



**CITY OF ST. AUGUSTINE CITY COMMISSION
REGULAR MEETING AGENDA
MONDAY, OCTOBER 9, 2023 - 5:00 PM
ALCAZAR ROOM**

1. CALL TO ORDER

- ◆ Roll Call
- ◆ Invocation and Pledge of Allegiance

2. ADMINISTRATIVE ITEMS

- ◆ Modification and Approval of REGULAR AGENDA

3. SPECIAL PRESENTATIONS, RECOGNITIONS AND PROCLAMATIONS

- **Proclamation 2023-31**: Proclaims October 8-16 as Naval Wives Club of America National Convention Week in the City of St. Augustine. *(N. Sikes-Kline, Mayor)*
- **Proclamation 2023-38**: Proclaims October 16-22 as Florida Government Week in the City of St. Augustine. *(N. Sikes-Kline, Mayor)*

4. PUBLIC COMMENTS FOR GENERAL PUBLIC COMMENTS OR FOR AGENDA ITEMS NOT REQUIRING A SEPARATE PUBLIC HEARING

- ◆ 3 minutes per individual

5. CONSENT AGENDA

6. APPEALS

7. GENERAL PUBLIC PRESENTATIONS, ITEMS OF GREAT PUBLIC IMPORTANCE, AND OTHER ITEMS REQUIRING PUBLIC HEARINGS

(PRESENTATIONS (MAXIMUM OF 10 MINUTES PER PRESENTATION)). PRESENTATIONS FOR COMMISSION MEETINGS MUST BE PRESENTED TO THE CITY MANAGER FOR APPROVAL NO LATER THAN TEN (10) WORKING DAYS PRIOR TO THE NEXT CITY COMMISSION MEETING. A PRESENTATION

SUPPORT SERVICES REQUEST (AVAILABLE ON THE CITY'S WEBSITE) MUST ACCOMPANY ALL PRESENTATIONS.

- 7.A. General Public Presentations
- 7.B. Items of Great Public Importance
- 7.C. Other Items Requiring Public Hearing

8. ORDINANCES AND RESOLUTIONS - PUBLIC HEARING REQUIRED

- 8.A. Ordinances - Second Reading
- 8.B. Ordinances - First Reading (only if required by law)
- 8.C. Resolutions - Public Hearing (only if required by law)
 - 8.C.1. **Resolution 2023-35**: Designates properties (Parcel ID Nos. 111225-0120, 111225-0000, 111220-0000, 111130-0000, 111110-0000, 111220-0000 known as the Broudy properties) as Brownfield areas. *(I. Lopez, City Attorney)*
 - 8.C.2. **Resolution 2023-37**: Confirms the suitability of municipal property for affordable housing. *(I. Lopez, City Attorney)*

9. ORDINANCES AND RESOLUTIONS – NO PUBLIC HEARING REQUIRED

- 9.A. Ordinances - First Reading
 - 9.A.1. **Ordinance 2023-31**: Charter amendment to remove the police pension section and codify it in the municipal code. *(I. Lopez, City Attorney)*
- 9.B. Resolutions
 - 9.B.1. **Resolution 2023-34**: Authorizes the application for a grant to repair/restore the Alcazar Hotel, the Pena-Peck House and the St. Augustine Visitor's Information Center and authorizes the City Manager to complete and execute necessary documents. *(B. Moore, General Services Group Manager)*
 - 9.B.2. **Resolution 2023-36**: Supports the federal grant by St. Johns County to construct the St. Johns Safe Rail project. *(R. Franklin, Assistant City Manager)*

10. STAFF REPORTS AND PRESENTATIONS

- 10.A. Discussion regarding the Memorandum of Understanding between the City and West Augustine Gateway, LLC regarding a public parking garage at 198-212 West King Street. *(R. Franklin, Assistant City Manager)*
- 10.B. Discussion regarding the status of the City's Fire Station No. 2 site location and the request to the State to use a parcel part of Anastasia State Park. *(R. Franklin, Assistant City Manager)*

11. ITEMS BY CITY ATTORNEY

12. ITEMS BY CITY CLERK

12.A. Notification of a vacancy on the Civil Service Board due to a resignation. (*D. Galambos, City Clerk*)

13. ITEMS BY CITY MANAGER

14. ITEMS BY MAYOR AND COMMISSIONERS

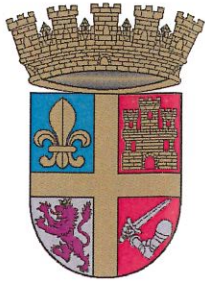
15. ADJOURN

NOTICES: In accordance with Florida Statute 286.0105: "if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." ***In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone 904-825-1007; 1-800-955-8771 (TDB) or 1-800-955-8770 (V) via Florida Relay Services. ***The City of St. Augustine encourages anyone wishing to present the invocation at city commission meetings to contact the City Clerk's office, to be placed on the rotation list, and encourages people of all religious affiliations or of no religious affiliation to present a non-denominational invocation to inspire us in the work of the City Commission. The materials prepared and presented are part of the City's ongoing Florida Public Records and Government in the Sunshine compliance and are not intended to be relied upon or to reach investors or the trading markets.

CONSENT AGENDA - OCTOBER 9, 2023

- CA.1.** Preview of upcoming Commission meetings.
- CA.2. THE FOLLOWING ORDINANCES ARE TENTATIVELY SCHEDULED FOR SECOND READING ON OCTOBER 23, 2023:**
- Ordinance 2023-31 - Charter amendment police pension section
- CA.3. Reminder of Upcoming Meetings:**
- October 23, 2023 - Community Redevelopment Agency Meeting (prior to City Commission Meeting)
 - October 23, 2023 - 5:00pm - Regular City Commission Meeting
 - November 13, 2023, 3:30pm, Special City Commission Meeting (conservation land acquisition discussion)
 - November 13, 2023 - 5:00pm - Regular City Commission Meeting
 - December 11, 2023 - 5:00pm - Regular City Commission Meeting
- CA.4. APPROVAL OF MINUTES FROM PRIOR COMMISSION MEETINGS:**
- August 24, 2023, Special City Commission Meeting
 - August 28, 2023, Regular City Commission Meeting
- CA.5. RELEASES OF LIEN FOR UNIT CONNECTION FEE MORTGAGE(S):**
- 2848 North Eighth Street - Jasmine and Timothy M. Davis
- CA.6. PROPOSED PROCLAMATIONS, CERTIFICATES OF APPRECIATION/RECOGNITION. (COMMISSION APPROVAL REQUIRED). (TO BE READ AT A SUBSEQUENT MEETING). NONE.**
- CA.7. NOTIFICATION OF PROCLAMATIONS/CERTIFICATES OF RECOGNITION ISSUED: NONE.**
- CA.8.** Approval of the Cost Share Agreement between the Habitat for Humanity of St. Augustine/St. Johns County, Inc. and the City for the Habitat for Humanity Volusia Woods Project with the City's proportionate share of \$313,000 being paid out of utility operating funds. (*S. Slaughter, Director Utilities*)
- CA.9.** Approval for City Manager to execute the Municipal Subrecipient Subaward Funding Agreement between St. Johns County and the City to fund improvements of basketball/sports courts at Eddie Vickers Park. (*J. Perkins, Neighborhood Services and CRA Manager*)

- CA.10.** Approval for Flagler College to use the City crest on promotional and program materials for an artist welcome reception in celebration of Hispanic Heritage Month. *(M. Wissel, Director Communications)*
End Consent Agenda



Est. 1565

City of St. Augustine

La Lealísima y Valerosa Ciudad de San Agustín de la Florida

PROCLAMATION

WHEREAS, many City of St. Augustine families are associated with the United States Navy, Marine Corps, and Coast Guard; and

WHEREAS, the Navy Wives Clubs of America was chartered in the state of California on the 3rd day of June 1936 and is a vehicle through which the spouses of those in these sea services provide many worthwhile and valuable community services; and

WHEREAS, those services rendered the St. Augustine area by the Navy Wives Clubs of America include such activities as volunteer work and welfare projects for hospitals, the American Red Cross, Navy Relief; and

WHEREAS, the Navy Wives Clubs of America are commended for those endeavors enumerated herein; and

WHEREAS, the Navy Wives Clubs of America will meet in National Convention for those chapters of the national organization and said convention will be held in St. Augustine, Florida.

*NOW, THEREFORE, the City Commission of the City of St. Augustine does hereby proclaim the week of OCTOBER 8-16, 2023, as **NAVAL WIVES CLUB of AMERICA NATIONAL CONVENTION WEEK** and urges all citizens and service organizations demonstrate the support and respect for these people dedicated to service to the citizens of our community, both civilian and military.*

IN WITNESS WHEREOF, I hereunto set my hand and do cause the Seal of the City of St. Augustine to be affixed this 9th day of October in the year of our Lord two thousand twenty-three and the four hundred and fifty-eighth year of the founding of St. Augustine, the Nation's Oldest City.

2023-31

Nancy Sikes-Kline, Mayor

"Most Loyal and Valorous"

Title conferred upon the Presidio of St. Augustine by King Philip V of Spain, November 26, 1715



Est. 1565

City of St. Augustine

La Lealísima y Valerosa Ciudad de San Agustín de la Florida

PROCLAMATION

WHEREAS, during the week of October 16-22, 2023, the City of St. Augustine will join other cities across Florida in celebrating Florida City Government Week. This week has been set aside to recognize the many services city governments provide and their contribution to a better quality of life in Florida; and

WHEREAS, the theme, "My City: I'm Part of It, I'm Proud of It!" pays tribute to the role citizens play in making our cities great. City government is truly the government of, by and for the people - the people who are making the decisions about our community are your neighbors, business owners and community leaders. City government is administered by and for its citizens and is dependent upon public commitment to carry out its responsibilities; and

WHEREAS, students across the state learn information about state and national government, while information on city government is barely highlighted, and every citizen deserves the right to know about the local impact of government decision-making. This is a unique opportunity to teach students and adults about the form of government that affects them daily.

NOW THEREFORE, the City Commission of the City of St. Augustine does hereby declare October 16-22, 2023, as Florida City Government Week, and during this week, the City Commission urges all citizens to recognize the important role city government plays in our lives from public safety to trash collection to promoting our community's culture and recreation.

IN WITNESS WHEREOF, I hereunto set my hand and do cause the Seal of the City of St. Augustine to be affixed this 9th day of October in the year of our Lord two thousand twenty-three and the four hundred and fifty eighth year of the founding of St. Augustine, the Nation's Oldest City.

2023-38

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CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

DATE: September 25, 2023

RE: **RESOLUTION 2023-35: BROWNFIELD DESIGNATION OF WEST AUGUSTINE GATEWAY**

Enclosed please find Resolution 2023-35, designating the properties identified as Parcel ID Nos. 111225-0120, 111225-0000, 111220-0000, 111190-0000, 111130-0000, and 111110-0000 as a Brownfield area, along with the Public Works staff report and a map which includes the designated parcels and other supporting documentation from the applicant.

The Brownfield designation is a statutory process. Brownfields can either be proposed by the local government or individuals, corporations, or other non-governmental legal entities. Often, as in this case, a developer will purchase a contaminated property with the intent to redevelop it, contingent on a Brownfield designation to pay for some of the cleanup costs.

While the statute requires the local government to designate the Brownfield area and to subsequently notify the Florida Department of Environmental Protection (DEP), the program is administered by the state and no funding is required by the local government.

The Commission should evaluate the application based on the following criteria, provided by statute:

- A person who owns or controls the site is requesting the designation and agrees to rehabilitate and redevelop the area;
- The rehabilitation and redevelopment of the site will result in economic productivity of the area, along with at least 5 new permanent jobs created;
- The redevelopment is consistent with the comprehensive plan;
- Notice was provided to neighbors and nearby residents; and
- The developer has provided reasonable assurances the he or she has sufficient financial resources to complete the rehabilitation and redevelopment.

Following adoption by the local government, the applicant then works with DEP to complete the project.

The statute requires two public hearings. This is the first hearing and public input is required. Included in this application are: the resolution; legal description of the property (exhibit 1); staff report with associated map (exhibit 2); certification of property ownership pursuant to the Florida Brownfields Redevelopment Act, agent authorization, application for brownfield area designation, proof of notice documents, financial assurances letter, site summary and future plans memo from the applicants agent, and the relevant Florida Statutes.

Please place Resolution 2023-35 on the regular City Commission agenda for first public hearing on October 9, 2023, under item 8.C.

Attachments

xc: Meredith Breidenstein, Assistant City Manager
Reuben Franklin, Assistant City Manager
Todd Grant, Director of Public Works
Darlene Galambos, City Clerk

Thank you,



Isabelle C. Lopez
City Attorney

RESOLUTION 2023-35

A RESOLUTION DESIGNATING PARCEL NOS. 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 1111100000 and A CERTAIN PORTION OF DEPOT STREET PER ORDINANCE NO.2023-23 BK:5809 PG:1804, LOCATED SOUTH OF THE FLORIDA EAST COAST RAILWAY AND NORTHWEST OF THE WEST KING STREET AND PONCE DE LEON BOULEVARD INTERSECTION, AT 194 WEST KING STREET, ST. AUGUSTINE, FLORIDA 32084, AS A BROWNFIELD REHABILITATION AREA AND FOR ENVIRONMENTAL REHABILITATION AND ECONOMIC DEVELOPMENT: PROVIDING AN EFFECTIVE DATE.

WHEREAS, Broudy Bros Ltd, and West Augustine Gateway, LLC, (the "Owner") which collectively own parcel numbers 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 and 1111100000, located south of the Florida East Coast Railway and northwest of the West King Street and Ponce de Leon Boulevard intersection, at 194 West King Street in St. Augustine, Florida 32084 (the "Property"), a description of all parcels is attached hereto as **Exhibit 1**; and

WHEREAS, Owner is planning to redevelop the Property with a mixed use commercial and residential development which would include commercial and residential uses. The redevelopment plan is consistent with the comprehensive plan and permissible uses under the local land development regulations. It is also anticipated that five new full-time jobs are anticipated in the future stemming the redevelopment of the Property; and

WHEREAS, Owner has requested that the City of St. Augustine designate the Property a Brownfield Area as authorized by Section 376.80, Florida Statutes; and

WHEREAS, the Public Works Department has issued a staff report, attached hereto as Exhibit 2, including a map of the designated property, and incorporated herein by reference, recommending that the Brownfield designation requested by Developer be approved; and

WHEREAS, Florida Statutes require that an area outside of a community redevelopment area, Enterprise Zone, Empowerment Zone, closed military base, or designated Brownfield pilot project be designated as a Brownfield Area by local government resolution; and

WHEREAS, valuable economic incentives accrue to those who redevelop designated Brownfield sites.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA, THAT

Section 1. The City of St. Augustine adopts the findings of fact and conclusions of law as described in the recitals herein.

Section 2. For the purposes of the Florida Brownfields Redevelopment Act, Sections 376.77 - 376.85, Florida Statutes, (hereinafter, the "Act"), the Property is hereby designated a Brownfield Area. This designation shall not, however, render the City of St. Augustine liable: for the cost of site rehabilitation or source removal, as those terms are defined in Sections 376.79(19) and (20), Florida Statutes; for other costs in excess of those attributable to the City as administrator of a Brownfields Program; or, as a property owner, if the City hereafter acquires any realty within the designated Brownfield Area. A copy of the staff report with staff findings and a map adequate to clearly delineate exactly which parcel is to be included in the brownfield area is attached hereto **Exhibit 2**.

Section 3. Following enactment of this resolution approving the Brownfield Area designation, Owner will negotiate a Brownfield Site Rehabilitation Agreement ("BSRA") with the Florida Department of Environmental Protection ("FDEP"). Owner is pursuing the Brownfield Area designation and BSRA in order to benefit from the State of Florida's Voluntary Clean Up Tax Credit Program (VCTC). The VCTC will allow Owner to receive the 50% State corporate income tax credit for assessment and cleanup costs up to an annual amount of \$500,000.00. Owner also wishes to apply for cleanup liability protection from the State. Preliminary environmental site assessments have revealed soil and groundwater contamination above FDEP standards on some of the parcels. Owner wishes to clean and redevelop the site for commercial use.

Section 4. In accordance with Section 376.80, F.S., a copy of this resolution designating the property as a Brownfield Area shall be sent to FDEP within 30 days of the adoption of this resolution.

Section 5. This resolution shall become effective immediately upon adoption by the City Commission.

ADOPTED in Regular Session of the City Commission for the City of St. Augustine,
Florida this ____ day of _____, 2023.

