government's attorney for approval.
19. Upon approval from appropriate parties, authorize the contractor's notice to proceed.
20. Monitor the contractor's performance and compliance with contract requirements, exclusive of engineering review functions.

21. Notify the Engineer and/or Contractor, as appropriate, of observed problems or noncompliance with contract requirements, such as poor workmanship (nonprofessional observations only) or unnecessary disruption to traffic or property.
22. Conduct on-site interviews of construction labor.
23. Obtain and review contractor's weekly payroll, fringe benefits and deductions documentation.
24. Notify the contractor of apparent violations (payroll, etc.) and resolve the violations. If the contractor fails to resolve violations, recommend appropriate action, such as suspension or revocation of the contract.
25. Obtain and review closeout documents from the contractor, for approval by the Engineer and local government. This includes collection of lien waivers and other items.
26. Produce and submit required reports, such as: disclosure of conflict of interest, minority and Section 3 contracting, program accomplishments, program beneficiaries, expenditure of funds by category and by contract, obligation of funds, anticipated accomplishments.
27. Review vendor payment requests and recommend approval as appropriate. Code the requests for proper tracking.
28. Produce and submit the requests for funds to DEO, along with appropriate explanations and documentation of the use of funds, in a manner that will assure availability of funds to the local government in a timely manner.
29. Represent the local government during DEO monitoring visits. Respond to monitoring reports.
30. Respond to questions and complaints from citizens.
31. Attend local government meetings as necessary to obtain approval of actions and present status reports.
32. If appropriate, recommend a grant amendment. Conduct the citizen advisory task force meeting if required. Prepare and submit documents to DEO.
33. Act as a liaison between the local government, citizens, DEO, the project engineer and construction contractor(s) to ensure an efficient, smoothly managed program.
34. Make files available to auditor. Respond to audit findings and concerns, if any.
35. **Conduct quarterly fair housing activities**, such as running newspaper ads, making presentations, distributing flyers, etc. **RPDS's fee includes this full service.**
36. Perform close out activities, including the submission of reports and follow-up.
37. Revise and/or prepare new policies as required, for adoption and submission to DEO, working with local staff and attorney as applicable.

Fee for Administration Services

For administration services rendered under this agreement, the CITY shall pay to RPDS the lump sum amount of **\$51,500**. RPDS will be responsible for all advertising costs of the grant (environmental, bidding, fair housing), beginning with the grant award to the CITY but excluding solicitation for this contract.

Payment of Fee

RPDS will submit invoices to the CITY, identifying tasks performed and percentage of service provided. The invoices will be submitted consistent with the CITY's subgrant agreement workplan administrative expenditure schedule, prepared by DEO.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019**

SUBJECT: Joint Workshop with Planning and Zoning Board - Fill and Stormwater Regulations

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: E
Department: Planning and Zoning
Contact: Cindy Clark, City Planner
Presenter: Cindy Clark, City Planner

BRIEF SUMMARY: The issue of fill, flooding and stormwater control has been an ongoing challenge for the City in recent months. Current regulations do not provide adequate guidance for the regulation of fill on lots for the purposes of flood prevention. With the help of State planning and floodplain management officials, staff has drafted proposed regulations relating to the deposition of fill materials for new development and redevelopment. The proposed regulations provide certainty for applicants wishing to modify the elevation of property and provides consistency with the City's adopted floodplain regulations. In accordance with Policy No. 002, Comprehensive Plan and Land Development Code Amendment Procedure, the ensuing document was presented to Planning & Zoning Board in two public workshops (January 14, 2019 and February 11, 2019). The Planning and Zoning Board voted at their their February 11 meeting to transmit draft changes forward for a City Commission/Planning & Zoning Board joint workshop.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To Set a Joint Workshop with the Planning and Zoning Board on _____ at _____ p.m. to Review Proposed Changes to the Land Development Code Relating to Fill and Stormwater.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Proposed Changes to Fill and Stormwater Ordinance

STAFF'S COMMENTS AND RECOMMENDATIONS: None at this time.

Apalachicola Planning and Zoning Board and City Commission workshop
Apalachicola Fill and Stormwater Ordinance 2019-xx
Draft 3 2-28-2019

WHEREAS, regulation of fill on lots for the purposes of flood prevention is in the best interests of the public in order to protect public safety, health, and welfare; and,

WHEREAS, the provision of guidelines related to the deposition of fill materials and grading for new development and redevelopment provides certainty for applicants wishing to modify the elevation of property and provides consistency for the implementation of the City's adopted floodplain regulations; and,

WHEREAS, flood heights and nuisance flooding can be increased by manmade causes; and,

WHEREAS, standards for installation of fill materials and requirements to manage storm water facilitates the protection and enhancement of natural resources, city infrastructure, reduces erosion, and minimizes potential adverse impacts associated with land uses; and,

WHEREAS, the adoption of stormwater regulations furthers comprehensive plan policies within the Coastal and Conservation Elements.

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING ORDINANCE AMENDMENTS:

Section 1. Recitals.

The above recitals are incorporated by reference herein.

Section 2. Creation:

There is hereby amended and modified Chapter II Definitions; Chapter VI, Site Plans is repealed and replaced; and Chapter VIII. Stormwater Management is repealed and replaced.