ATTEST:

CITY OF ST. AUGUSTINE, FLORIDA

Darlene Galambos, City Clerk
(Corporate Seal)

Nancy Sikes-Kline, Mayor-Commissioner

EXHIBIT 1

LEGAL DESCRIPTION

IN THE CITY OF ST. AUGUSTINE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF KING STREET AND THE EAST LINE OF A STREET RUNNING NORTH AND SOUTH, KNOWN AS DEPOT STREET, ACCORDING TO MAP RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN MAP BOOK 3, PAGE 5, OF THE ELEANOR M. CROSBY TRACT OF THE "FERRY TRACT", SAID BEGINNING POINT BEING THE SOUTHWEST CORNER OF THE LOT HEREIN DESCRIBED; RUNNING THENCE NORTHERLY ALONG THE EAST LINE OF DEPOT STREET 100 FEET; THENCE EASTERLY AND PARALLEL TO THE NORTH LINE OF KING STREET 125 FEET; THENCE SOUTHERLY AND PARALLEL TO THE EAST LINE OF DEPOT STREET 100 FEET TO THE NORTH LINE OF KING STREET; THENCE WESTERLY ALONG THE NORTH LINE OF KING STREET 125 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF THE PROPERTY CONVEYED BY H. J. USINA TO ALBERT HIRTH, AS PER DEED RECORDED IN DEED BOOK 48, PAGE 30, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA; EXCEPTING THEREFROM THAT PART OF THE ABOVE DESCRIBED PROPERTY ACQUIRED BY THE STATE ROAD DEPARTMENT OF FLORIDA AND RECORDED IN DEED BOOK 253, PAGE 696, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

LEGAL DESCRIPTION: PROPOSED DEPOT STREET RIGHT OF WAY VACATION

A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE, BEING A PORTION OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, END BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA WITH THE SOUTHERLY LINE OF PARCEL "A" OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY FLORIDA; THENCE NORTH 85°21'08" EAST, ALONG SAID SOUTHERLY LINE OF PARCEL "A", A DISTANCE OF 30.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID DEPOT STREET; THENCE SOUTH 9°38'28" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE OF DEPOT STREET, A DISTANCE OF 194.61 FEET; THENCE SOUTH 84°45'51" WEST, A DISTANCE OF 30.09 FEET TO SAID WESTERLY RIGHT OF WAY OF DEPOT STREET; THENCE NORTH 9°38'28" WEST, ALONG WESTERLY RIGHT OF WAY OF DEPOT STREET, A DISTANCE OF 194.92 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ANY PORTION OF DEPOT STREET LYING WITHIN PARCEL A OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF SAID PUBLIC RECORDS.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 1344, PAGE 309

PARTIAL A: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE, BEING A NORTH PART OF BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, END BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET) WITH THE PRESENTLY EXISTING NORTH LINE OF KING STREET; THENCE NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST ON SAID EAST LINE OF HARTSHORN STREET, 204.96 FEET TO THE POINT OF BEGINNING ON THE SOUTH LINE OF THE NOW EXISTING RIGHT OF WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY AT THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUING NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST 181.08 FEET; THENCE NORTH 85 DEGREES 19 MINUTES 13 SECONDS EAST, PARALLEL WITH AND 50 FEET SOUTHERLY AS MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF THE SINGLE TRACT MAINLINE OF SAID RAILWAY COMPANY, 863.69 FEET; THENCE SOUTHWESTERLY, ON THE NORTHWESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY NO. 1, ON A CURVE CONCAVE SOUTHERLY WITH RADIUS OF 888.51 FEET (ARC DEFINITION), THROUGH A CENTRAL ANGLE OF 16 DEGREES 44 MINUTES 16 SECONDS, AN ARC DISTANCE OF 239.58 FEET (CHORD BEARING AND DISTANCE BEING SOUTH 41 DEGREES 18 MINUTES 59 SECONDS WEST 238.64 FEET); THENCE SOUTH 85 DEGREES 12 MINUTES 22 SECONDS WEST, ON SAID SOUTH LINE OF RAILWAY RIGHT OF WAY, 462.08 FEET TO THE POINT OF BEGINNING.

PARTIAL B: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET) WITH THE PRESENTLY EXISTING NORTH LINE OF KING STREET; THENCE NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST, ON SAID EAST LINE OF HARTSHORN STREET, 204.96 FEET; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON SAID SOUTH LINE OF RAILWAY RIGHT OF WAY, 233.87 FEET; THENCE SOUTH 9 DEGREES 52 MINUTES 04 SECONDS EAST, ON THE WEST LINE OF DEPOT STREET, 192.04 FEET TO THE NORTH LINE OF THE RIGHT OF WAY FOR U. S. HIGHWAY NO. 1 RAMP ON TURNOUT TO KING STREET; THENCE WESTERLY, ON SAID NORTH RIGHT OF WAY LINE AND ON A CURVE CONCAVE NORTHERLY WITH RADIUS OF 888.31 FEET THROUGH A CENTRAL ANGLE OF 2 DEGREES 46 MINUTES 33 SECONDS, AN ARC DISTANCE OF 43.52 FEET (CHORD BEING SOUTH 83 DEGREES 27 MINUTES 00 SECONDS WEST 43.52 FEET); THENCE SOUTH 5 DEGREES 09 MINUTES 44 SECONDS EAST, ACROSS THE WEST END OF SAID RIGHT OF WAY FOR U. S. HIGHWAY NO. 1 RAMP ON TURNOUT, 195 FEET; THENCE SOUTH 84 DEGREES 50 MINUTES 16 SECONDS WEST, ON THE NORTH LINE OF KING STREET, 169.38 FEET; THENCE NORTH 10 DEGREES 21 SECONDS WEST, ON THE WEST LINE OF THOSE LANDS DESCRIBED IN DEED RECORDED IN DEED BOOK 189, PAGE 200, AND IN OFFICIAL RECORDS BOOK 105, PAGE 394, PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 204.65 FEET TO THE POINT OF BEGINNING.

PARTIAL C: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF DEPOT STREET WITH THE SOUTH RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON SAID SOUTH RIGHT OF WAY LINE, 220.10 FEET TO THE WEST LINE OF A 10 FOOT WORTH ALLEY; THENCE SOUTH 9 DEGREES 52 MINUTES 04 SECONDS EAST, ON SAID WEST LINE OF ALLEY, 91.20 FEET; THENCE SOUTH 31 DEGREES 61 MINUTES 15 SECONDS WEST, ON THE WESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY NO. 1, A DISTANCE OF 41.44 FEET TO THE POINT OF CURVE TO THE RIGHT WITH RADIUS OF 143.00 FEET; THENCE ON SAID CURVE TO THE RIGHT AND ON SAID HIGHWAY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 32 DEGREES 03 MINUTES 56 SECONDS, AN ARC DISTANCE OF 28.03 FEET; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON THE EAST LINE OF THAT LAND DESCRIBED IN DEED BOOK 197, PAGE 165, PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 71.55 FEET; THENCE SOUTH 85 DEGREES 12 MINUTES 22 SECONDS WEST, ON THE NORTH LINE OF SAID LAND DESCRIBED IN DEED BOOK 197, PAGE 165, A DISTANCE OF 125.00 FEET; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON THE EAST LINE OF DEPOT STREET, 101.84 FEET TO THE POINT OF BEGINNING.

PARTIAL D: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING PART OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED IN DEED BOOK 167, PAGE 6, PUBLIC RECORDS OF SAID COUNTY AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF KING STREET (BEING 40 FEET IN WIDTH) WITH THE EAST LINE OF DEPOT STREET; THENCE NORTH 84 DEGREES 50 MINUTES 16 SECONDS EAST, ON SAID NORTH LINE OF KING STREET, 230.00 FEET TO A POINT ON THE EAST LINE OF A 10 FOOT WORTH ALLEY WITHIN THE RIGHT OF WAY FOR NOW EXISTING U. S. HIGHWAY NO. 1; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST ON SAID EAST LINE OF ALLEY, 123.00 FEET TO THE POINT OF BEGINNING ON THE WESTERLY RIGHT OF WAY LINE OF SAID HIGHWAY; THENCE CONTINUING NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON SAID EAST LINE OF ALLEY, 75.95 FEET; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON THE NOW EXISTING SOUTH RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY, 63.00 FEET TO SAID WESTERLY RIGHT OF WAY LINE OF HIGHWAY; THENCE SOUTH 31 DEGREES 51 MINUTES 15 SECONDS WEST, ON SAID RIGHT OF WAY LINE OF HIGHWAY, 94.29 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 1360, PAGE 1028

LOCATED IN ST. AUGUSTINE, FLORIDA, IN LOT A-6, BLOCK "A" DANCY TRACT, AND BEGINNING AT A POINT WHICH POINT IS THE INTERSECTION OF THE SOUTHERN LINE OF THE PROPERTY OF THE FLORIDA EAST COAST RAILWAY COMPANY WITH THE EASTERLY LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET); THENCE RUNNING IN A SOUTHERLY DIRECTION 50 FEET ALONG SAID HARTSHORN STREET (FORMERLY CEDAR STREET) TO A POINT; THENCE RUNNING IN AN EASTERLY DIRECTION IN A LINE PARALLEL TO KING STREET 100 FEET TO A POINT; THENCE RUNNING IN A NORTHERLY DIRECTION IN A LINE PARALLEL TO SAID HARTSHORN STREET (FORMERLY CEDAR STREET) 50 FEET MORE OR LESS TO THE PLACE OF INTERSECTION OF SAID PROPERTY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE RUNNING IN A WESTERLY DIRECTION ALONG SAID FLORIDA EAST COAST RAILWAY COMPANY'S SOUTH PROPERTY LINE 100 FEET OR MORE OR LESS TO THE POINT OF BEGINNING. SAID LOT HEREBY CONVEYED BEING A PART OF LOT A-6, BLOCK "A", DANCY TRACT, AND BEING BOUNDED ON THE EAST BY LAND OF THE ESTATE OF S.G. MORLEY; AND ON THE NORTH BY PROPERTY OF FLORIDA EAST COAST RAILWAY COMPANY; ON THE WEST BY HARTSHORN STREET (FORMERLY CEDAR STREET) AND ON THE SOUTH BY LAND OF THE ESTATE OF S.G. MORLEY.

THE WESTERLY 127' OF LOT A-6, BLOCK A, DANCY TRACT, EXCEPTING THEREFROM THE NORTHERLY 50' OF THE WESTERLY 100' THEREOF.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 1362, PAGE 557

THAT CERTAIN UNWAMED ALLEY OF A WIDTH OF TEN (10) FEET LOCATED WITHIN THE ELEANOR M. CROSBY TRACT, A PART OF THE FERRY TRACT, BEING A PART OF BLOCK A OF THE DANCY TRACT, AS PER THE PLATS OF SUCH ELEANOR M. CROSBY TRACT AND DANCY TRACT RECORDED IN MAP BOOK 3, PAGE 5 AND MAP BOOK 1, PAGE 1, RESPECTIVELY, BOTH OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, EXTENDING NORTHWEST FOR NINETY-ONE FEET (91'), MORE OR LESS, FROM THE NORTHWEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5 (U.S. HIGHWAY NO. 1) AND LOCATED BETWEEN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCELS 11110-0000 AND 111130-0000, BOTH OWNED BY BROOKLYN BROS., LTD. SUCH UNWAMED ALLEY IS A PART OF THOSE LANDS SHOWN IN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCEL NUMBER 111010-0000.

EXHIBIT 2
STAFF REPORT

September 13, 2023

To the City of Saint Augustine and others this may concern:

BROUNDY BROS., LTD., a Florida Limited partnership and West Augustine Gateway, LLC., a Florida Limited partnership appreciates the opportunity to submit this proposal for the Brownfields Designation of the West Augustine Gateway site. The site consists of seven contiguous parcels of land (Parcel IDs: 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 and 1111100000) totaling 5.51-acres, located at the northwest corner of West King Street and Ponce de Leon Boulevard (US-1) and is addressed as 194 West King Street in St. Augustine, St. Johns County, Florida. Brownfield designation of the site will greatly benefit the community as it will facilitate in the proposed future development of this area which will create new jobs, residential living and places for business for the local community.

Provided in this submission are the supporting documents which fulfill the statutory requirements per 376.80(2)(c). Below is a summary of the fulfillment and associated attachments for each statutory element.

Attachments - (1.) *A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.*

- A compilation of all the parcel deeds that are included in the proposed resolution
- Owning entity details
- Recorded Agreement for rehabilitation

(2.) *The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.*

- Reflected in the resolution narrative; Five new full-time jobs are anticipated in the future stemming from economic development at the site.

Attachments - (3.) *The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.*

- Reflected in the resolution narrative and within the Recorded Agreement in Attachment (1.); The redevelopment plan is consistent with the comprehensive plan and permissible uses under the local land development regulations.
- Copy of the Conceptual Site Plan

- Environmental Background Activities and correspondence of this submission to the Utilities Department

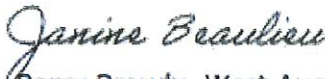
Attachments - (4.) *Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.*

- Copy of the Notice (Flyer) for a Community Meeting
- Affidavit, distribution list and photo documentation of the community meeting
- Proof of newspaper ad for upcoming public hearing

Attachment - (5.) *The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.*

- Financial Viability Letter from the owner and developer

Sincerely,

 Signing on behalf of Barry Broudy
Barry Broudy, West Augustine Gateway, LLC
904-347-5929
barry@broudys.com



J. Jason Perry, Nine Oaks Development, Inc. 404-788-1945
jperry@nineoaksdev.com

and



Angellica Rodriguez-Baz
904-479-7407
akrodriguezbaz@terracon.com

376.80(2)(c)
Supporting
Statutory
Documents

Attachments - (1.)

ATTACHMENT

1

EXHIBIT "A"

Legal Description of Property

PARCEL A: A parcel of land in the City of St. Augustine, being a North part of Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West on said East line of Hartshorn Street, 204.96 feet to the Point of Beginning on the South line of the now existing right of way of the Florida East Coast Railway Company at the Southwest corner of the herein described parcel of land; thence continuing North 6 degrees 26 minutes 31 seconds West 181.08 feet; thence North 85 degrees 19 minutes 13 seconds East, parallel with and 50 feet Southerly as measured at right angles from the centerline of the single tract mainline of said railway company, 853.69 feet; thence Southwesterly, on the Northwesterly right of way line of U. S. Highway No. 1, on a curve concave Southerly with radius of 888.51 feet (arc definition), through a central angle of 16 degrees 44 minutes 16 seconds, an arc distance of 259.56 feet (chord bearing and distance being South 41 degrees 18 minutes 59 seconds West 258.64 feet); thence South 85 degrees 12 minutes 22 seconds West, on said South line of railway right of way, 662.08 feet to the Point of Beginning.

PARCEL B: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West, on said East line of Hartshorn Street, 204.96 feet; thence North 85 degrees 12 minutes 22 seconds East, on the South line of the now existing right of way of the Florida East Coast Railway Company, 112.80 feet to the Point of Beginning at the Northwest corner of the herein described parcel of land; thence continuing North 85 degrees 12 minutes 22 seconds East, on said South line of railway right of way, 233.87 feet; thence South 9 degrees 52 minutes 04 seconds East, on the West line of Depot Street, 199.04 feet to the North line of the right of way for U. S. Highway No. 1 ramp or turnout to King Street; thence Westerly, on said North right of way line and on a curve concave Northerly with radius of 898.31 feet through a central angle of 2 degrees 46 minutes 33 seconds, an arc distance of 43.52 feet (chord being South 83 degrees 27 minutes 00 seconds West 43.52 feet); thence South 5 degrees 09 minutes 44 seconds East, across the West end of said right of way for U. S. Highway No. 1 ramp or turnout, 1.95 feet; thence South 84 degrees 50 minutes 16 seconds West, on the North line of King Street, 189.38 feet; thence North 10 degrees 01 minute 21 seconds West, on the West line of those lands described in deed recorded in Deed Book 199, page 200, and in Official Records Book 105, page 394, public records of said County, a distance of 204.65 feet to the Point of Beginning.

PARCEL C: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Beginning at the intersection of the East line of Depot Street with the South right of way line of the Florida East Coast Railway Company; thence North 85 degrees 12 minutes 22 seconds east, on said South right of way line, 220.10 feet to the West line of a 10 foot width alley; thence South 9 degrees 52 minutes 04 seconds East, on said West line of alley, 91.28 feet; thence South 31 degrees 51 minutes 15 seconds West, on the Westerly right of way line of U. S. Highway No. 1, a distance of 41.44 feet to the point of curve to the right with radius of 143.00 feet; thence on said curve to the right and on said highway right of way line, through a central angle of 32 degrees 03 minutes 56 seconds, an arc distance of 80.03 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of that land described in Deed recorded in Deed Book 197, page 165, public records of said County, a distance of 71.55 feet; thence South 85 degrees 12 minutes 22 seconds West, on the North line of said land described in Deed Book 197, page 165, a distance of 125.00 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of Depot Street, 101.84 feet to the Point of Beginning.

PARCEL D: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, being part of that parcel of land described in deed recorded in Deed Book 167, page 6, public records of said County and being more fully described as follows:

Commencing at the intersection of the North line of King Street (being 40 feet in width) with the East line of Depot Street; thence North 84 degrees 50 minutes 16 seconds East, on said North line of King Street, 230.00 feet to a point on the East line of a 10 foot width alley within the right of way for now existing U. S. Highway No. 1; thence North 9 degrees 52 minutes 04 seconds West, on said East line of alley, 123.00 feet to the Point of Beginning on the Westerly right of way line of said highway; thence continuing North 9 degrees 52 minutes 04 seconds West, on said east line of alley, 75.95 feet; thence North 85 degrees 12 minutes 22 seconds East, on the now existing South right of way line of the Florida East Coast Railway Company, 63.00 feet to said Westerly right of way line of highway; thence South 31 degrees 51 minutes 15 seconds West, on said right of way line of highway, 94.29 feet to the Point of Beginning.

PARCEL E: A parcel of land in Section 28, Township 7 South, Range 30 East Situate, lying and being in the County of St. Johns, State of Florida, known and described as:

From the Southwest corner of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, run North 0 degrees 51 minutes 32 seconds West along the West line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, for a distance of 100 feet to a

point of intersection with the North right of way line of a 100 foot right of way county road (called Pope Road); thence run North 88 degrees 59 minutes 40 seconds East along the North right of way line of Pope Road, for a distance of 1,270.56 feet, more or less, to a point of intersection with the Westerly right of way line of State Road No. S-3; thence run North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of State Road No. S-3, for a distance of 354.5 feet to the Point of Beginning of the parcel of land hereinafter described; thence continue North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of said State Road No. S-3, for a distance of 103.3 feet, more or less, to a point of intersection with the Southerly right of way line of State Road No. 312; thence run North 82 degrees 24 minutes 28 seconds West along the said Southerly right of way line of said State Road No. 312, for a distance of 202.62 feet to a point; thence run South 1 degree 39 minutes 38 seconds East for a distance of 130.59 feet to a point; thence run South 46 degrees 19 minutes 59 seconds East for a distance of 18.49 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 162 feet; thence run North 01 degree 39 minutes 38 seconds West a distance of 10 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 25.00 feet to the point of Beginning.

Together with:

In the City of St. Augustine, described as follows:

Beginning at a point on the North line of King Street and the East line of a street running North and South, known as Depot Street, according to map recorded in the Office of the Clerk of the Circuit Court in Map Book 3, page 5, of the Eleanor M. Crosby Tract of the "Ferry Tract", said beginning point being the Southwest corner of the lot herein described; running thence Northerly along the East line of Depot Street 100 feet; thence Easterly and parallel to the North line of King Street 125 feet; thence Southerly and parallel to the East line of Depot Street 100 feet to the North line of King Street; thence Westerly along the North line of King Street 125 feet to the point of beginning, being a portion of the property conveyed by H. J. Usina to Albert Hirth, as per deed recorded in Deed Book 48, page 30, of the public records of St. Johns County, Florida; excepting therefrom that part of the above described property acquired by the State Road Department of Florida and recorded in Deed Book 253, page 696, of the public records of St. Johns County, Florida.

2023 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# 291081

Entity Name: BROUDY BROS INC

Current Principal Place of Business:

35 N. PONCE DE LEON
ST AUGUSTINE, FL 32085

Current Mailing Address:

P.O. BOX 1689
ST AUGUSTINE, FL 32085 US

FEI Number: 59-1114771

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

BROUDY, BARRY B
35 N. PONCE DE LEON
ST AUGUSTINE, FL 32085 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: BARRY BROUDY

01/06/2023

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title SECRETARY
Name BROUDY, JOAN
Address 4001 VAILL POINT TERR
City-State-Zip: SAINT AUGUSTINE FL 32086

Title PRESIDENT
Name BROUDY,BARRY
Address 5128 FOLIAGE WAY
City-State-Zip: SAINT AUGUSTINE FL 32092

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: BARRY BROUDY

PRESIDENT

01/06/2023

Electronic Signature of Signing Officer/Director Detail

Date

2023 FLORIDA LIMITED PARTNERSHIP ANNUAL REPORT

DOCUMENT# A98000001015

Entity Name: BROUDY BROS., LTD.

Current Principal Place of Business:

35 N PONCE DE LEON
ST AUGUSTINE, FL 32084

Current Mailing Address:

PO BOX 1689
ST AUGUSTINE, FL 32085 US

FEI Number: 59-3523108

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

BROUDY, BARRY B
35 NORTH PONCE DE LEON
ST AUGUSTINE, FL 32085-1689 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

General Partner Detail :

Document # P98000016363
Name MARTIN BROUDY, INC.
Address 35 NORTH PONCE DE LEON
City-State-Zip: ST AUGUSTINE FL 32084

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a general partner of the limited partnership or the receiver or trustee empowered to execute this report as required by Chapter 620, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: BARRY BROUDY

PRESIDENT

01/06/2023

Electronic Signature of Signing General Partner Detail

Date

(4)³

ORDINANCE NO. 2010- 36

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF AN UNNAMED ALLEY LOCATED WITHIN THE CROSBY TRACT, PART OF THE FERRY TRACT IN BLOCK A OF THE DANCY TRACT LOCATED WITHIN THE CITY LIMITS OF ST. AUGUSTINE AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides procedures for adoption of ordinances and resolutions by municipalities; and

WHEREAS, Section 13.06 of the Charter Laws of the City of St. Augustine, provides a procedure for vacating streets;

NOW THEREFORE, BE IT ORDAINED by the City Commission for the City of St. Augustine, Florida, as follows:

Section 1. Vacation. That the following described portion of the public street, avenue or road in the City of St. Augustine, Florida, more particularly described as follows:

THAT CERTAIN UNNAMED ALLEY OF A WIDTH OF TEN (10) FEET LOCATED WITHIN THE ELEANOR M. CROSBY TRACT, A PART OF THE FERRY TRACT, BEING A PART OF BLOCK A OF THE DANCY TRACT, AS PER THE PLATS OF SUCH ELEANOR M. CROSBY TRACT AND DANCY TRACT RECORDED IN MAP BOOK 3, PAGE 5 AND MAP BOOK 1, PAGE 1, RESPECTIVELY, BOTH OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, EXTENDING NORTHWEST FOR NINETY-ONE FEET (91'), MORE OR LESS, FROM THE NORTHWEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5 (U.S. HIGHWAY NO. 1) AND LOCATED BETWEEN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCELS 111110-0000 AND

111130-0000, BOTH OWNED BY BROUDY BROS., LTD. SUCH UNNAMED ALLEY IS A PART OF THOSE LANDS SHOWN IN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCEL NUMBER 111010-0000.

be, and the same is hereby, vacated, discontinued and abandoned and is hereby declared no longer to be a public street, avenue or road of the City of St. Augustine, Florida.

Section 2. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severance of Invalid Provisions. If any section, subsection, 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 so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 4. Inclusion in the Code. It is the intention of the City Commission that the provisions of this ordinance shall become and be made part of the Code of the City of St. Augustine and that the sections of this ordinance may be renumbered or relettered and the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

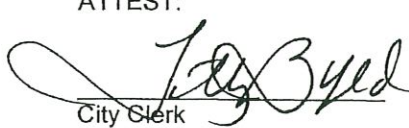
Section 5. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to s. 166.041(4), Florida Statutes.

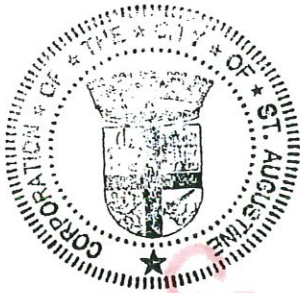
Street Vacation Ordinance Form
Page 2 of 3
Rev. 07/27/09
(CC)

PASSED by the City Commission of the City of St. Augustine, Florida, on
the 25th day of OCTOBER, 2011.


Mayor Commissioner

ATTEST:


City Clerk



Street Vacation Ordinance Form
Page 3 of 3
Rev. 07/27/09
(CC)

Part of Parcel # 111010-0000



St. Johns County Property Appraiser



Legend

- Parcels
- Rights of Way
- Water Bodies
- Condominiums
- Subdivision Boundaries
- Section-Township-Range
- Railroad
- Major Road
- Centerlines
- Minor Road
- Centerlines

Scale: 1:729

Dancy Tract Resub of Block 1

Parcel #111225-0120

Parcel #111130-0000

Parcel #111110-0000

A-3&4

6

A-4

5

A-3&4

8

A-4

The information provided on this map was derived from data that was compiled by the St. Johns County Property Appraiser's Office solely for the governmental purpose of property assessment. This information is not a survey and should not be relied upon by anyone for a determination of property ownership. No warranties, expressed or implied, are provided for the accuracy of the data herein, its use, or its interpretation. www.sjcpa.us

Map center: 29° 53' 29.35" N, 81° 19' 28.91" W

PREPARED BY AND RETURN TO:
FRANK J. YONG
P.O. Box 4550
Jacksonville, Florida 32201

FOR RECORDER
Public Records of
St. Johns County, FL
Clerk# 98038310
O.R. 1344 PG 309
03:44PM 08/26/1998
REC \$21.00 SUR \$3.00
Doc Stamps \$14,490.00

lec - 21.00
sur - 3.00
doc - 14,490.00

COMMONWEALTH

WARRANTY DEED

THIS DEED is made as of the 24th day of August, 1998 between **MARTIN BROUDY**, herein the "Grantor" and **BROUDY BROS., LTD.**, a Florida limited partnership, whose address is Post Office Box 1689, St. Augustine, Florida 32084, and whose taxpayer identification number is 59-3523108, herein the "Grantee". (As used herein, the terms Grantor and Grantee shall include, where the context permits or requires, singular or plural, heirs, personal representatives, successors, or assigns.)

WITNESSETH, That the Grantor in consideration of Ten Dollars (\$10.00) and other valuable considerations to him in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed and by these presents does hereby grant, bargain, sell, and convey unto the Grantee, and Grantee's heirs, successors and assigns forever all of that certain property situate in St. Johns County, Florida, described as follows:

see Exhibit "A"

PARCEL IDENTIFICATION NUMBER:

The foregoing legal description was provided to the preparer without the benefit of a survey or a title search and the preparer accepts no liability or responsibility whatsoever for any inaccuracies or improprieties contained therein or relating thereto.

TO HAVE AND TO HOLD the same, together with the hereditaments and appurtenances, unto the Grantee in fee simple. And the Grantor does hereby fully warrant the title to said property and will defend the same against the lawful claims of all persons whomsoever.

This conveyance is subject to covenants, easements and restrictions of record and to ad valorem taxes levied or which may become a lien subsequent to December 31 of the calendar year next preceding the date hereof.

IN WITNESS WHEREOF, this deed has been executed as of the date first above written.

Signed, sealed and delivered
in the presence of:

Martin D. Broudy
Name Printed: Martin D. Broudy

Martin D. Broudy
Martin D. Broudy

James Spaulding
Name Printed: James Spaulding

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 24th day of August, 1998, by Martin D. Broudy who is personally known to me or who has produced Florida Drivers License as identification.

NOTARY PUBLIC:

Mary Claire Miller



EXHIBIT "A"
[PROPERTY DESCRIPTION]

PARCEL A: A parcel of land in the City of St. Augustine, being a North part of Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West on said East line of Hartshorn Street, 204.96 feet to the Point of Beginning on the South line of the now existing right of way of the Florida East Coast Railway Company at the Southwest corner of the herein described parcel of land; thence continuing North 6 degrees 26 minutes 31 seconds West 181.08 feet; thence North 85 degrees 19 minutes 13 seconds East, parallel with and 50 feet Southerly as measured at right angles from the centerline of the single tract mainline of said railway company, 853.69 feet; thence Southwesterly, on the Northwesterly right of way line of U. S. Highway No. 1, on a curve concave Southerly with radius of 888.51 feet (arc definition), through a central angle of 16 degrees 44 minutes 16 seconds, an arc distance of 259.56 feet (chord bearing and distance being South 41 degrees 18 minutes 59 seconds West 258.64 feet); thence South 85 degrees 12 minutes 22 seconds West, on said South line of railway right of way, 662.08 feet to the Point of Beginning.

PARCEL B: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West, on said East line of Hartshorn Street, 204.96 feet; thence North 85 degrees 12 minutes 22 seconds East, on the South line of the now existing right of way of the Florida East Coast Railway Company, 112.80 feet to the Point of Beginning at the Northwest corner of the herein described parcel of land; thence continuing North 85 degrees 12 minutes 22 seconds East, on said South line of railway right of way, 233.87 feet; thence South 9 degrees 52 minutes 04 seconds East, on the West line of Depot Street, 199.04 feet to the North line of the right of way for U. S. Highway No. 1 ramp or turnout to King Street; thence Westerly, on said North right of way line and on a curve concave Northerly with radius of 898.31 feet through a central angle of 2 degrees 46 minutes 33 seconds, an arc distance of 43.52 feet (chord being South 83 degrees 27 minutes 00 seconds West 43.52 feet); thence South 5 degrees 09 minutes 44 seconds East, across the West end of said right of way for U. S. Highway No. 1 ramp or turnout, 1.95 feet; thence South 84 degrees 50 minutes 16 seconds West, on the North line of King Street, 189.38 feet; thence North 10 degrees 01 minute 21 seconds West, on the West line of those lands described in deed recorded in Deed Book 199, page 200, and in Official Records Book 105, page 394, public records of said County, a distance of 204.65 feet to the Point of Beginning.

PARCEL C: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Beginning at the intersection of the East line of Depot Street with the South right of way line of the Florida East Coast Railway Company; thence North 85 degrees 12 minutes 22 seconds east, on said South right of way line, 220.10 feet to the West line of a 10 foot width alley; thence South 9 degrees 52 minutes 04 seconds East, on said West line of alley, 91.28 feet; thence South 31 degrees 51 minutes 15 seconds West, on the Westerly right of way line of U. S. Highway No. 1, a distance of 41.44 feet to the point of curve to the right with radius of 143.00 feet; thence on said curve to the right and on said highway right of way line, through a central angle of 32 degrees 03 minutes 56 seconds, an arc distance of 80.03 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of that land described in Deed recorded in Deed Book 197, page 165, public records of said County, a distance of 71.55 feet; thence ~~South~~ 85 degrees 12 minutes 22 seconds West, on the North line of said land described in Deed Book 197, page 165, a distance of 125.00 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of Depot Street, 101.84 feet to the Point of Beginning.

PARCEL D: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, being part of that parcel of land described in deed recorded in Deed Book 167, page 6, public records of said County and being more fully described as follows:

Commencing at the intersection of the North line of King Street (being 40 feet in width) with the East line of Depot Street; thence North 84 degrees 50 minutes 16 seconds East, on said North line of King Street, 230.00 feet to a point on the East line of a 10 foot width alley within the right of way for now existing U. S. Highway No. 1; thence North 9 degrees 52 minutes 04 seconds West, on said East line of alley, 123.00 feet to the Point of Beginning on the Westerly right of way line of said highway; thence continuing North 9 degrees 52 minutes 04 seconds West, on said east line of alley, 75.95 feet; thence North 85 degrees 12 minutes 22 seconds East, on the now existing South right of way line of the Florida East Coast Railway Company, 63.00 feet to said Westerly right of way line of highway; thence South 31 degrees 51 minutes 15 seconds West, on said right of way line of highway, 94.29 feet to the Point of Beginning.

PARCEL E: A parcel of land in Section 28, Township 7 South, Range 30 East Situate, lying and being in the County of St. Johns, State of Florida, known and described as:

From the Southwest corner of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, run North 0 degrees 51 minutes 32 seconds West along the West line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, for a distance of 100 feet to a

point of intersection with the North right of way line of a 100 foot right of way county road (called Pope Road); thence run North 88 degrees 59 minutes 40 seconds East along the North right of way line of Pope Road, for a distance of 1,270.56 feet, more or less, to a point of intersection with the Westerly right of way line of State Road No. S-3; thence run North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of State Road No. S-3, for a distance of 354.5 feet to the Point of Beginning of the parcel of land hereinafter described; thence continue North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of said State Road No. S-3, for a distance of 103.3 feet, more or less, to a point of intersection with the Southerly right of way line of State Road No. 312; thence run North 82 degrees 24 minutes 28 seconds West along the said Southerly right of way line of said State Road No. 312, for a distance of 202.62 feet to a point; thence run South 1 degree 39 minutes 38 seconds East for a distance of 130.59 feet to a point; thence run South 46 degrees 19 minutes 59 seconds East for a distance of 18.49 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 162 feet; thence run North 01 degree 39 minutes 38 seconds West a distance of 10 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 25.00 feet to the point of Beginning.

O.R. 1019

Prepared by and return to:
James Patrick McCune, Esq.
McCune Alfant, LLC
38 Grant Street
St. Augustine, FL 32084

File Number: **22-0351**

Tax Parcel: 111190-0000

(Space Above This Line For Recording Data)

Special Warranty Deed

This Special Warranty Deed made this 17th day of January, 2023, between **Cory A. Lang**, an unmarried person, whose post office address is **339 Churchill Drive, St. Augustine, FL 32086**, grantor, and **West Augustine Gateway, LLC**, a Florida limited liability company whose post office address is **35 N. Ponce de Leon, St. Augustine, FL 32084**, grantee:

(Whenever used herein the terms grantor and grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witneseth, that said grantor, for and in consideration of the sum of **ONE MILLION AND 00/100 DOLLARS (U.S. \$1,000,000.00)** and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in the **St Johns County, Florida**, to-wit:

In the City of St. Augustine, described as follows:

Beginning at a point on the North line of King Street and the East line of a street running North and South, known as Depot Street, according to the map record in the Office of the Clerk of the circuit Court in Plat Book 3, Page 5, of the Eleanor M. Crosby Tract of the "Ferry Tract", said beginning point being the Southwest corner of the lot herein described; running thence Northerly along the East line of Depot Street 100 feet; thence Easterly and parallel to the North line of King Street 125 feet; thence Southerly and parallel to the East line of Depot Street 100 feet to the North line of King Street; thence Westerly along the North line of King Street 125 feet to the Point of Beginning, being a portion of the property conveyed by H. J. Usina to Albert Hirth, as per deed recorded in Deed Book 48, Page 30, of the public records of St. Johns County, Florida; excepting therefrom that part of the above described property acquired by the State Road Department of Florida and recorded in Deed Book 253, Page 696, of the Public Records of St. Johns County, Florida.