Section 3. Applicability:

This section shall be applicable within the City of Apalachicola.

Section 4. Definitions:

This ordinance amends or replaces Definitions within Chapter II, Definitions, as follows:

Repeal Best Management Practice (BMP) and add:

Stormwater Best Management Practice (BMP) - The term "best management practices (BMP)" means those practices and principles designed to manage water from rainfall events, reduce nonpoint sources of pollution and in some cases, protect wildlife and habitat. Methods may include structural devices or nonstructural practices, such as, but not limited to compensatory

storage, swales, gutters, rain barrels and rain gardens. A City of Apalachicola Guide to Site-Specific Stormwater Best Management Practices is available to download from the city's website.

Repeal and replace:

Channel - A trench, the bottom of which is normally covered entirely by water, with the upper edges of one or both of its sides normally below water. A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

Add:

Fill - Any material, such as, but not limited to, sand, soil, gravel, lime rock, rocks, shell, bricks, concrete, rubble, asphalt, wood or waste of any kind, that is: placed, stored, or dumped upon the surface of the ground resulting in an increase in the natural surface elevation; deposited on the land surface to fill depressions or contour the land (e.g., soil and sand); used as a landscaping material (e.g., topsoil, organic material, and sod), or used as a surfacing material for walkways, surface drive areas, and patios (e.g., rock, shell, impermeable or permeable concrete, and brick pavers). Exception: sand bags placed on lots in response to the County Emergency Manager shall not be considered fill provided it is removed following the storm event.

Repeal and replace:

Impervious Surface Coverage - Those hard surface man-made areas that do not allow, or minimally allow, the penetration of water, that reduce the natural rate or percolation of water or result in an increase in the natural quantity and rate of storm water runoff. Examples include but are not limited to roof tops, parking, clay, asphalt, concrete, brick, compacted gravel, paved recreational areas such as pools, tennis courts, and landscape pavers. Exception: Items identified on a site plan as a best management practice to treat stormwater shall be allowed within open space and not considered impervious.

Add:

Land clearing - Any activity that removes the vegetative ground cover. Mowing, trimming, pruning, or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

Add:

Landscape plan - A plan, drawn to scale, showing dimensions and details for revegetating an area and may be a part of the site plan.

Repeal and replace:

Landscaping - The area within the boundaries of a given lot that consists of planting materials, including, but not limited to, trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials. Landscaping may be considered "fill" based upon the quantity and location proposed (as defined) is planned as part of the activity.

Add:

Lot Grading - The excavation, filling, clearance or re-contouring of the ground surface of a lot or parcel or combination thereof.

Repeal and Replace:

Open Space - an area open to the sky and free of impervious structures

Add:

Pervious - A surface that presents an opportunity for precipitation to infiltrate into the ground. Area maintained in its natural condition or covered by a material that permits infiltration or percolation of water into the ground.

Add:

Storm Water - The flow of water that results from, and that occurs immediately following, a rainfall event.

Repeal and Replace:

Storm Water Management System - A surface water system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system

Add:

Surface Waters - Waters on the surface of the earth, contained in bounds created naturally or artificially, including bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, springs, creeks, branches, sloughs, tributaries, and other water courses.

Add:

Swale - A man-made trench that features side slopes equal to or greater than three feet horizontal to one foot vertical; Contains contiguous areas of standing or flowing water only following a rainfall event that can be percolated within 72 hours; Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

Repeals Chapter VII and replaces:
Chapter VII. SITE PLAN

A. PURPOSE AND INTENT

The public health, safety and welfare require the harmonious, orderly and progressive development of land within the City of Apalachicola. The development of the land is a vital step in the process of community development. Once land has been developed, the correction of defects is costly and difficult. Substantial public responsibility is created by each new development, involving the maintenance of streets and storm water management systems and the provision of additional public services. As the general health, safety and welfare of the community are thereby affected by the development of land, it is in the direct interest of the public that site development be conveyed, designed and carried out in accordance with sound land and water management principles.

The purpose and intent of this Chapter is to assure that new development within Apalachicola will not adversely affect the public's natural or financial resources, especially Apalachicola Bay or its tributaries.

B. APPLICABILITY

This Chapter establishes procedures and standards for the preparation, review and approval of plans to carry out development.

C. PROCEDURES FOR SITE PLAN APPLICATION, REVIEW AND DECISION

1. Pre-Application Conference. It is recommended that the applicant meet with the City Planner, Building Department and Building Official to discuss the proposed development prior to submitting a formal application. The purpose of this conference is to familiarize the applicant with minimum design guidelines and to minimize any potential adverse impacts of the proposed development on the City's natural or financial resources.
2. Application.
 - a. An approved site plan is required prior to the issuance of a building permit. It shall be considered unlawful for any person to construct, erect or alter a building or structure or to develop, change or improve land for which a site plan is required except in accordance with an approved site plan. Enforcement shall occur pursuant to Chapter III of this Code for failure to obtain a permit or for failure to follow a permit.
 - b. The site plan shall be prepared in accordance with requirements contained in this section. For a plan to be placed on the agenda of the next Planning and Zoning Board meeting, the plan must be received by the Building Department

and considered complete no less than 30 days prior to the Planning and Zoning Board meeting.

- c. The applicant shall submit four copies of all parts of the site plan. Electronic copies of site plans and building plans may also be submitted if available.

3. Review.

- a. The City Planner and Building Department shall review the site plan to determine whether all required information is included in the application. If any required information is missing, the Building Department shall inform the applicant of any information required to complete the application.

- b. All site plans for architectural compatibility shall be reviewed by the Planning and Zoning Board sitting as the Architectural Review Board.

4. Decision. Based upon the information contained in the site plan application, the Planning and Zoning Board ~~Commission~~ shall approve, approve subject to stated conditions or deny the site plan. Any person aggrieved by the decision of the Planning and Zoning Commission may, in accordance with Chapter III, file a written appeal with the City Commission.

5. Construction. Upon site plan approval and issuance of a building permit, the development shall be built in accordance with the approved site plan and site plan regulations. Deviation from the approved site plan shall require the submission of an application for a revised site plan.

D. FEES

Application fees for site plan review, as adopted from time to time by the City Commission, must be paid by the applicant at the time of application.

E. TIME LIMIT ON APPROVAL

Following approval of the site plan, the applicant shall have one (1) year, unless to commence construction on the site. Notwithstanding the above time frame, site plans for multifamily development and new non-residential development shall be effective for two years. Any site where development has not commenced shall cause the site plan to be re-evaluated by the appropriate bodies and any newly adopted regulations shall be imposed at the discretion of the City.

F. SITE PLAN REQUIREMENTS

- 1. Site plans or any portion thereof involving engineering shall be certified, sealed, and prepared by and/or under the direct supervision of a professional engineer,

qualified by training and experience into the specific technical field involved and registered or licensed to practice that profession.

2. Site plans shall contain documents and maps indicating:

a. General Information

- i. Name of project.
- ii. Intended use of site.
- iii. Legal description of the property, size of parcel in acres or square feet and the linear dimensions of the property.
- iv. Name, address and telephone number of the owner or owners of record.
- v. Name, address and telephone number of the owner's designated agent or attorney .
- vi. Names, addresses, signatures and registrations of the professionals preparing the plan.

b. Maps

- i. Vicinity map, showing relationship of proposed development to the surrounding streets, wetlands and surface water bodies at a scale of not less than one (1) inch equals two thousand (2,000) feet.
- ii. Site plan map with date and north arrow at a scale not smaller than one (1) inch equals fifty (50) feet.
- iii. Elevation survey and topography at one (1) foot contour intervals, existing and proposed.
- iv. Building restriction lines (i.e., highway setback lines, easements, covenants, rights-of-way, and building setback lines, existing and proposed).
- v. Location of existing and proposed building and structure footprints.
- vi. Location, elevation, and dimensions and materials of existing and proposed drive areas, or other paving.
- vii. Location of existing and proposed fences by type of material (e.g., wood or metal), type of design (open or closed) and height.
- viii. Location of existing and proposed walls by type of material (e.g., brick or masonry).
- ix. Location of each proposed, off-street parking space (regular and handicapped) and how they will be identified on site with paint or curb stops, including a diagram showing traffic circulation on site and access and egress to adjacent street.
- x. Location of proposed, designated loading and unloading zones.
- xi. Location of temporary and permanent structures and features proposed in the stormwater management plan.

c. Proposed Buildings and Structures

- i. Number of stories.
- ii. Square footage grosses each floor.
- iii. Building height.
- iv. Multi-family dwellings.
 - i. Number and square footage of dwelling units and density (dwelling units per acre).
 - ii. Calculation of off-street parking spaces required by supplementary parking section showing the number of dwelling units and spaces.
- v. Commercial. Calculation of off-street parking spaces required by Chapter IV Zoning District supplementary parking section showing:
 - i. Projected number of employees on peak shift.
 - ii. If an eating and/or drinking establishment, seats and occupancy load and number of tables for service and number of stools at service counter.
 - iii. If an office, studio or financial institution, floor space
 - iv. If a retail establishment, floor space devoted to merchandising.
 - v. If a child care center, floor space.

d. Lot Coverage Allowed by the Zone and Calculations Showing Proposed Lot Coverage.

Materials used to cover surface drive areas, walkways, patios and other areas counting as lot coverage.

e. New Multi-Parcel (e.g., Subdivision), Commercial, and Multi-Family Developments

- i. Existing Infrastructure (On-site, Adjacent to Site, and Across or Opposite Any Public Right-of-Way.)
 - Surface drive areas and median/curb cuts to access driveways.
 - Sidewalks, streets, alleys, and easements (note widths and type).
 - Size and location of nearest water mains, valves, and fire hydrants.
 - Sanitary sewer systems (size and invert elevations).
 - Power, telephone and cable lines.