Together with all the tenements, improvements, hereditaments, easements, and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under grantors, subject to the encumbrances set forth on Exhibit A attached hereto (the "Permitted Exceptions"); provided, however, this reference shall not serve to reimpose the same.

The Property is not the homestead of the grantor.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Cory A. Lang

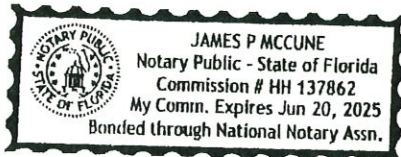

Witness Name: James P. McCune


Witness Name: Amanda Leke

State of Florida

County of St. Johns

The foregoing instrument was acknowledged before me by means of physical appearance, this 17th day of January, 2023, by **Cory A. Lang**, who (☒) is personally known to me or (☐) has produced _____ as identification.




Notary Public

Printed Name: _____

My Commission Expires: _____

Exhibit A

Permitted Exceptions

1. General or special taxes and assessments required to be paid in the year 2023 and subsequent years.
2. Subject to all right of ways, as they are now established.

COPY

PREPARED BY AND RETURN TO:
FRANK J. YONG
P.O. Box 4550
Jacksonville, Florida 32201

FOR RECORDER
Public Records of
St. Johns County, FL
Clerk# 98038310
O.R. 1344 PG 309
03:44PM 08/26/1998
REC \$21.00 SUR \$3.00
Doc Stamps \$14,490.00

lec - 21.00
sur - 3.00
DOC - 14,490.00
In - COMMONWEALTH

WARRANTY DEED

THIS DEED is made as of the 24th day of August, 1998 between **MARTIN BROUDY**, herein the "Grantor" and **BROUDY BROS., LTD.**, a Florida limited partnership, whose address is Post Office Box 1689, St. Augustine, Florida 32084, and whose taxpayer identification number is 59-3523108, herein the "Grantee". (As used herein, the terms Grantor and Grantee shall include, where the context permits or requires, singular or plural, heirs, personal representatives, successors, or assigns.)

WITNESSETH, That the Grantor in consideration of Ten Dollars (\$10.00) and other valuable considerations to him in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed and by these presents does hereby grant, bargain, sell, and convey unto the Grantee, and Grantee's heirs, successors and assigns forever all of that certain property situate in St. Johns County, Florida, described as follows:

see Exhibit "A"

PARCEL IDENTIFICATION NUMBER:

The foregoing legal description was provided to the preparer without the benefit of a survey or a title search and the preparer accepts no liability or responsibility whatsoever for any inaccuracies or improprieties contained therein or relating thereto.

TO HAVE AND TO HOLD the same, together with the hereditaments and appurtenances, unto the Grantee in fee simple. And the Grantor does hereby fully warrant the title to said property and will defend the same against the lawful claims of all persons whomsoever.

This conveyance is subject to covenants, easements and restrictions of record and to ad valorem taxes levied or which may become a lien subsequent to December 31 of the calendar year next preceding the date hereof.

IN WITNESS WHEREOF, this deed has been executed as of the date first above written.

Signed, sealed and delivered
in the presence of:

Martin D. Broudy
Name Printed: Martin D. Broudy

Martin D. Broudy
Martin D. Broudy

James Spaulding
Name Printed: James Spaulding

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 24th day of August, 1998, by Martin D. Broudy who is personally known to me or who has produced Florida driver license as identification.

NOTARY PUBLIC:

Mary Claire Miller

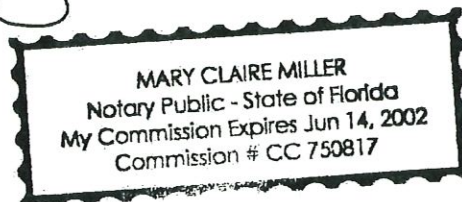


EXHIBIT "A"
[PROPERTY DESCRIPTION]

PARCEL A: A parcel of land in the City of St. Augustine, being a North part of Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West on said East line of Hartshorn Street, 204.96 feet to the Point of Beginning on the South line of the now existing right of way of the Florida East Coast Railway Company at the Southwest corner of the herein described parcel of land; thence continuing North 6 degrees 26 minutes 31 seconds West 181.08 feet; thence North 85 degrees 19 minutes 13 seconds East, parallel with and 50 feet Southerly as measured at right angles from the centerline of the single tract mainline of said railway company, 853.69 feet; thence Southwesterly, on the Northwesterly right of way line of U. S. Highway No. 1, on a curve concave Southerly with radius of 888.51 feet (arc definition), through a central angle of 16 degrees 44 minutes 16 seconds, an arc distance of 259.56 feet (chord bearing and distance being South 41 degrees 18 minutes 59 seconds West 258.64 feet); thence South 85 degrees 12 minutes 22 seconds West, on said South line of railway right of way, 662.08 feet to the Point of Beginning.

PARCEL B: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West, on said East line of Hartshorn Street, 204.96 feet; thence North 85 degrees 12 minutes 22 seconds East, on the South line of the now existing right of way of the Florida East Coast Railway Company, 112.80 feet to the Point of Beginning at the Northwest corner of the herein described parcel of land; thence continuing North 85 degrees 12 minutes 22 seconds East, on said South line of railway right of way, 233.87 feet; thence South 9 degrees 52 minutes 04 seconds East, on the West line of Depot Street, 199.04 feet to the North line of the right of way for U. S. Highway No. 1 ramp or turnout to King Street; thence Westerly, on said North right of way line and on a curve concave Northerly with radius of 898.31 feet through a central angle of 2 degrees 46 minutes 33 seconds, an arc distance of 43.52 feet (chord being South 83 degrees 27 minutes 00 seconds West 43.52 feet); thence South 5 degrees 09 minutes 44 seconds East, across the West end of said right of way for U. S. Highway No. 1 ramp or turnout, 1.95 feet; thence South 84 degrees 50 minutes 16 seconds West, on the North line of King Street, 189.38 feet; thence North 10 degrees 01 minute 21 seconds West, on the West line of those lands described in deed recorded in Deed Book 199, page 200, and in Official Records Book 105, page 394, public records of said County, a distance of 204.65 feet to the Point of Beginning.

PARCEL C: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Beginning at the intersection of the East line of Depot Street with the South right of way line of the Florida East Coast Railway Company; thence North 85 degrees 12 minutes 22 seconds east, on said South right of way line, 220.10 feet to the West line of a 10 foot width alley; thence South 9 degrees 52 minutes 04 seconds East, on said West line of alley, 91.28 feet; thence South 31 degrees 51 minutes 15 seconds West, on the Westerly right of way line of U. S. Highway No. 1, a distance of 41.44 feet to the point of curve to the right with radius of 143.00 feet; thence on said curve to the right and on said highway right of way line, through a central angle of 32 degrees 03 minutes 56 seconds, an arc distance of 80.03 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of that land described in Deed recorded in Deed Book 197, page 165, public records of said County, a distance of 71.55 feet; thence ~~South~~ 85 degrees 12 minutes 22 seconds West, on the North line of said land described in Deed Book 197, page 165, a distance of 125.00 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of Depot Street, 101.84 feet to the Point of Beginning.

PARCEL D: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, being part of that parcel of land described in deed recorded in Deed Book 167, page 6, public records of said County and being more fully described as follows:

Commencing at the intersection of the North line of King Street (being 40 feet in width) with the East line of Depot Street; thence North 84 degrees 50 minutes 16 seconds East, on said North line of King Street, 230.00 feet to a point on the East line of a 10 foot width alley within the right of way for now existing U. S. Highway No. 1; thence North 9 degrees 52 minutes 04 seconds West, on said East line of alley, 123.00 feet to the Point of Beginning on the Westerly right of way line of said highway; thence continuing North 9 degrees 52 minutes 04 seconds West, on said east line of alley, 75.95 feet; thence North 85 degrees 12 minutes 22 seconds East, on the now existing South right of way line of the Florida East Coast Railway Company, 63.00 feet to said Westerly right of way line of highway; thence South 31 degrees 51 minutes 15 seconds West, on said right of way line of highway, 94.29 feet to the Point of Beginning.

PARCEL E: A parcel of land in Section 28, Township 7 South, Range 30 East Situate, lying and being in the County of St. Johns, State of Florida, known and described as:

From the Southwest corner of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, run North 0 degrees 51 minutes 32 seconds West along the West line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, for a distance of 100 feet to a

point of intersection with the North right of way line of a 100 foot right of way county road (called Pope Road); thence run North 88 degrees 59 minutes 40 seconds East along the North right of way line of Pope Road, for a distance of 1,270.56 feet, more or less, to a point of intersection with the Westerly right of way line of State Road No. S-3; thence run North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of State Road No. S-3, for a distance of 354.5 feet to the Point of Beginning of the parcel of land hereinafter described; thence continue North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of said State Road No. S-3, for a distance of 103.3 feet, more or less, to a point of intersection with the Southerly right of way line of State Road No. 312; thence run North 82 degrees 24 minutes 28 seconds West along the said Southerly right of way line of said State Road No. 312, for a distance of 202.62 feet to a point; thence run South 1 degree 39 minutes 38 seconds East for a distance of 130.59 feet to a point; thence run South 46 degrees 19 minutes 59 seconds East for a distance of 18.49 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 162 feet; thence run North 01 degree 39 minutes 38 seconds West a distance of 10 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 25.00 feet to the point of Beginning.

2
③ In: Estate
Rec: 15.00
Doc: 878.50
Ret: Grantee

Public Records of
St. Johns County, FL
Clerk# 98049545
O.R. 1360 PG 1032
02:59PM 11/03/1998
REC \$13.00 SUR \$2.00
Doc Stamps \$878.50

RECEIVER DEED

THIS DEED made and entered into this 2ND of NOVEMBER, 1998, by and between **ARNOLD DELORENZO as RECEIVER, for EDMUND U. O'STEEN, BARBARA O'STEEN AND CLYDE EUGENE O'STEEN**, party of the first part; and **BROUDY BROS., LTD.**, whose post office address is

PO BOX 1689 ST. AUGUSTINE FL 32085
party of the second party;

WHEREAS, the said party of the first part was duly appointed **RECEIVER for EDMUND U. O'STEEN, BARBARA JEAN O'STEEN AND CLYDE EUGENE O'STEEN** under Order Authorizing and Directing receiver to convey real property. Order issued on the 2nd day of October, 1998, Case # CA 95-1244 by the Honorable Weinberg, Circuit Judge, in and for St. Johns County, Florida; and,

WHEREAS, the said party of the first part is authorized to convey such a deed to the party of the second part, and the party of the second part is entitled to such a deed;

NOW THEREFORE, in consideration of the foregoing and in further consideration of the sum of Ten and no/100 (\$10.00) Dollars and other good and valuable consideration, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, the party of the first part has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, their heirs and assigns forever, the following described property situate, lying and being in St. Johns County, Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, charges and profits thereof and also all the estate's right, title and interest, property, possession, claim and demand whatever, both in law and in equity which the said party of the first part had or has by virtue of being Receiver of said property and otherwise of, in and to the above granted premises and every part and parcel thereof with the appurtenances. This deed also conveys all of the fee simple interest of EDMUND U. O'STEEN, BARBARA JEAN O'STEEN, CLYDE EUGENE O'STEEN, their successors or assigns.

TO HAVE AND TO HOLD the above described premises together with the appurtenances and every part thereof unto the said party of the second part, their heirs and assigns in fee simple forever.

And the said party of the first part, as Receiver, for them and their successors and assigns do hereby convey, promise and agree to and with the party of the second part that he is the lawful, and has power to convey as aforesaid and has in all

respects acted in making this conveyance under the powers granted to Receiver under Order Authorizing and Directing Receiver to convey real property and Receiver has not made, done or suffered any act, matter or things whatsoever since appointed as Receiver as aforesaid whereby the above granted premises and any part thereof now or at any time hereafter shall or may be impeached, charged or encumbered in any manner whatsoever.

It is understood that the word "party" and the pronouns referring thereto, whether in sinne and/or neuter, wherever the context so implies or admits.

IN WITNESS WHEREOF, the said party of the first part as Receiver, has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN OUR PRESENCE:

Carol A. Lagasse
Witness Carol A. Lagasse

David Andrews
Witness David Andrews

Arnold DeLorenzo L.S.
Arnold DeLorenzo, as
Receiver

STATE OF FLORIDA
COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day personally appeared before me, an officer authorized to administer oaths and take acknowledgments, ARNOLD DELORENZO, as Receiver, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this 2nd day of November, 1998.



CAROLA LAGASSE
My Comm Exp. 7/21/00
Bonded By Service Ins
No. CC570937

☒ Personally Known ☐ Other I D

Carol A. Lagasse
My commission expires:

This instrument was prepared by M. LAGASSE of Estate Title & Guaranty, Inc. as a necessary fulfillment of a condition set forth in a Title Insurance commitment issued by Estate Title & Guaranty, Inc.; 71 Carrera St.; St. Augustine, Florida 32084

EXHIBIT "A"
BROUDY DEED

LOCATED IN ST. AUGUSTINE, FLORIDA, IN LOT A-6, BLOCK "A" DANCY TRACT AND BEGINNING AT A POINT WHICH POINT IS THE INTERSECTION OF THE SOUTHERN LINE OF THE PROPERTY OF THE FLORIDA EAST COAST RAILWAY COMPANY WITH THE EASTERLY LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET); THENCE RUNNING IN A SOUTHERLY DIRECTION 50 FEET ALONG SAID HARTSHORN STREET (FORMERLY CEDAR STREET) TO A POINT; THENCE RUNNING IN AN EASTERLY DIRECTION IN A LINE PARALLEL TO KING STREET 100 FEET TO A POINT; THENCE RUNNING IN A NORTHERLY DIRECTION IN A LINE PARALLEL TO SAID HARTSHORN STREET (FORMERLY CEDAR STREET) 50 FEET MORE OR LESS TO THE PLACE OF INTERSECTION OF SAID PROPERTY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE RUNNING IN A WESTERLY DIRECTION ALONG SAID FLORIDA EAST COAST RAILWAY COMPANY'S SOUTH PROPERTY LINE 100 FEET MORE OR LESS TO THE POINT OF BEGINNING. SAID LOT HEREBY CONVEYED BEING A PART OF LOT A-6, BLOCK "A", DANCY TRACT, AND BEING BOUNDED ON THE EAST BY LAND OF THE ESTATE OF S. G. WORLEY; AND ON THE NORTH BY PROPERTY OF FLORIDA EAST COAST RAILWAY COMPANY; ON THE WEST BY HARTSHORN STREET (FORMERLY CEDAR STREET) AND ON THE SOUTH BY LAND OF THE ESTATE OF S. G. WORLEY.

ALSO THE WEST 127 FEET OF LOT A-6, BLOCK "A" DANCY TRACT, EXCEPTING THEREFROM THE NORTH 50 FEET OF THE WEST 100 FEET THEREOF, WHICH NORTH 50 FEET OF THE WEST 100 FEET IS BEING CONVEYED TO GRANTEE IN PARAGRAPH ONE ABOVE.

2
③ In: Estate
Rec: 15.00
Doc: 878.50
Ret: Grantee

Public Records of
St. Johns County, FL
Clerk# 98049545
O.R. 1360 PG 1032
02:59PM 11/03/1998
REC \$13.00 SUR \$2.00
Doc Stamps \$878.50

RECEIVER DEED

THIS DEED made and entered into this 2ND of NOVEMBER, 1998, by and between **ARNOLD DELORENZO as RECEIVER, for EDMUND U. O'STEEN, BARBARA O'STEEN AND CLYDE EUGENE O'STEEN**, party of the first part; and **BROUDY BROS., LTD.**, whose post office address is

PO BOX 1689 ST. AUGUSTINE FL 32085
party of the second part;

WHEREAS, the said party of the first part was duly appointed **RECEIVER for EDMUND U. O'STEEN, BARBARA JEAN O'STEEN AND CLYDE EUGENE O'STEEN** under Order Authorizing and Directing receiver to convey real property. Order issued on the 2nd day of October, 1998, Case # CA 95-1244 by the Honorable Weinberg, Circuit Judge, in and for St. Johns County, Florida; and,

WHEREAS, the said party of the first part is authorized to convey such a deed to the party of the second part, and the party of the second part is entitled to such a deed;

NOW THEREFORE, in consideration of the foregoing and in further consideration of the sum of Ten and no/100 (\$10.00) Dollars and other good and valuable consideration, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, the party of the first part has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, their heirs and assigns forever, the following described property situate, lying and being in St. Johns County, Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, charges and profits thereof and also all the estate's right, title and interest, property, possession, claim and demand whatever, both in law and in equity which the said party of the first part had or has by virtue of being Receiver of said property and otherwise of, in and to the above granted premises and every part and parcel thereof with the appurtenances. This deed also conveys all of the fee simple interest of EDMUND U. O'STEEN, BARBARA JEAN O'STEEN, CLYDE EUGENE O'STEEN, their successors or assigns.