- ii. Proposed Streets, Sidewalks, and Surface Drive Areas.
- If required, engineering plans and specifications including elevation and dimensions for streets, sidewalks, and surface drive areas (driveways, parking areas and storage areas).
 - Cross section of proposed street improvements
 - Fire lanes.
 - Locations of proposed surface drive areas, curb or median cut(s) to access driveways.
 - Internal traffic circulation plan, including directional arrows and signs to direct traffic flow.
 - Location of traffic-control signs and signalization devices.
 - Locations of sidewalks.
 - Coordination of walkways and driveway and their elevations with facilities in adjacent developments, including the elevation of the crown of the most adjacent road to ensure that lot filling and hardened surfaces are not elevated higher than local streets
 - Proposed streets and alleys.
 - When applicable, the location of service roads and access roads extended onto the site.

iii. Proposed Water and Sewer Facilities

- Water. Size, material, and location of water mains, valves and fire hydrants. Engineering plans and specifications are required prior to the issuance of a building permit.
- Sanitary Sewer Systems. Size, material, and location of lines. Engineering plans and specifications, with submittal of a profile where required, are required prior to the issuance of a building permit.
- Any commitments, such as contributions to offset public facilities impacts.
- Projected water usage in gallons per day, projected solid waste, projected number of school age children

iv. Solid Waste Handling Facilities

The location of the dumpster and access for refuse service collection, including dumpster pad screening, fencing and landscaping shall be identified.

v. Dredge and Fill.

If any dredging or filling is intended in the development, a copy of the complete Environmental Resource permit application proposed for the Northwest Florida Water Management District shall be provided.

f. Stormwater Management Plan Requirements - General

- i. Sufficient information for the City to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on wetlands and surface water, and the effectiveness and acceptability of those measures proposed for reducing adverse impacts.
- ii. If a State stormwater permit is required, the following shall be a part of the stormwater plan submitted to the City.
- iii. The design contained in any ten-two (10/2) self-certified general permit).
- iv. A design that treats run off from the 25 year-24-hour duration storm event and ensures that post development runoff rates, volumes and pollutant loads do not exceed pre-development conditions

The design contained in a complete application proposed to a State agency for:

A general permit, or
Environmental resource permits.

For proposed development not requiring a State stormwater permit, a plan to control surface water runoff including:

Temporary sediment control barriers and vegetative cover
Permanent best management practices.

Repeals and Replaces CHAPTER VIII. STORMWATER MANAGEMENT

A. City Requirements

Certain types of residential and commercial development may trigger State stormwater permitting permits depending on size and type of proposed development. As an Area of Critical State Concern, the City has adopted more stringent stormwater standards than state requirements. A more comprehensive overview of state permitting requirements and the relationship to City standards can be found online at Cityofapalachicola.com/building.Dept.cfm.

1. Residential. Applications for all new residential development in Special Waterfront District or Areas of Special Hazard (A&V zone) must include a stormwater management plan which may consist of a Best Management Practice (BMP) as part of their site plan. Proposed improvements that increase lot coverage shall also provide for stormwater treatment by indicating the stormwater treatment Best Management Practice that will be utilized.
2. Non-residential. Applications for all non-residential development exempt from State permitting pursuant to Rule 62-330 F1 Administrative Code for more than 4800 square feet must provide a stormwater management system by an engineer to provide for treatment for a 24-hour 25 -year event. Individual lots or combination of lots less than 4800 square feet may treat stormwater with BMPS that include provisions for compensatory storage.
3. Stormwater runoff control
 - a. Only those areas necessary for construction activities shall be cleared.
 - b. During construction, building debris shall be removed from the stormwater flow path and deposited in trash receptacles and temporary stormwater control barriers shall be installed and maintained.
 - c. Temporary stormwater controls shall be maintained until permanent controls are installed.
 - d. Permanent controls, when required, shall be constructed prior to the issuance of a Certificate of Occupancy.
 - e. Direct connection between building gutters and downspouts and onsite stormwater systems into the City's stormwater conveyances is not allowed.
4. Stormwater Best Management Practices (BMP's)
 - a. Stormwater impacts shall be minimized by using site-suitable BMP's that maximize infiltration of stormwater and prevent or minimize offsite discharge. Stormwater flow paths for property as it is planned to be developed shall be determined and berms, shallow depressions, swales, contouring, terracing,

landscaping, rain gardens, rain barrels, paving materials, concrete pavers and other stormwater management practices shall be included in the plan to intercept, infiltrate and treat stormwater before it reaches wetlands, surface waters or the City's stormwater conveyances.

- b. Minimize soil exposure through organized scheduling of grading and construction activities; retain existing vegetation whenever feasible; stabilize all denuded areas after final grading; temporarily stabilize disturbed areas that are inactive and will be exposed to rain for 30 days or more utilizing stabilization techniques such as mulches, vegetation and sod. Control runoff by diverting stormwater away from stripped areas or newly seeded slopes; minimize the length and steepness of slopes, protect outlets to prevent erosion. Install sediment trapping structures such as silt traps, sediment basins, filter fabric, perimeter dikes. Inspect and maintain control measures regularly.
- c. Best Management Practice methods may be in required open spaces.
- d. Guidance regarding state permitting requirements and exemptions may be found at the City's Web site. Examples of BMP's and low impact development practices are provided in the City's May 2015 Guide to Site Specific Stormwater Best Management Practices can also be found on the City's web site.

5. General Design Requirements

- a. The storm water system shall be designed in accordance with Rule 62-330 F.A.C., and City Standards for a 25- year, 24- hour event except that detention with filtration systems shall not be allowed and that off-line retention systems shall be used whenever the soil conditions will allow percolation of the treatment volume within 72 hours. When soil conditions will not allow infiltration practices to be used, the storm water system shall consist of a wet detention system with a vegetated littoral zone. To enhance the effectiveness of the wet detention system, landscape retention pretreatment practices such as the placement of storm sewer inlets in grassed areas shall be employed in combination with the detention system.
- b. To provide flood protection, the additional volume generated by the development from a 25-year storm event 24-hour duration shall be controlled by a detention facility and released at a rate of discharge not to exceed the peak discharge rate from the site in its undeveloped condition. Special engineering features all be incorporated in minimize the transport of pollutants remaining in the detention facility.

- c. All detention facilities shall discharge design flow through structural discharge facilities. When direct discharge will degrade waters of natural streams, marshes, environmentally sensitive areas shellfish classification waters, or lands naturally receiving sheet flow, the discharge structure shall direct the flow to an intermediate spreader swale system.
- d. No new untreated point sources of discharge will be permitted

6. General Information for Engineered Plans

- a. The location of areas on the site where storm water collects or percolates into the ground; and the size, location and land use of any off-site areas which drain onto, through or from the project area.
- b. A map showing topography at a minimum contour interval of one-foot, vegetative cover, soils and seasonally high-water table elevations. Also show the location of any soils boring or percolation tests.
- c. Details of hydrograph, side slopes, depths, elevations of all system components including wetlands, a topographical map with a minimum contour interval of one foot.
- d. An erosion and sediment control plan to retain sediment on-site. The plan shall describe, in detail, the type and location of control measures the stage of development at which they will be put into place and provisions for maintenance
- e. A description of scheduled maintenance, if applicable, of the storm water system.

Calculations to be Submitted

- a. All runoff calculations used in the design of the storm water system including a description of the methodology, assumptions and parameters. Include calculations showing discharges, elevations and volumes retained or detained and the volume of storm water treated for applicable design storm events. If a computer program is used for analysis, a copy of the printout shall be submitted.
- b. Computations of state-storage and stage-discharge for all structures.
- c. Computation of off-site inflows.
- d. Actual acreages and percentage of the project area for impervious surfaces, natural water bodies and wetlands, artificial lakes, retention or detention area, swales, pervious surfaces and total project area.
- e. Computation of pre-development and post-development runoff and storage.
- f. Identification of the entity responsible for the perpetual care, operation, maintenance, and associated liabilities of the system. If the entity is to be a public body such as a county, municipality, or special district, a letter or other evidence of acceptance must be included. If the entity is a non-public body such as a homeowner's association or private corporation or person, documentation of its existence, fiscal and legal ability, and willingness to accept the responsibility must be included.

Chapter VIII

Add

D. Fill and Lot Grading Requirements

1. Areas of Special Flood Hazard (rated A and V zones) and Water Front District

Fill, lot grading or landscaping involving up to 10 cubic yards of fill. Fill as defined, lot grading and/or landscaping activities involving the deposition/addition, movement and placement of soils involving less than 10 cubic yards of fill on an individual lot or parcel shall require a building permit and floodplain management permit. In a V zone, the use of earthen fill to elevate buildings and structures shall not be permitted. Note: 20 cubic yards is approximately 2.5 pick-up truck-loads of fill.

At a minimum, the floodplain management permit shall include the following:

- a. Site plan showing proposed location of proposed fill; and
- b. Best Management Practice Method employed to ensure stormwater runoff is maintained onsite. (See city website).

Fill involving more than 10 cubic yards: Fill or lot grading involving more than the deposition of 10 cubic yards of fill shall require a building permit and floodplain management permit. Additionally, the application requires a sealed grading plan prepared by a Florida licensed professional architect, surveyor, or engineer. The plan shall delineate the amount and type of fill, the amount, type, source of fill, compaction specifications and ensure that fill will remain stable under conditions of flooding. The plan shall provide existing site details including the existing and proposed elevation of structures, infrastructure, drive ways, etc. The plan shall indicate the existing grade elevation and proposed grade elevation at property corners and the street centerline and must detail how drainage will be affected and how grade changes will impact stormwater runoff from the site to adjacent lots. The plan shall show the location of existing structures or features of the site. The plan shall detail drainage swales including design high points; intermediate grade points; and the location, height, width and extent of retaining structures. The plan shall reflect surface slopes of drainage swales with flow direction arrows and include the elevation at any discharge point. The plan shall include documentation to show that the volume, rate and quality of stormwater runoff following the filling or grading of land shall not exceed pre-development or redevelopment conditions.

Note: No lot shall be filled to a height that would result in water being conveyed to an adjacent property. No fill shall be placed in city rights of way.

After site improvements are completed and prior to the issuance of a Certificate of Occupancy by the City, when applicable, an "As Built" Certification from a Florida licensed Engineer, Surveyor or Architect must demonstrate there will be no discharge of

stormwater to adjacent properties and that the filled lot is not higher than the centerline of the road and the adjacent lot on all sides.

Note: In designated V zones, fill may not be placed for use as structural support.

2. Areas Outside the Area of Special Flood Protection (A and V Zones) and Waterfront District

Fill, lot grading or landscaping involving up to 20 cubic yards of fill. Fill, lot grading and/or landscaping activities involving the deposition/addition, movement and placement of soils involving less than 20 cubic yards of fill on an individual lot or parcel shall require a building permit. At a minimum, the building permit shall include the following:

- a. Site plan showing proposed location of proposed fill
- b. Best Management Practice Method employed to ensure stormwater runoff is maintained onsite.