TO HAVE AND TO HOLD the above described premises together with the appurtenances and every part thereof unto the said party of the second part, their heirs and assigns in fee simple forever.

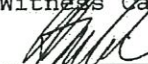
And the said party of the first part, as Receiver, for them and their successors and assigns do hereby convey, promise and agree to and with the party of the second part that he is the lawful, and has power to convey as aforesaid and has in all

respects acted in making this conveyance under the powers granted to Receiver under Order Authorizing and Directing Receiver to convey real property and Receiver has not made, done or suffered any act, matter or things whatsoever since appointed as Receiver as aforesaid whereby the above granted premises and any part thereof now or at any time hereafter shall or may be impeached, charged or encumbered in any manner whatsoever.

It is understood that the word "party" and the pronouns referring thereto, whether in sinne and/or neuter, wherever the context so implies or admits.

IN WITNESS WHEREOF, the said party of the first part as Receiver, has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN OUR PRESENCE:


Witness Carol A. Lagasse

Witness David Andrews

 L.S.
Arnold DeLorenzo, as
Receiver

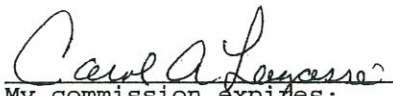
STATE OF FLORIDA
COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day personally appeared before me, an officer authorized to administer oaths and take acknowledgments, ARNOLD DELORENZO, as Receiver, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this 2nd day of November, 1998.



CAROL A. LAGASSE
My Comm Exp. 7/21/00
Bonded By Service Ins
No. CC570937
☒ Personally Known ☐ Other I D


My commission expires:

This instrument was prepared by M. LAGASSE of Estate Title & Guaranty, Inc. as a necessary fulfillment of a condition set forth in a Title Insurance commitment issued by Estate Title & Guaranty, Inc.; 71 Carrera St.; St. Augustine, Florida 32084

EXHIBIT "A"
BROUDY DEED

LOCATED IN ST. AUGUSTINE, FLORIDA, IN LOT A-6, BLOCK "A" DANCY TRACT AND BEGINNING AT A POINT WHICH POINT IS THE INTERSECTION OF THE SOUTHERN LINE OF THE PROPERTY OF THE FLORIDA EAST COAST RAILWAY COMPANY WITH THE EASTERLY LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET); THENCE RUNNING IN A SOUTHERLY DIRECTION 50 FEET ALONG SAID HARTSHORN STREET (FORMERLY CEDAR STREET) TO A POINT; THENCE RUNNING IN AN EASTERLY DIRECTION IN A LINE PARALLEL TO KING STREET 100 FEET TO A POINT; THENCE RUNNING IN A NORTHERLY DIRECTION IN A LINE PARALLEL TO SAID HARTSHORN STREET (FORMERLY CEDAR STREET) 50 FEET MORE OR LESS TO THE PLACE OF INTERSECTION OF SAID PROPERTY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE RUNNING IN A WESTERLY DIRECTION ALONG SAID FLORIDA EAST COAST RAILWAY COMPANY'S SOUTH PROPERTY LINE 100 FEET MORE OR LESS TO THE POINT OF BEGINNING. SAID LOT HEREBY CONVEYED BEING A PART OF LOT A-6, BLOCK "A", DANCY TRACT, AND BEING BOUNDED ON THE EAST BY LAND OF THE ESTATE OF S. G. WORLEY; AND ON THE NORTH BY PROPERTY OF FLORIDA EAST COAST RAILWAY COMPANY; ON THE WEST BY HARTSHORN STREET (FORMERLY CEDAR STREET) AND ON THE SOUTH BY LAND OF THE ESTATE OF S. G. WORLEY.

ALSO THE WEST 127 FEET OF LOT A-6, BLOCK "A" DANCY TRACT, EXCEPTING THEREFROM THE NORTH 50 FEET OF THE WEST 100 FEET THEREOF, WHICH NORTH 50 FEET OF THE WEST 100 FEET IS BEING CONVEYED TO GRANTEE IN PARAGRAPH ONE ABOVE.

PREPARED BY AND RETURN TO:
FRANK J. YONG
P.O. Box 4550
Jacksonville, Florida 32201

FOR RECORDER
Public Records of
St. Johns County, FL
Clerk# 98038310
O.R. 1344 PG 309
03:44PM 08/26/1998
REC \$21.00 SUR \$3.00
Doc Stamps \$14,490.00

ec - 21.00
sur - 3.00
oc - 14,490.00

COMMONWEALTH

WARRANTY DEED

THIS DEED is made as of the 21st day of August, 1998 between **MARTIN BROUDY**, herein the "Grantor" and **BROUDY BROS., LTD.**, a Florida limited partnership, whose address is Post Office Box 1689, St. Augustine, Florida 32084, and whose taxpayer identification number is 59-3523108, herein the "Grantee". (As used herein, the terms Grantor and Grantee shall include, where the context permits or requires, singular or plural, heirs, personal representatives, successors, or assigns.)

WITNESSETH, That the Grantor in consideration of Ten Dollars (\$10.00) and other valuable considerations to him in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed and by these presents does hereby grant, bargain, sell, and convey unto the Grantee, and Grantee's heirs, successors and assigns forever all of that certain property situate in St. Johns County, Florida, described as follows:

see Exhibit "A"

PARCEL IDENTIFICATION NUMBER:

The foregoing legal description was provided to the preparer without the benefit of a survey or a title search and the preparer accepts no liability or responsibility whatsoever for any inaccuracies or improprieties contained therein or relating thereto.

TO HAVE AND TO HOLD the same, together with the hereditaments and appurtenances, unto the Grantee in fee simple. And the Grantor does hereby fully warrant the title to said property and will defend the same against the lawful claims of all persons whomsoever.

This conveyance is subject to covenants, easements and restrictions of record and to ad valorem taxes levied or which may become a lien subsequent to December 31 of the calendar year next preceding the date hereof.

IN WITNESS WHEREOF, this deed has been executed as of the date first above written.

Signed, sealed and delivered
in the presence of:

MARTIN D. BROUDY
Name Printed: MARTIN D. BROUDY

Martin D. Broudy
Martin D. Broudy

JAMES SPANDLING
Name Printed: JAMES SPANDLING

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 24th day of August, 1998, by Martin D. Broudy who is personally known to me or who has produced Florida drivers license as identification.

NOTARY PUBLIC:

Mary Claire Miller

MARY CLAIRE MILLER
Notary Public - State of Florida
My Commission Expires Jun 14, 2002
Commission # CC 750817

EXHIBIT "A"
[PROPERTY DESCRIPTION]

PARCEL A: A parcel of land in the City of St. Augustine, being a North part of Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West on said East line of Hartshorn Street, 204.96 feet to the Point of Beginning on the South line of the now existing right of way of the Florida East Coast Railway Company at the Southwest corner of the herein described parcel of land; thence continuing North 6 degrees 26 minutes 31 seconds West 181.08 feet; thence North 85 degrees 19 minutes 13 seconds East, parallel with and 50 feet Southerly as measured at right angles from the centerline of the single tract mainline of said railway company, 853.69 feet; thence Southwesterly, on the Northwesterly right of way line of U. S. Highway No. 1, on a curve concave Southerly with radius of 888.51 feet (arc definition), through a central angle of 16 degrees 44 minutes 16 seconds, an arc distance of 259.56 feet (chord bearing and distance being South 41 degrees 18 minutes 59 seconds West 258.64 feet); thence South 85 degrees 12 minutes 22 seconds West, on said South line of railway right of way, 662.08 feet to the Point of Beginning.

PARCEL B: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Commencing at the intersection of the East line of Hartshorn Street (formerly Cedar Street) with the presently existing North line of King Street; thence North 6 degrees 26 minutes 31 seconds West, on said East line of Hartshorn Street, 204.96 feet; thence North 85 degrees 12 minutes 22 seconds East, on the South line of the now existing right of way of the Florida East Coast Railway Company, 112.80 feet to the Point of Beginning at the Northwest corner of the herein described parcel of land; thence continuing North 85 degrees 12 minutes 22 seconds East, on said South line of railway right of way, 233.87 feet; thence South 9 degrees 52 minutes 04 seconds East, on the West line of Depot Street, 199.04 feet to the North line of the right of way for U. S. Highway No. 1 ramp or turnout to King Street; thence Westerly, on said North right of way line and on a curve concave Northerly with radius of 898.31 feet through a central angle of 2 degrees 46 minutes 33 seconds, an arc distance of 43.52 feet (chord being South 83 degrees 27 minutes 00 seconds West 43.52 feet); thence South 5 degrees 09 minutes 44 seconds East, across the West end of said right of way for U. S. Highway No. 1 ramp or turnout, 1.95 feet; thence South 84 degrees 50 minutes 16 seconds West, on the North line of King Street, 189.38 feet; thence North 10 degrees 01 minute 21 seconds West, on the West line of those lands described in deed recorded in Deed Book 199, page 200, and in Official Records Book 105, page 394, public records of said County, a distance of 204.65 feet to the Point of Beginning.

PARCEL C: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, and being more fully described as follows:

Beginning at the intersection of the East line of Depot Street with the South right of way line of the Florida East Coast Railway Company; thence North 85 degrees 12 minutes 22 seconds east, on said South right of way line, 220.10 feet to the West line of a 10 foot width alley; thence South 9 degrees 52 minutes 04 seconds East, on said West line of alley, 91.28 feet; thence South 31 degrees 51 minutes 15 seconds West, on the Westerly right of way line of U. S. Highway No. 1, a distance of 41.44 feet to the point of curve to the right with radius of 143.00 feet; thence on said curve to the right and on said highway right of way line, through a central angle of 32 degrees 03 minutes 56 seconds, an arc distance of 80.03 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of that land described in Deed recorded in Deed Book 197, page 165, public records of said County, a distance of 71.55 feet; thence South 85 degrees 12 minutes 22 seconds West, on the North line of said land described in Deed Book 197, page 165, a distance of 125.00 feet; thence North 9 degrees 52 minutes 04 seconds West, on the East line of Depot Street, 101.84 feet to the Point of Beginning.

PARCEL D: A parcel of land in the City of St. Augustine in Block A, DANCY TRACT, as recorded in Map Book 1, page 1, public records of St. Johns County, Florida, being part of that parcel of land described in deed recorded in Deed Book 167, page 6, public records of said County and being more fully described as follows:

Commencing at the intersection of the North line of King Street (being 40 feet in width) with the East line of Depot Street; thence North 84 degrees 50 minutes 16 seconds East, on said North line of King Street, 230.00 feet to a point on the East line of a 10 foot width alley within the right of way for now existing U. S. Highway No. 1; thence North 9 degrees 52 minutes 04 seconds West, on said East line of alley, 123.00 feet to the Point of Beginning on the Westerly right of way line of said highway; thence continuing North 9 degrees 52 minutes 04 seconds West, on said east line of alley, 75.95 feet; thence North 85 degrees 12 minutes 22 seconds East, on the now existing South right of way line of the Florida East Coast Railway Company, 63.00 feet to said Westerly right of way line of highway; thence South 31 degrees 51 minutes 15 seconds West, on said right of way line of highway, 94.29 feet to the Point of Beginning.

PARCEL E: A parcel of land in Section 28, Township 7 South, Range 30 East Situate, lying and being in the County of St. Johns, State of Florida, known and described as:

From the Southwest corner of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, run North 0 degrees 51 minutes 32 seconds West along the West line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 28, for a distance of 100 feet to a

point of intersection with the North right of way line of a 100 foot right of way county road (called Pope Road); thence run North 88 degrees 59 minutes 40 seconds East along the North right of way line of Pope Road, for a distance of 1,270.56 feet, more or less, to a point of intersection with the Westerly right of way line of State Road No. S-3; thence run North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of State Road No. S-3, for a distance of 354.5 feet to the Point of Beginning of the parcel of land hereinafter described; thence continue North 1 degree 39 minutes 38 seconds West along the Westerly right of way line of said State Road No. S-3, for a distance of 103.3 feet, more or less, to a point of intersection with the Southerly right of way line of State Road No. 312; thence run North 82 degrees 24 minutes 28 seconds West along the said Southerly right of way line of said State Road No. 312, for a distance of 202.62 feet to a point; thence run South 1 degree 39 minutes 38 seconds East for a distance of 130.59 feet to a point; thence run South 46 degrees 19 minutes 59 seconds East for a distance of 18.49 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 162 feet; thence run North 01 degree 39 minutes 38 seconds West a distance of 10 feet; thence run North 88 degrees 59 minutes 40 seconds East a distance of 25.00 feet to the point of Beginning.

ORDINANCE NO. 2023-23

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF DEPOT STREET LOCATED WITHIN THE CITY LIMITS OF ST. AUGUSTINE AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides procedures for adoption of ordinances and resolutions by municipalities; and

WHEREAS, Section 13.06 of the Charter Laws of the City of St. Augustine, provides a procedure for vacating streets;

NOW THEREFORE, BE IT ORDAINED by the City Commission for the City of St. Augustine, Florida, as follows:

Section 1. Vacation. That the following described portion of the public street, avenue or road in the City of St. Augustine, Florida, more particularly described as follows:

A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE, BEING A PORTION OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, END BEING MORE FULLY DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA WITH THE SOUTHERLY LINE OF PARCEL "A" OF THOSE LANDS AS "A" OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY FLORIDA; THENCE NORTH 85°21'08" EAST, ALONG SAID SOUTHERLY LINE OF

EAST, ALONG SAID SOUTHERLY LINE OF PARCEL "A", A DISTANCE OF 30.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID DEPOT A", A DISTANCE OF 30.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID DEPOT , A DISTANCE OF 30.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID DEPOT STREET; THENCE SOUTH 9°38'28" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE OF DEPOT EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE OF DEPOT STREET, A DISTANCE OF 194.61 FEET; THENCE SOUTH 84°45'51" WEST, A DISTANCE OF 30.09 WEST, A DISTANCE OF 30.09 FEET TO SAID WESTERLY RIGHT OF WAY OF DEPOT STREET; THENCE NORTH 9°38'28" WEST, WEST, ALONG WESTERLY RIGHT OF WAY OF DEPOT STREET, A DISTANCE OF 194.92 FEET TO THE POINT OF BEGINNING, AND TOGETHER WITH ANY PORTION OF DEPOT STREET LYING WITHIN PARCEL A OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF SAID PUBLIC RECORDS.

be, and the same is hereby, vacated, discontinued and abandoned and is hereby declared no longer to be a public street, avenue or road of the City of St. Augustine, Florida. The vacation is sought in preparation for the redevelopment of the abutting real properties (including said vacated portion of Depot Street) in accordance with the terms and conditions of the Broudy Development Agreement entered into by Petitioners and the City. There is hereby reserved unto the City of St. Augustine and to all public utilities a utility easement over, under and across portions of the street hereby vacated for present and future utilities. No permanent structures may be erected over any such utilities, and property within such utility easement shall be used for such purposes as may be approved by the City in accordance with the terms and conditions of the Broudy Development Agreement. All expense incurred for relocation or modification of existing utilities on account of any use put to such property by the owners of the servient estate shall be at the expense of such property owners.)

Section 2. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severance of Invalid Provisions. If any section, subsection, 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 so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 4. Inclusion in the Code. It is the intention of the City Commission that the provisions of this ordinance shall become and be made part of the Code of the City of St. Augustine and that the sections of this ordinance may be renumbered or relettered and the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to s. 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, on the 14th day of August, 2023.

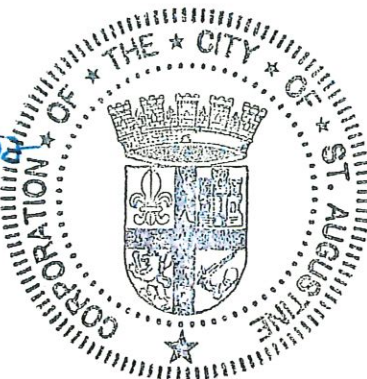
ATTEST:



Nancy Sikes-Kline, Mayor-Commissioner



Darlene Galambos, City Clerk



Attachments - (3.)

ATTACHMENT

2

RESOLUTION 2023-35

A RESOLUTION DESIGNATING PARCEL NOS. 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 1111100000 and A CERTAIN PORTION OF DEPOT STREET PER ORDINANCE NO.2023-23 BK:5809 PG:1804, LOCATED SOUTH OF THE FLORIDA EAST COAST RAILWAY AND NORTHWEST OF THE WEST KING STREET AND PONCE DE LEON BOULEVARD INTERSECTION, AT 194 WEST KING STREET, ST. AUGUSTINE, FLORIDA 32084, AS A BROWNFIELD REHABILITATION AREA AND FOR ENVIRONMENTAL REHABILITATION AND ECONOMIC DEVELOPMENT: PROVIDING AN EFFECTIVE DATE.