Fill involving more than 20 cubic yards: Fill or lot grading involving more than the deposition of 20 cubic yards of fill shall require a building permit. Additionally, the application requires a sealed grading plan prepared by a Florida licensed professional architect, surveyor, or engineer. The plan shall delineate the amount and type of fill, the amount, type, source of fill, compaction specifications and ensure that fill will remain stable under conditions of flooding. and include existing site details including structures, infrastructure, drive ways, etc. The plan shall indicate the existing grade and proposed grade in contour intervals of enough clarity to indicate the nature and extent of the work, including the type and amount of fill material that will be used. The plan shall contain elevations for existing and proposed grades at property corners and the street centerline and must detail how drainage will be affected. The plan shall show the location of existing structures or features of the site. The plan shall show the location of existing structures or features of the site. The plan shall indicate drainage swales including design high points; intermediate grade points; and the location, height, and extent of retaining structures. The plan shall reflect surface slopes of drainage swales with flow direction arrows and include the elevation at the discharge ends of the swale's drainage pattern. The building permit shall include documentation to show that the volume, rate and quality of stormwater runoff following the filling or grading of land shall not exceed pre-development run-off conditions.

Note: No lot shall be filled to a height that would result in water being conveyed to an adjacent property. No fill shall be placed in city rights of way.

After site improvements are completed and prior to the issuance of a Certificate of Occupancy by the City, when applicable, an "As Built" Certification from a Florida licensed Engineer, Surveyor or Architect must demonstrate there will be no discharge of stormwater to adjacent properties and that the filled lot is not higher than the adjacent lot on all sides.

3. Prohibited fill:

All types of solid waste, sludges, hazardous materials and hazardous waste so designated by the United States Environmental Protection Agency, the Florida Department of Environmental Protection, and local health and environmental protection agencies. All bio-medical wastes that may cause pathogenic contamination of water resources. Industrial chemicals, petroleum products, putrescible household waste, and other materials that would contaminate permitted fill material. Fill may not be placed in wetlands and must be setback at least 20 feet from jurisdictional wetlands or surface water.

4. Landscaping:

Routine maintenance of the landscaped area, plantings, or sod involving less than 1,000 square feet in area provided shall not be considered fill, provided the quantity and location meets the fill ordinance standards.. Landscaping development proposed for more than 1000 square feet requires a landscape plan to identify vegetation plantings.

Section 6. Penalties: Any person who fills or grades property without first securing a permit approval shall be subject to the penalties of this code and may be required to restore the site to the satisfaction of the City Building Official. In addition, all activity on the property shall cease until a permit has been issued and there shall be no other approval until such time as the filling and grading permit has been approved.

Section 7. Inclusion in the Code of Ordinances.

It is hereby directed that the provisions of this ordinance be included in the Code of Ordinances of the City of Apalachicola, Florida. To that end, any renumbering of the various sections is hereby authorized as necessary to achieve this directive.

Section 8. Severability.

If any provision of this Ordinance is found to be invalid by a court of competent jurisdiction, then such determination shall not render the remaining provisions of the ordinance invalid.

Section 9.

Effective Date. This Ordinance shall be filed with the Secretary of State and the Department of Economic Opportunity within ten days of adoption and shall take effect on adoption of final agency action in accordance with Chapter Rule 73 C, Florida Administrative Code.

PASSED AND ADOPTED in Regular Session this ____ day of _____ 2019.

CITY OF APALACHICOLA

BY: _____
Van W. Johnson, Sr., Mayor

ATTEST:

Deborah Guillotte
City Clerk

APPROVED AS TO FORM:

J. Patrick Floyd
City Attorney

APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: March 5, 2019

SUBJECT: Request Consideration of C-1 Zoning Use Change

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: F
Department: Administration and Planning and Zoning
Contact: Ron Nalley, City Manager and Cindy Clark, City Planner
Presenter: Ron Nalley, City Manager

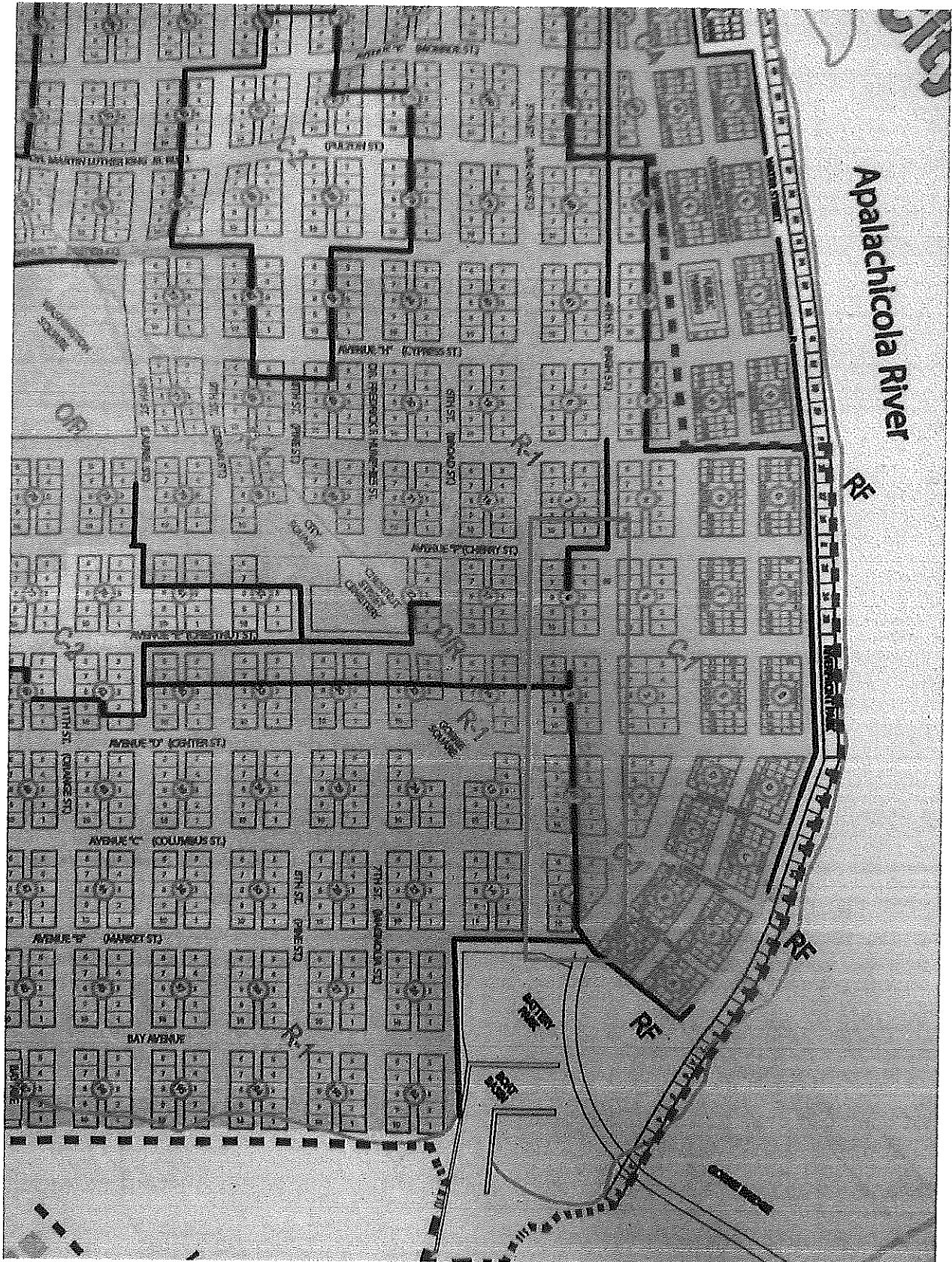
BRIEF SUMMARY: There exists an area along south 4th Street (Block 11) that is split zoning between commercial and residential districts. One half of the block is designated C-1 Commercial and the other half is R-1 Residential separated by an alley. The C-1 side of the block contains an existing professional office and a residential structure. The half block in question is an anomaly in that it is not part of the downtown commercial district although it is considered C-1 and it is bordered by transient rental activity (Gibson Inn) which does provide transient lodging on the first floor. The City has received a request from a property owner to consider allowing transient rentals on the first floor of the existing structure consistent with the neighboring transient rental property (Gibson Inn). Current regulations allow transient lodging in existing residential structures in the C-1 district along 4th street. The parcel in question is not located in the flood zone and is part of a transitional area currently providing commercial office space.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To Allow the Planning and Zoning Board to Consider Revisions to the C-1 Regulations that would Allow First-Floor Transient Lodging in Existing Structures in C-1 Transition Zones (Split Residential/Commercial Blocks) Provided such Parcels are not Located within Flood Zones and Provided the Zone is not Located within the City's Core Walking District.

FUNDING SOURCE: Not Applicable

ATTACHMENTS: Copy of Zoning Map and Floodplain Map of Area

STAFF'S COMMENTS AND RECOMMENDATIONS: Based on the information provided, this does seem like a reasonable request and staff recommends sending it to the Planning and Zoning Board for further review and recommendation.