WHEREAS, Broudy Bros Ltd, and West Augustine Gateway, LLC, (the "Owner") which collectively own parcel numbers 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 and 1111100000, located south of the Florida East Coast Railway and northwest of the West King Street and Ponce de Leon Boulevard intersection, at 194 West King Street in St. Augustine, Florida 32084 (the "Property"), a description of all parcels is attached hereto as **Exhibit 1**; and

WHEREAS, Owner is planning to redevelop the Property with a mixed use commercial and residential development which would include commercial and residential uses. The redevelopment plan is consistent with the comprehensive plan and permittable uses under the local land development regulations. It is also anticipated that five new full-time jobs are anticipated in the future stemming the redevelopment of the Property; and

WHEREAS, Owner has requested that the City of St. Augustine designate the Property a Brownfield Area as authorized by Section 376.80, Florida Statutes; and

WHEREAS, the Public Works Department has issued a staff report, attached hereto as Exhibit 2, including a map of the designated property, and incorporated herein by reference, recommending that the Brownfield designation requested by Developer be approved; and

WHEREAS, Florida Statutes require that an area outside of a community redevelopment area, Enterprise Zone, Empowerment Zone, closed military base, or designated Brownfield pilot project be designated as a Brownfield Area by local government resolution; and

WHEREAS, valuable economic incentives accrue to those who redevelop designated Brownfield sites.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA, THAT

Section 1. The City of St. Augustine adopts the findings of fact and conclusions of law as described in the recitals herein.

Section 2. For the purposes of the Florida Brownfields Redevelopment Act, Sections 376.77 - 376.85, Florida Statutes, (hereinafter, the "Act"), the Property is hereby designated a Brownfield Area. This designation shall not, however, render the City of St. Augustine liable: for the cost of site rehabilitation or source removal, as those terms are defined in Sections 376.79(19) and (20), Florida Statutes; for other costs in excess of those attributable to the City as administrator of a Brownfields Program; or, as a property owner, if the City hereafter acquires any realty within the designated Brownfield Area. A copy of the staff report with staff findings and a map adequate to clearly delineate exactly which parcel is to be included in the brownfield area is attached hereto **Exhibit 2**.

Section 3. Following enactment of this resolution approving the Brownfield Area designation, Owner will negotiate a Brownfield Site Rehabilitation Agreement ("BSRA") with the Florida Department of Environmental Protection ("FDEP"). Owner is pursuing the Brownfield Area designation and BSRA in order to benefit from the State of Florida's Voluntary Clean Up Tax Credit Program (VCTC). The VCTC will allow Owner to receive the 50% State corporate income tax credit for assessment and cleanup costs up to an annual amount of \$500,000.00. Owner also wishes to apply for cleanup liability protection from the State. Preliminary environmental site assessments have revealed soil and groundwater contamination above FDEP standards on some of the parcels. Owner wishes to clean and redevelop the site for commercial use.

Section 4. In accordance with Section 376.80, F.S., a copy of this resolution designating the property as a Brownfield Area shall be sent to FDEP within 30 days of the adoption of this resolution.

Section 5. This resolution shall become effective immediately upon adoption by the City Commission.

ADOPTED in Regular Session of the City Commission for the City of St. Augustine,
Florida this ____ day of _____, 2023.

ATTEST:

CITY OF ST. AUGUSTINE, FLORIDA

Darlene Galambos, City Clerk
(Corporate Seal)

Nancy Sikes-Kline, Mayor-Commissioner

EXHIBIT 1

LEGAL DESCRIPTION

IN THE CITY OF ST. AUGUSTINE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF KING STREET AND THE EAST LINE OF A STREET RUNNING NORTH AND SOUTH, KNOWN AS DEPOT STREET, ACCORDING TO MAP RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN MAP BOOK 3, PAGE 5, OF THE ELEANOR M. CROSBY TRACT OF THE "FERRY TRACT", SAID BEGINNING POINT BEING THE SOUTHWEST CORNER OF THE LOT HEREIN DESCRIBED; RUNNING THENCE NORTHERLY ALONG THE EAST LINE OF DEPOT STREET 100 FEET; THENCE EASTERLY AND PARALLEL TO THE NORTH LINE OF KING STREET 125 FEET; THENCE SOUTHERLY AND PARALLEL TO THE EAST LINE OF DEPOT STREET 100 FEET TO THE NORTH LINE OF KING STREET; THENCE WESTERLY ALONG THE NORTH LINE OF KING STREET 125 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF THE PROPERTY CONVEYED BY H. J. USINA TO ALBERT HIRTH, AS PER DEED RECORDED IN DEED BOOK 48, PAGE 30, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA; EXCEPTING THEREFROM THAT PART OF THE ABOVE DESCRIBED PROPERTY ACQUIRED BY THE STATE ROAD DEPARTMENT OF FLORIDA AND RECORDED IN DEED BOOK 253, PAGE 696, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

LEGAL DESCRIPTION: PROPOSED DEPOT STREET RIGHT OF WAY VACATION

A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE, BEING A PORTION OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, END BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF DEPOT STREET AS SHOWN ON THE DANCY TRACT PLAT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA WITH THE SOUTHERLY LINE OF PARCEL 'A' OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY FLORIDA; THENCE NORTH 85°21'08" EAST, ALONG SAID SOUTHERLY LINE OF PARCEL 'A', A DISTANCE OF 30.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID DEPOT STREET; THENCE SOUTH 9°38'28" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE OF DEPOT STREET, A DISTANCE OF 194.61 FEET; THENCE SOUTH 84°45'51" WEST, A DISTANCE OF 30.09 FEET TO SAID WESTERLY RIGHT OF WAY OF DEPOT STREET; THENCE NORTH 9°38'28" WEST, ALONG WESTERLY RIGHT OF WAY OF DEPOT STREET, A DISTANCE OF 194.92 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ANY PORTION OF DEPOT STREET LYING WITHIN PARCEL A OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1344, PAGE 309 OF SAID PUBLIC RECORDS.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 1344, PAGE 309

PARCEL A: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE, BEING A NORTH PART OF BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, END BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET) WITH THE PRESENTLY EXISTING NORTH LINE OF KING STREET, THENCE NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST ON SAID EAST LINE OF HARTSHORN STREET, 204.96 FEET TO THE POINT OF BEGINNING ON THE SOUTH LINE OF THE NOW EXISTING RIGHT OF WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY AT THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUING NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST 181.08 FEET; THENCE NORTH 85 DEGREES 19 MINUTES 13 SECONDS EAST, PARALLEL WITH AND 50 FEET SOUTHERLY AS MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF THE SINGLE TRACT MAINLINE OF SAID RAILWAY COMPANY, 851.69 FEET; THENCE SOUTHWESTERLY, ON THE NORTHWESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY NO. 1, ON A CURVE CONCAVE SOUTHERLY WITH RADIUS OF 888.51 FEET (ARC DEFINITION), THROUGH A CENTRAL ANGLE OF 16 DEGREES 44 MINUTES 16 SECONDS, AN ARC DISTANCE OF 259.58 FEET (CHORD BEARING AND DISTANCE BEING SOUTH 41 DEGREES 18 MINUTES 39 SECONDS WEST 238.64 FEET); THENCE SOUTH 85 DEGREES 12 MINUTES 22 SECONDS WEST, ON SAID SOUTH LINE OF RAILWAY RIGHT OF WAY, 682.08 FEET TO THE POINT OF BEGINNING.

PARCEL B: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET) WITH THE PRESENTLY EXISTING NORTH LINE OF KING STREET, THENCE NORTH 6 DEGREES 26 MINUTES 31 SECONDS WEST, ON SAID EAST LINE OF HARTSHORN STREET, 204.96 FEET; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON THE SOUTH LINE OF THE NOW EXISTING RIGHT OF WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY, 112.80 FEET TO THE POINT OF BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUING NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON SAID SOUTH LINE OF RAILWAY RIGHT OF WAY, 233.87 FEET; THENCE SOUTH 9 DEGREES 52 MINUTES 04 SECONDS EAST, ON THE WEST LINE OF DEPOT STREET, 193.04 FEET TO THE RIGHT OF WAY FOR U. S. HIGHWAY NO. 1 RAMP OR TURNOUT TO KING STREET; THENCE WESTERLY, ON SAID NORTH RIGHT OF WAY LINE AND ON A CURVE CONCAVE NORTHERLY WITH RADIUS OF 898.31 FEET THROUGH A CENTRAL ANGLE OF 2 DEGREES 46 MINUTES 33 SECONDS, AN ARC DISTANCE OF 43.52 FEET (CHORD BEING SOUTH 83 DEGREES 27 MINUTES 00 SECONDS WEST 43.52 FEET); THENCE SOUTH 5 DEGREES 00 MINUTES 44 SECONDS EAST, ACROSS THE WEST END OF SAID RIGHT OF WAY FOR U. S. HIGHWAY NO. 1 RAMP OR TURNOUT, 1.95 FEET; THENCE SOUTH 84 DEGREES 50 MINUTES 16 SECONDS WEST, ON THE NORTH LINE OF KING STREET, 189.38 FEET; THENCE NORTH 10 DEGREES 21 SECONDS WEST, ON THE WEST LINE OF THOSE LANDS DESCRIBED IN DEED RECORDED IN DEED BOOK 199, PAGE 200, AND IN OFFICIAL RECORDS BOOK 105, PAGE 394, PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 204.65 FEET TO THE POINT OF BEGINNING.

PARCEL C: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF DEPOT STREET WITH THE SOUTH RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON SAID SOUTH RIGHT OF WAY LINE, 282.10 FEET TO THE WEST LINE OF A 10 FOOT WIDE ALLEY; THENCE SOUTH 9 DEGREES 52 MINUTES 04 SECONDS EAST, ON SAID WEST LINE OF ALLEY, 91.29 FEET; THENCE SOUTH 31 DEGREES 61 MINUTES 15 SECONDS WEST, ON THE WESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY NO. 1, A DISTANCE OF 41.44 FEET TO THE POINT OF CURVE TO THE RIGHT WITH RADIUS OF 143.00 FEET; THENCE ON SAID CURVE TO THE RIGHT AND ON SAID HIGHWAY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 32 DEGREES 03 MINUTES 56 SECONDS, AN ARC DISTANCE OF 80.03 FEET; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON THE EAST LINE OF THAT LAND DESCRIBED IN DEED RECORDED IN DEED BOOK 197, PAGE 165, PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 71.55 FEET; THENCE SOUTH 85 DEGREES 12 MINUTES 22 SECONDS WEST, ON THE NORTH LINE OF SAID LAND DESCRIBED IN DEED BOOK 197, PAGE 165, A DISTANCE OF 125.00 FEET; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON THE EAST LINE OF DEPOT STREET, 101.84 FEET TO THE POINT OF BEGINNING.

PARCEL D: A PARCEL OF LAND IN THE CITY OF ST. AUGUSTINE IN BLOCK A, DANCY TRACT, AS RECORDED IN MAP BOOK 1, PAGE 1, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING PART OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED IN DEED BOOK 167, PAGE 6, PUBLIC RECORDS OF SAID COUNTY AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF KING STREET (BEING 40 FEET IN WIDTH) WITH THE EAST LINE OF DEPOT STREET; THENCE NORTH 84 DEGREES 50 MINUTES 16 SECONDS EAST, ON SAID NORTH LINE OF KING STREET, 230.00 FEET TO A POINT ON THE EAST LINE OF A 10 FOOT WIDE ALLEY WITHIN THE RIGHT OF WAY FOR NOW EXISTING U. S. HIGHWAY NO. 1; THENCE NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON SAID EAST LINE OF ALLEY, 123.00 FEET TO THE POINT OF BEGINNING ON THE WESTERLY RIGHT OF WAY LINE OF SAID HIGHWAY; THENCE CONTINUING NORTH 9 DEGREES 52 MINUTES 04 SECONDS WEST, ON SAID EAST LINE OF ALLEY, 75.95 FEET; THENCE NORTH 85 DEGREES 12 MINUTES 22 SECONDS EAST, ON THE NOW EXISTING SOUTH RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY, 63.00 FEET TO SAID WESTERLY RIGHT OF WAY LINE OF HIGHWAY; THENCE SOUTH 31 DEGREES 51 MINUTES 15 SECONDS WEST, ON SAID RIGHT OF WAY LINE OF HIGHWAY, 94.29 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 1360, PAGE 1028

LOCATED IN ST. AUGUSTINE, FLORIDA, IN LOT A-6, BLOCK "A" DANCY TRACT, AND BEGINNING AT A POINT WHICH POINT IS THE INTERSECTION OF THE SOUTHERN LINE OF THE PROPERTY OF THE FLORIDA EAST COAST RAILWAY COMPANY WITH THE EASTERLY LINE OF HARTSHORN STREET (FORMERLY CEDAR STREET), THENCE RUNNING IN A SOUTHERLY DIRECTION 50 FEET ALONG SAID HARTSHORN STREET (FORMERLY CEDAR STREET) TO A POINT; THENCE RUNNING IN AN EASTERLY DIRECTION IN A LINE PARALLEL TO KING STREET 100 FEET TO A POINT; THENCE RUNNING IN A NORTHERLY DIRECTION IN A LINE PARALLEL TO SAID HARTSHORN STREET (FORMERLY CEDAR STREET) 90 FEET MORE OR LESS TO THE PLACE OF INTERSECTION OF SAID PROPERTY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY; THENCE RUNNING IN A WESTERLY DIRECTION ALONG SAID FLORIDA EAST COAST RAILWAY COMPANY'S SOUTH PROPERTY LINE 100 FEET OR MORE OR LESS TO THE POINT OF BEGINNING. SAID LOT HEREBY CONVERTED BEING A PART OF LOT A-6, BLOCK "A", DANCY TRACT, AND BEING BOUNDED ON THE EAST BY LAND OF THE ESTATE OF S.G. WORLEY, AND ON THE NORTH BY PROPERTY OF FLORIDA EAST COAST RAILWAY COMPANY; ON THE WEST BY HARTSHORN STREET (FORMERLY CEDAR STREET) AND ON THE SOUTH BY LAND OF THE ESTATE OF S.G. WORLEY.

THE WESTERLY 127' OF LOT A-6, BLOCK A, DANCY TRACT, EXCEPTING THEREFROM THE NORTHERLY 50' OF THE WESTERLY 100' THEREOF.

LEGAL DESCRIPTION: OFFICIAL RECORDS BOOK 3362, PAGE 557

THAT CERTAIN UNNAMED ALLEY OF A WIDTH OF TEN (10) FEET LOCATED WITHIN THE ELEANOR M. CROSSBY TRACT, BEING A PART OF BLOCK A OF THE DANCY TRACT, AS PER THE PLATS OF SUCH ELEANOR M. CROSSBY TRACT AND DANCY TRACT RECORDED IN MAP BOOK 3, PAGE 5 AND MAP BOOK 1, PAGE 1, RESPECTIVELY, BOTH OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, EXTENDING NORTHWEST FOR NINETY-ONE FEET (91'), MORE OR LESS, FROM THE NORTHWEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5 (U.S. HIGHWAY NO. 1) AND LOCATED BETWEEN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCELS 111110-0000 AND 111130-0000, BOTH OWNED BY BROUDY BROS., LTD. SUCH UNNAMED ALLEY IS A PART OF THOSE LANDS SHOWN IN ST. JOHNS COUNTY PROPERTY APPRAISER'S PARCEL NUMBER 111010-0000.

EXHIBIT 2
STAFF REPORT

ATTACHMENT

3

BROUDY DEVELOPMENT AGREEMENT

THIS BROUDY DEVELOPMENT AGREEMENT (the “**Agreement**”) is made and entered into on this 24 day of October, 2022, by and between BROUDY BROS., LTD., a Florida limited partnership, and CORY A. LANG, an individual (together with their successors and assigns collectively, “**Owner**”), and THE CITY OF ST. AUGUSTINE, FLORIDA, a Florida municipal corporation (the “**City**”).

A. The Owner is the owner of approximately 5.5 acres located at the northwest corner of the intersection of U.S. Highway 1 and West King Street in the City of St. Augustine, Florida, as described on **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**Property**”).

B. The City has identified the Property for the location of a Mobility Station (as that term is defined in Section 28-2 of the City of St. Augustine Code) to provide multi-modal transit to residents of and visitors to the City.

C. The City has adopted a new future land use category called Mobility-Oriented Development and a new zoning district called Mobility Oriented Development to bring mobility-oriented development to certain areas of the City, including the Property.

D. In order for the Owner, in cooperation with the City, to provide a mobility station on the Property, it is necessary to change the Future Land Use Map (“**FLUM**”) designation of the Property from Commercial Medium Intensity and Industrial to Mobility-Oriented Development (“**MOD FLUM**”) and the zoning district of the Property from Commercial Medium Two (“**CM-2**”) and Industrial Warehouse (“**IW**”) to Mobility-Oriented Development (“**MOD Zoning**”).

E. The Property will be developed in accordance with the MOD FLUM and MOD Zoning designations (the “**Development**”). The Owner shall make best efforts to use low-impact development principles, low-impact plumbing fixtures and green/sustainable building construction techniques throughout the development. Stormwater retention and management will incorporate sustainable features such as rain gardens, landscaping bio-swales and permeable pavers in the common areas and perimeter landscaping areas.

F. The Owner desires to develop the Property to provide pedestrian linkage improvements with accommodations for park-and-ride and bikeshare/carshare programs. Allowable uses within the Property may include, but are not limited to, multi-modal transportation facilities, retail services, grocery stores, restaurants, other commercial and service uses, offices, multi-family residential units, public buildings and public uses, parks/plazas and similar uses and supporting facilities.