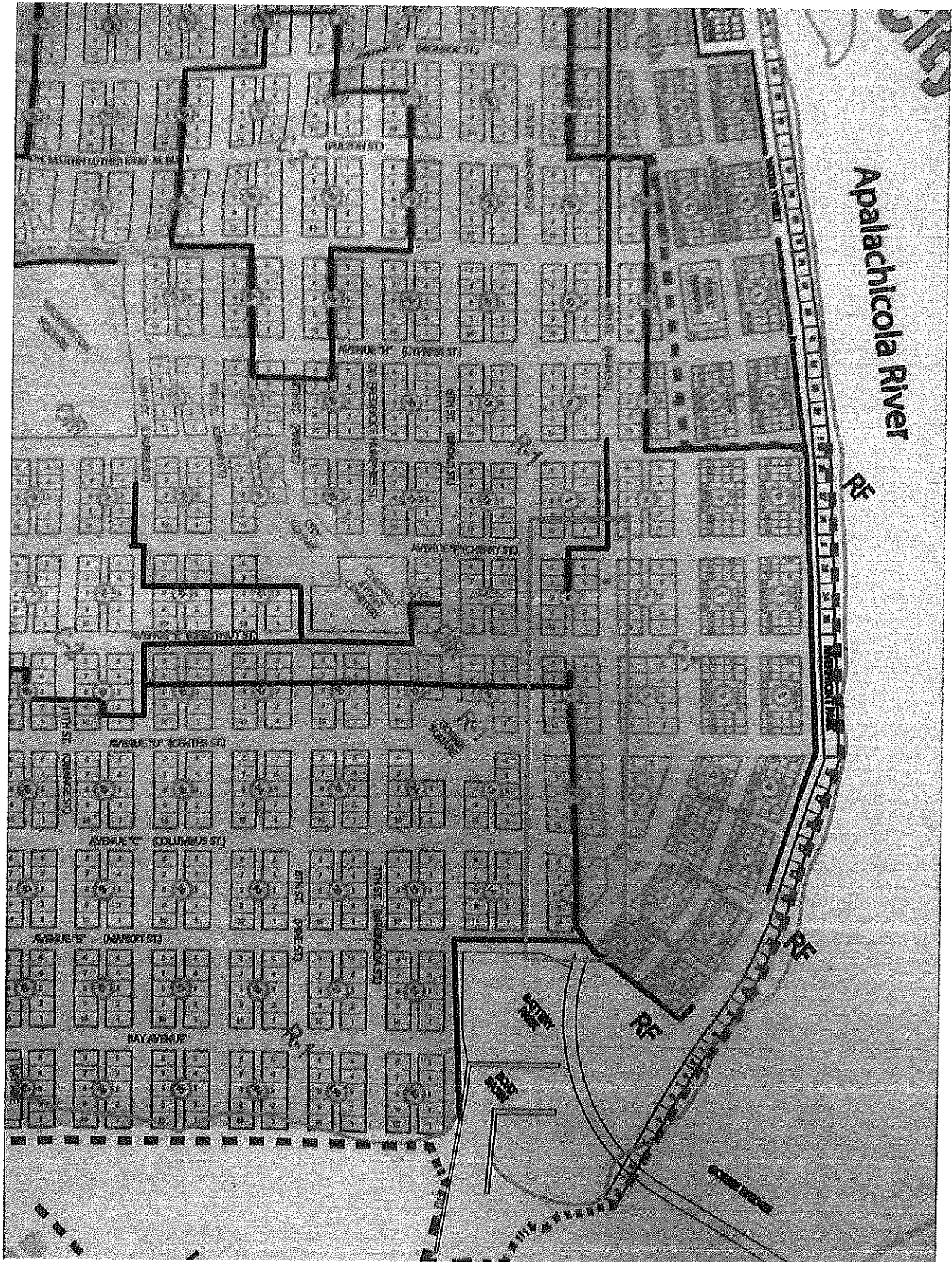
Apalachicola River

RE

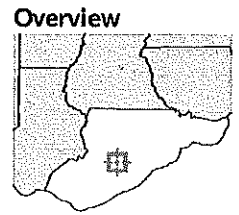
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Map labels include: AVENUE A (DUNBAR ST), AVENUE B (PINE ST), AVENUE C (CYPRESS ST), AVENUE D (HARRISON ST), AVENUE E (CHERRY ST), AVENUE F (CANTON ST), AVENUE G (CANTON ST), AVENUE H (CANTON ST), AVENUE I (CANTON ST), AVENUE J (CANTON ST), AVENUE K (CANTON ST), AVENUE L (CANTON ST), AVENUE M (CANTON ST), AVENUE N (CANTON ST), AVENUE O (CANTON ST), AVENUE P (CANTON ST), AVENUE Q (CANTON ST), AVENUE R (CANTON ST), AVENUE S (CANTON ST). Other labels include: BAY AVENUE, 11TH ST, 12TH ST, 13TH ST, 14TH ST, 15TH ST, 16TH ST, 17TH ST, 18TH ST, 19TH ST, 20TH ST, 21ST ST, 22ND ST, 23RD ST, 24TH ST, 25TH ST, 26TH ST, 27TH ST, 28TH ST, 29TH ST, 30TH ST, 31ST ST, 32ND ST, 33RD ST, 34TH ST, 35TH ST, 36TH ST, 37TH ST, 38TH ST, 39TH ST, 40TH ST, 41ST ST, 42ND ST, 43RD ST, 44TH ST, 45TH ST, 46TH ST, 47TH ST, 48TH ST, 49TH ST, 50TH ST. A scale bar is located at the bottom of the map.



Legend

- Parcels
- Roads
- City Labels
- Flood Map**
- X: Outside 500 Year Flood
- A: 100 Year Special Flood Area
- AE: SFHA with base flood elevation BFI
- VE: Coastal SFHA with BFE & velocity wave action
- Openwater

Parcel ID	01-09S-08W-8330-0011-0040	Alternate ID	08W09S01833000110040	Owner Address	SHULER LIMITED PARTNERSHIP
Sec/Twp/Rng	1-9S-8W	Class	OFFICE BUI		P O BOX 850
Property Address	34 4TH STREET	Acreage	n/a		APALACHICOLA, FL 32320
	DODD TITLE				
District	3				
Brief Tax Description	BL 11 LOTS 4-5				
	(Note: Not to be used on legal documents)				

Date created: 2/21/2019
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