G. The Owner will construct any necessary turn lane, utility and other improvements, both on the Property and off-site, to mitigate for impacts of the Development, as determined at concurrency and construction plan approval.

H. The Owner and the City desire to enter into this Agreement to (i) allow use of the Property as a mobility-oriented development, subject to the parameters set forth in this Agreement; (ii) allow the assignment of development rights and related parking and stormwater within the Property to individual parcels within the Development, regardless of parcel ownership; (iii) provide for a publicly available parking garage; and (iv) provide a timeline for construction of the Development.

I. This Agreement is consistent with the City's Charter, the City's Comprehensive Plan and Municipal City Code, as well as, with provisions of Chapter 163, Florida Statutes, Chapter 166, Florida Statutes, Chapter 187, Florida Statutes and Article VIII, Section 2(b), Constitution of the State of Florida, and other applicable law, and serves a public purpose.

J. The City has determined that the requirements of Section 163.3231, Florida Statutes, have been met in that:

i. The City has adopted a local Comprehensive Plan that is in compliance.

ii. The proposed development of the Property is consistent with the City of St. Augustine Comprehensive Plan, including the Future Land Use Map, and complies with applicable provisions of the City's Land Development Regulations and Municipal Code (the "City Code").

iii. This Agreement constitutes a binding commitment on the part of the Owner, its successors and assigns, to develop the Property consistent with the Comprehensive Plan and applicable provisions of the City Code.

K. The Development will be served by the following public facilities:

i. Transportation. Site access will be provided via the existing U.S. Highway 1, West King Street and Hartshorn Street, subject to approval by applicable governmental agencies. Prior to commencement of the Development, the Owner shall apply to the City for transportation concurrency and will pay mobility fees and make any site access improvements required by applicable laws and regulations, including the City Code, for the Owner's private development on the Property (but not related to the City's parking garage proposed for the Property).

ii. Potable Water and Sanitary Sewer. The City will provide adequate water and wastewater service to the Property. Prior to commencement of the Development, the Owner shall apply for water and sewer concurrency and will pay any connection or other fees and make any system improvements required by applicable laws and regulations, including the City Code, for the Owner's private development on the Property (but not related to the City's parking garage proposed for the Property).

iii. Solid Waste. The City will provide solid waste disposal to the Property.

iv. Drainage. Concurrently with development of the Property or portions thereof, the Owner will provide drainage in accordance with St. Johns River Water Management District rules and in accordance with local government development orders that have been and will be issued for development of the Property from time to time, as well as other improvements in

compliance with the provisions of this Agreement and the respective responsibilities of the parties.

v. **Parks / Open Space.** Concurrently with development of the Property or portions thereof, the Owner and the City will provide recreational facilities and open space as required in applicable provisions of the City Code.

vi. **Public Schools.** Concurrently with development of any residential units on the Property, the Owner will provide school proportionate share and pay school impact fees, in accordance with applicable laws and regulations.

L. The MOD Zoning district allows a maximum residential density of 50 units per acre, a maximum lot coverage by buildings of 80 percent and a maximum building height of 65 feet.

M. This Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation and comprehensive planning and reduces the costs of development.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Findings of Fact.** The Recitals set forth above are true and correct and are incorporated herein by reference as Findings of Fact.

2. **Purpose and Intent.** The Owner and the City desire to enter into this Agreement to address the provision of a mobility-oriented development on the Property, pursuant to the MOD FLUM and MOD Zoning designations. The Development will include a cohesive mixture of land uses centered around a centralized publicly available parking facility and future rail station. The Owner and the City will cooperate in providing utility, stormwater and transportation system improvements to support the Development, subject to final concurrency and construction plan approval in accordance with the City Code. Cooperation with the City on public facilities, utilities and transportation shall not relieve the Owner of the responsibility for compliance with all applicable codes, laws and regulations and does not imply that the City will be responsible for construction or financing of any improvements needed for privately owned portions of the Development. Costs associated with any publicly owned or available portions of the Development will be subject to a separate agreement between the Owner and the City.

3. **Public Facility Improvements.** The Owner and the City agree that they will cooperate in providing potable water, sanitary sewer, stormwater, transportation and other public facilities to the Development. Once the Owner finalizes its plans for the Development, the Owner will apply to the City for concurrency and construction plan approvals. At that time, the City and the Owner will determine whether any capital improvements are necessary to serve the Development and which party or parties will be responsible for funding and constructing such improvements. The Owner will comply with all codes, laws and regulations related to potable water, sanitary sewer, stormwater, transportation and other public facilities necessary for development of the Property.

4. **Property Development Rights.** For the purposes of the Agreement, the Property shall have the following development rights, as calculated below:

a. The Property includes approximately 5.5 developable acres, as depicted on the conceptual development plan attached hereto as **Exhibit "B"** and incorporated herein by this reference (the "**Conceptual Development Plan**"). Based on the approximately 5.5 developable acres within the Property, the maximum residential density for the Development will not exceed 275 units, pursuant to the MOD FLUM and MOD Zoning designations (the "**Residential Development Rights**"). The maximum non-residential intensity for the Development shall not exceed the 80 percent lot coverage by buildings for the overall Property, less the lot coverage by residential buildings (the "**Non-Residential Development Rights**", and collectively with the Residential Development Rights, the "**Development Rights**");

b. The Development shall not be permitted to exceed 80 percent lot coverage by buildings, as calculated over the 5.5 developable acres within the Property.

c. The Owner shall be permitted to allocate some or all of the Development Rights to one or more parcels within the Property, regardless of the size of such parcel or parcels. The Owner shall notify the City when it allocates any portion of the Development Rights to a parcel within the Property and shall record an assignment of such portion of the Development Rights against title to the applicable parcel in the Public Records of St. Johns County, Florida. The Owner shall also submit tables tracking allocations of the Development Rights with each construction plan submittal to the City, so that the City will know how many cumulative Development Rights have been allocated as of the date of each construction plan submittal.

d. The Property, in its entirety, will comply with the King Street Design Standards as they relate to "West King Street", as set forth more fully in City Code Section 28-130(3).

e. Permitted uses within the Development shall be those allowed by right in the MOD future land use category and MOD zoning district.

f. Lot coverage by buildings shall be measured within the Property as a whole, and not by individual parcel or parcels.

g. Stormwater ponds and structures may be shared among parcels within the Property.

h. Trash dumpsters and other facilities may be located inside or outside of any parking garage or garages that may be constructed on the Property.

i. The Conceptual Development Plan is subject to revision, provided any changes conform with the MOD FLUM and MOD Zoning designations.

5. **Shared Parking.** The Development will include a variety of land uses, including mobility, residential, commercial/retail and office, and will be developed in a unified manner, consistent with the Conceptual Development Plan. Due to its mixed-use nature, the Development shall be permitted to have parking for various parcels within the Property located anywhere within the Development, if approved by the City Planning and Zoning Board ("**PZB**") as a use

by exception. If the entire Development is approved by the PZB as a use by exception for off-site parking, each specific parcel, at the time of its construction plan submittal, shall identify (i) its per-Code parking needs, (ii) the off-site parking location to be used within the Development for such parcel and if the location complies with the City Code's distance requirements, (iii) the available number of parking spaces at that location, and (iv) the availability of such parking spaces no later than at the time the City issues a certificate of occupancy or its equivalent for the related use. The Owner shall notify the City when it allocates parking spaces within the Development to a specific parcel and shall submit tables tracking allocations of parking spaces with each construction plan submittal to the City, so the City can track the Development's compliance with Code parking provisions. Nothing herein is intended to vary, modify or waive any Code criteria, nor to imply the preemptive approval or disapproval of a use by exception or other quasi-judicial hearing process. If the Development is not approved by the PZB as a use by exception for off-site parking, each parcel within the Development will have to comply with Code parking requirements on-site.

6. **Mobility – Oriented Development Project.** The Development is proposed to be a mobility-oriented development, which is why the Owner applied for and the City approved a Comprehensive Plan Amendment to change the FLUM designation of the Property to MOD and a rezoning to amend the zoning district of the Property to MOD. In the event a mobility oriented development meeting the criteria of the MOD FLUM designation set forth in City Comprehensive Plan Land Use Element Policy 6.9.1 does not occur within the Property, the future land use and zoning designations of the Property shall automatically revert to Commercial Medium Intensity and Industrial as the future land use designations (as they were in September 2022) and CM-2 and IW zoning districts (as they were in September 2022) and the Owner will be required to seek FLUM and zoning amendments for any development of the Property that is not consistent with the September 2022 future land use and zoning designations of the site.

7. **Publicly Available Parking Garage.** The MOD FLUM and MOD Zoning designations require the Property to contain a Mobility Station (as that term is defined in Section 28-2 of the City Code. Pursuant to the City Code, a Mobility Station must contain a publicly owned parking garage, publicly leased parking garage, or publicly available parking garage containing a minimum of 200 parking spaces available for daily public parking at rates no greater than charged by the City of St. Augustine at the Historic Downtown Parking Facility located at 1 Cordova Street. The Mobility Station on the Property may also include a transit station available to the public at large for general transportation needs or a commuter rail station at some time in the future. A public shuttle or public circulator system, operating in conjunction with the publicly available parking garage, will be the responsibility of the City or its assigns, in coordination with the Owner.

The Owner intends to construct a publicly owned parking garage, publicly leased parking garage, or publicly available parking garage on the Property to satisfy the Mobility Station requirement. Such parking garage will be developed on the Property in cooperation with the City of St. Augustine and will contain a minimum of 500 parking spaces available to the public, unless that number is reduced per agreement by both the City and the Owner. None of the minimum 500 parking spaces (subject to reduction per agreement by both the City and the Owner) available to the public shall serve the parking needs of privately owned buildings or businesses located on the Property, unless the Property is included in an overlay district or other

agreement is reached between the City and the Owner that allows for shared or reduced parking. The details of ownership and operation of the parking garage shall be subject to a separate agreement between the City and the Owner. In the event the City and the Owner do not reach agreement regarding the development of the garage, as set forth in this Section 7, the Owner shall be permitted to construct and finance a parking garage meeting the requirements of the Mobility Station definition in Section 28-2 of the City Code.

8. **Development Timing.** Project development will commence within five (5) years of the Effective Date hereof; provided, however, the Owner shall have the right to extend this date through an amendment to this Agreement. The first phase of the development will contain a publicly owned parking garage, publicly leased parking garage, or publicly available parking garage containing a minimum of 200 parking spaces available for daily public parking at rates no greater than charged by the City of St. Augustine at the Historic Downtown Parking Facility located at 1 Cordova Street, pursuant to the requirements of City Code Section 28-2. If the City and the Owner enter into a legally binding agreement related to the financing, construction and operation of a publicly available parking garage on the Property pursuant to Section 7 hereof (the “**Parking Garage Agreement**”) and both parties perform on their obligations thereunder, the publicly available parking garage will be constructed pursuant to the timing set forth in the Parking Garage Agreement. If the Owner and the City are unable to come to terms on an agreement related to a publicly available parking garage by July 1, 2023 (which date may be extended by mutual written agreement between the Owner and the City), the Owner shall have the right to construct in its first phase of development a publicly available parking garage on the Property that meets the requirements of City Code Section 28-2, without the participation of the City. If the Owner does not elect to construct a publicly available parking garage that meets the requirements of City Code Section 28-2 in its first phase of development, the future land use and zoning designations of the Property shall automatically revert to Commercial Medium Intensity and Industrial as the future land use designations (as they were in September 2022) and CM-2 and IW zoning districts (as they were in September 2022) and the Owner will be required to seek FLUM and zoning amendments for any development of the Property that is not consistent with the September 2022 future land use and zoning designations of the site.

For the purposes hereof, “commencement” shall be defined as the City’s approval of the first construction plans for the Property. Because the Property has an MOD zoning designation, no Development phasing or completion dates are required by the Code. Thus, the Development may occur in a number of phases. Each phase of the Development will meet applicable City Code requirements. The City shall review the Development at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with this Agreement, pursuant to Section 163.3235, Florida Statutes.

9. **Authority and Duration.** This Agreement is made and granted pursuant to Sections 163.3220-163.3243, Florida Statutes, and is effective through the thirtieth (30th) anniversary of the Effective Date of this Agreement, and any extension of this Agreement. Notwithstanding the foregoing, this Agreement shall not expire as long as a mobility-oriented use, as defined in the MOD future land use and MOD Zoning categories, is operating on the Property.

10. **Amendment, Extension of Agreement.** If state or federal laws are enacted after the execution of this Agreement that are applicable to and preclude the parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant State or federal laws, pursuant to Sections 163.3237 and 163.3241, Florida Statutes, as may be amended from time to time. The duration of this Agreement may be extended by the City pursuant to law and after conducting a public hearing in the manner specified in Section 163.3225, Florida Statutes, as may be amended from time to time.

11. **Necessity to Obtain Permits.** The Owner acknowledges its obligation to obtain all necessary federal, state and other local development permits (not mentioned herein) for development of the Property. The failure of this Agreement to address any particular permit, condition, term or restriction applicable to development of the Property shall not relieve the Owner or any successors or assigns of the necessity of complying with federal, state, and other local permitting requirements, conditions, terms or restrictions as may be applicable.

1. **Agreement Consistent with Comprehensive Plan and Section 163.3180, Florida Statutes (2022).** The City hereby acknowledges and agrees that (i) the Development is consistent with Florida Statutes and with the City's Comprehensive Plan and Land Development Regulations, and (ii) that the City's Comprehensive Plan is in compliance with the State of Florida Comprehensive Plan. This Development Agreement is contingent upon a future land use category and companion zoning district specific to mobility-oriented development. Any successful legal challenges to these ordinances will nullify the rights and obligations of this Development Agreement.

5. **Remedies.** Each party to this Agreement shall be entitled to seek enforcement of this Agreement against the other party consistent with Section 163.3243, Florida Statutes, as may be amended from time to time.

6. **Binding Effect.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. When Owner is used in this Agreement, it includes Owner and any successors and assigns owning any rights to the Property, jointly and severally assuming all the Owner obligations set out in the Agreement, unless the obligations have been fully discharged. Payments or credits due to Owner by City pursuant to the terms of this Agreement will be disbursed or assigned to BROUDY BROS., LTD. City shall have no duty to apportion or assign any payments or credits from this Agreement to successors or assigns, and said successors or assigns shall only look to BROUDY BROS., LTD. for reimbursement, credit or apportionment, unless BROUDY BROS., LTD. assigns its rights and obligations hereunder in full to a successor in interest to the Property.

7. **Applicable Law: Jurisdiction and Venue.** This Agreement and the rights and obligations of the City and Owner under this Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida (2022). This Agreement may be enforced as provided in Section 163.3243, Florida Statutes, as may be amended from time to time. Venue for any litigation pertaining to the subject matter of this Agreement shall be exclusively in St. Johns County, Florida. If any provision of this Agreement, or the application of

this Agreement to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

The fact that this Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development contemplated by this Agreement shall not relieve Owner or its successors in interest of the obligation to comply with the law governing such permit requirements, conditions, terms and restrictions.

8. Exhibits. All exhibits attached to this Agreement contain additional terms of this Agreement and are incorporated into this Agreement by reference.

9. Captions or Paragraph Headings. Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision of this Agreement.

10. Counterparts. This Agreement may be executed in counterparts, each constituting a duplicate original; such counterparts shall constitute one and the same Agreement.

11. Effective Date and Recordation. This Agreement shall become effective fifteen (15) days after it has been recorded in the Public Records of St. Johns County (the “**Effective Date**”).

12. Amendment. This Agreement may be amended, cancelled or revoked consistent with the notice and hearing procedures of Section 163.3225, Florida Statutes, and the terms of Section 163.3237, Florida Statutes, as may be amended from time to time.

13. Further Assurances. Each party to this Agreement agrees to do, execute, acknowledges and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

14. Notices. Any notices or reports required by this Development Agreement shall be sent to the following:

For the City: City Manager
 City of St. Augustine
 75 King Street
 St. Augustine, Florida 32084

With copy to: City Attorney
 City of St. Augustine
 75 King Street

St. Augustine, Florida 32084

For Owner:

Barry B. Broudy
Broudy Bros., LTD.
35 North Ponce De Leon
St. Augustine, Florida 32085

Cory A. Lang
194 West King Street
St. Augustine, Florida 32084

With copy to:

Ellen Avery-Smith
Rogers Towers, P.A.
100 Whetstone Place, Suite 200
St. Augustine, Florida 32086

[Signatures on Following Pages]

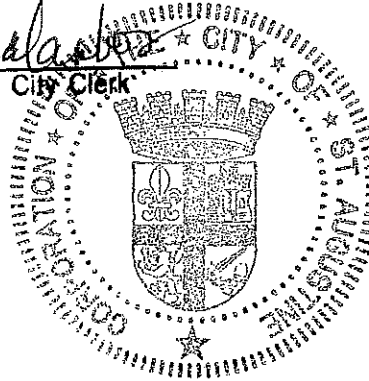
Passed and Duly Adopted by the City Commission of the City of St. Augustine, Florida this 24
day of October, 2022.

Attest:

CITY OF ST. AUGUSTINE, FLORIDA, a
municipal corporation

ATTEST:

Darlene Galambos
Darlene Galambos, City Clerk



By: T. Upchurch
Tracy Upchurch, Mayor

Approved as to form, legal sufficiency and
execution:

By: Isabelle Lopez
Isabelle Lopez, City Attorney

IN WITNESS WHEREOF, the parties hereto through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

Florida
Witnesses:

BROUDY BROS., LTD., a Florida limited
partnership

Name: _____

Print: _____

Name: _____

Print: _____

By: _____

Name: _____

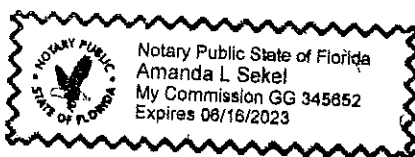
Its: _____

Date: _____

STATE OF FLORIDA

COUNTY OF St. Johns

The forgoing instrument is hereby acknowledged before me by means of ✓ physical presence or _____ online notarization this 2nd day of November, 2022, by Benny Broudy as President of BROUDY BROS., LTD., a Florida limited partnership on behalf of the company. He is personally known to me or has produced FL DL as identification and (did/did not) take an oath.



NOTARY PUBLIC

IN WITNESS WHEREOF, the parties hereto through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

Florida

Witnesses:

Name: _____

Print: _____

Name: _____

Print: _____

CORY A. LANG

By: _____

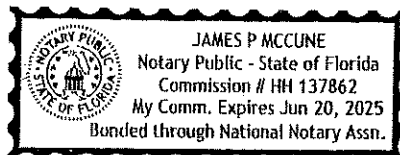
Name: Cory A. Lang, an Individual

Date: _____

STATE OF FLORIDA

COUNTY OF St. Johns

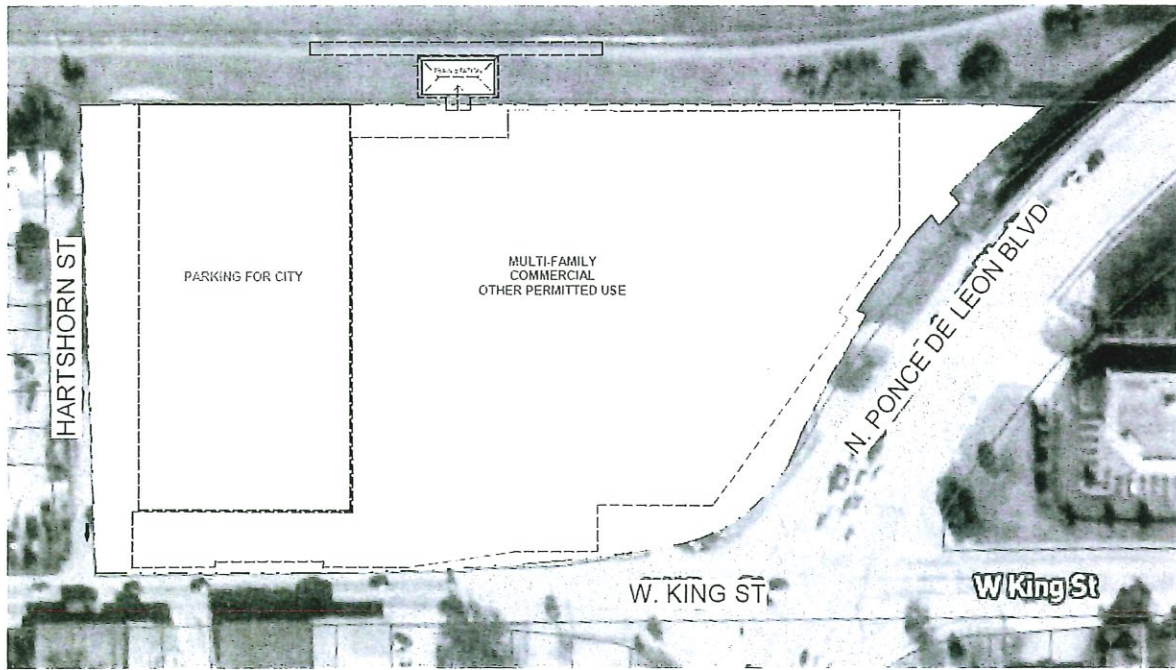
The forgoing instrument is hereby acknowledged before me by means of ☒ physical presence or ☐ online notarization this 31st day of October, 2022, by CORY A. LANG, an individual. He is personally known to me or has produced _____ as identification and (did/did not) take an oath.



NOTARY PUBLIC

EXHIBIT "B"

Conceptual Development Plan



SCALE: 1"=60'-0"

Conceptual Site Plan
09.15.2022

ISSP

2023 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L21000423734

Entity Name: WEST AUGUSTINE GATEWAY, LLC

Current Principal Place of Business:

35 N PONCE DE LEON
ST. AUGUSTINE, FL 32084

Current Mailing Address:

1313 S ANDREWS AVE
FORT LAUDERDALE, FL 33316 US

FEI Number: APPLIED FOR

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

BORKSON, ELLIOT B
1313 S ANDREWS AVE
FT LAUDERDALE, FL 33316 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title	MGR	Title	MGR
Name	BROUDY, BARRY	Name	BROUDY, JOAN
Address	5128 FOLIAGE WAY	Address	4001 VAIL POINT TERRACE
City-State-Zip:	ST AUGUSTINE FL 32092	City-State-Zip:	ST. AUGUSTINE FL 32086
Title	MGR		
Name	BORKSON, ELLIOT		
Address	1313 S ANDREWS AVE		
City-State-Zip:	FORT LAUDERDALE FL 33316		

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: BARRY BROUDY

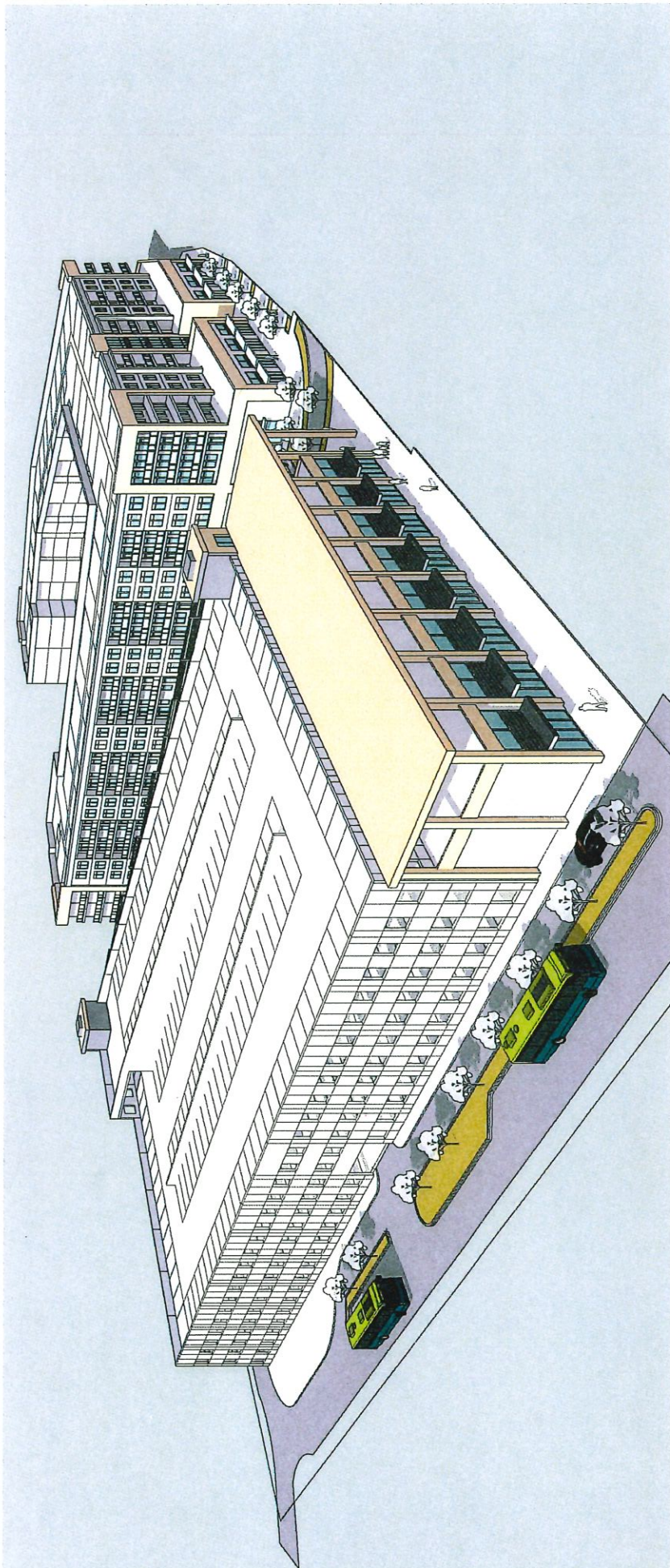
MGR

02/06/2023

Electronic Signature of Signing Authorized Person(s) Detail

Date







8001 Baymeadows Way Ste 1
Jacksonville, FL 32256-7521
P 904-900-6494
F 904-268-5255
Terracon.com

August 23, 2023

**Environmental Background Activities
West Augustine Gateway
194 West King Street
St. Augustine, St. Johns County, Florida**

Site History

Based on a review of available historical information the northern portion of the property appears to have been developed from at least 1899 with Florida East Coast Railroad (FECR) rails and associated car barns. Hydrants and hoses were noted at regular intervals throughout the interior of these barns. Two dwellings were also developed on the central portion of the property. Additional dwellings were developed along the western and southern site boundaries in the early 1900s. Buildings for sawing wood and a blacksmith were developed by 1910 on the southeast portion of the property. The Worley Sanitarium was developed along the southern boundary, more FECR spurs were added along the northern portion of the site and the blacksmith building was no longer present by 1917. Texas Oil Company began operating on the southeast portion of the site in the early 1920s, whose operations included gasoline and kerosene aboveground storage tanks (ASTs). Additionally, the Worley Sanitarium was then operating as the Poincetta Villa Hotel. By 1946, the hotel was razed, and a large wood beam structure was developed in its place. In the early 1960s, the northern portion of the property began operating as Florida State Iron and Metal Company, the western portion supported residential dwellings and garages, the southern portion supported a printing shop, Broudy Brothers Food Store and a restaurant. The southeastern portion that was previously operating as Texas Oil Company, was then operating as a motor freight and filling station. The motor freight station was razed and the current building for Broudy's Fine Wine & Spirits was developed in 1971. The Florida State Iron and Metal Company ceased operations on the property in the mid-1970s. The filling station on the southeast portion of the property began operating as King Auto Repairs & Parts and the current buildings were developed in 1986. The on- property residences along the western boundary were razed in the mid-2000s. The Broudy Brothers Food Store operated on the property until 2011, when Mariotti's Laundry & Cleaning (a drop-off only laundry) began operations. This building was razed in 2016 and has been vacant land since that time. The current liquor store and auto repair shop have been operating on the property since 1971 and 1986, respectively, whereas the remainder of the property is paved parking or vacant land.

Phase I Environmental Site Assessment – August 31, 2022

Terracon conducted a Phase I Environmental Site Assessment on the overall property redevelopment project on August 31, 2022, which identified the following recognized environmental conditions (RECs) and/or site concerns summarized in the table below.

REC/Site Concern	Description
Historical and Continued Auto Repair Operations	The long-term use of the property as an auto repair shop, with no compliance documentation or records, a history of poor housekeeping practices, staining around the used oil AST and an apparent in-ground hydraulic lift.
Historical Fueling Operations	The southeastern portion of the property operated as Texas Oil Company and as a motor and freight facility from the 1920s through the 1980s. Additionally, the southeastern adjoining property, prior to the development of Ponce de Leon Boulevard in the 1950s, operated as a fueling station. There is no documentation regarding the former tank usage for both facilities.
Historical Railroad Operations	There is potential for releases and/or impacts of arsenic and herbicide- related contaminants of concern from the long-term use, maintenance and construction of the railroad. Additionally, the property was used initially as FECR car barn storage then as Florida State Iron and Metal Company.
Historical Dry Cleaning Operations	The property previously operated as a dry cleaner from 2012 until 2016. Based on the nature of dry cleaning solvents that could have impacted the site.
Historical Printing Operations	The property previously supported a printing business in the 1950s through the 1960s. The exact printing operations were unknown; however, based on the wastes generated through printing processes, as well as typical waste handling and disposal practices in the 1950s and 1960s, it is likely that these former operations have impacted the property.
Historical Eastern Adjacent Properties (Offsite)	The eastern properties previously supported a lumber storage building, photo and sign printing business, an auto shop and auto salvage yard prior to the Ponce de Leon Boulevard roadway development.
Historical Northern Adjoining Property (Offsite)	The northern adjoining property operated as FECR as well as a storage yard for coal, wood, metal and lumber.
Historical Southern Adjacent Properties (Offsite)	The southern adjacent properties operated as an auto shop garage and filling station.

REC/Site Concern	Description
Deford's Fuel and Oil Discharge Remediation (Offsite)	The petroleum discharge from the bulk fuel retailer on the western adjacent property migrated onto the property. <i>*Note, this is being handled by the offsite responsible party and impacts are no longer present on the subject site.</i>

Limited Site Investigation – October 2022

A Limited Site investigation was conducted on the property on December 7, 2022, which included the investigation of soil and groundwater, potential existence of onsite underground storage tanks (USTs).

Site Concern	Assessment Findings
Potential USTs	A UST was identified at the King's Auto location and was confirmed by the prior property owner. The prior owner indicated that the UST was previously abandoned in place. The UST was not currently registered with the FDEP and a tank closure assessment was not available for review or on record with the FDEP. Proper tank closure and sampling is warranted.
Potential Soil Impacts	Soil sampled across the property is currently impacted with lead, arsenic, benzo(a)anthracene, benzo(a) pyrene and dieldrin. Additional assessment is warranted to complete the area of delineation.
Potential Groundwater Impacts	Groundwater sampled across the property is currently impacted with dieldrin. Additional assessment is warranted to confirm groundwater impacts.

(4) Notice of Proposed Rehabilitation of the BF Area and Proof Newspaper Advertisement

ATTACHMENT

4



Open to
the public for
comments and
questions

Community Meeting for the Brownfield designation of West Augustine Gateway

Designation Location:
Intersection of King and U.S. 1



September 12, 2023
5:00 pm

Meeting Location: Solar Stik Lobby
13 N. Leonardi Street, St. Augustine, FL

We'll discuss the goals and community benefits of designating the proposed mixed-use re-development leveraging Florida Brownfield incentives.

Reach out to Jason Perry at

jperry@nineoaksday.com with any questions



Affidavit

I, Janine Beaulieu

of Nine Oaks Development

make oath and say:-

Held a community meeting for the Brownfield designation of West Augustine Gateway on September 12, 2023 at 5:00pm at the Solor Stik Lobby located at 13 N. Leonardi Street, St. Augustine, FL. The meeting discussed the community benefits of designating the proposed mixed-use redevelopment leveraging Florida Brownfield incentives.

The UPS Store
4446 LA Hendricks Ave
Jacksonville, FL 32207

Sworn at _____

this 13th day of September 2023.

Janine Beaulieu
(Signature of deponent making this affidavit)

before me:

[Signature]
Signature of authorised witness



ZACHARY R. WILSON
Commission # HH 088477
Expires February 3, 2025
Bonded Thru Budget Notary Services

The authorised witness must print or stamp his or her name, address, and title under section 123c of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), (e.g. Justice of the Peace, Current Legal Practitioner, Registrar of the Magistrates Court, Sergeant of Police, Member of the Parliament of Victoria)

Community Meeting for the Bornwfield Desination of West Augustine Gateway

Prior to the Community Meeting, Flyers were mailed to neighbors surrounding the West Augustine Gateway project area as well as posted in these following locations:

Broudy's Liquor
35 N Ponce De Leon Blvd, St. Augustine FL

Bog Brewery Company
218 W. King Street, St, Augustine FL

Muggsy's
213 W. King Street, St, Augustine FL

Murf's Homestyle Togo
6 Mackey Lane, St, Augustine FL

The Local Refillery
226 W. King Street, St, Augustine FL

The Buena Onda Cafe
224 W. King Street, St, Augustine FL

Solar Stik
224 W. King Street, St, Augustine FL

Community Meeting for the Brownfield Destination of West Augustine Gateway
Date Pictures Taken: September 12, 2023



Photo 1: Community Meeting Location



Photo 2: Community Meeting Location

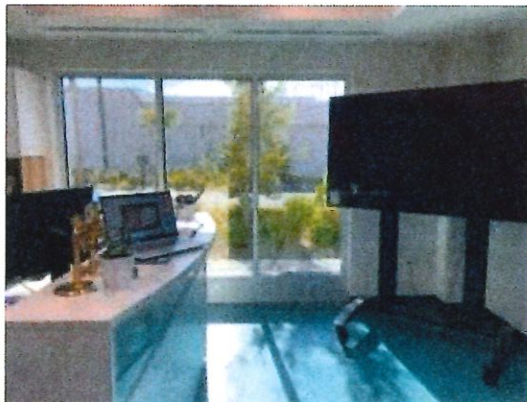


Photo 3: Community meeting area

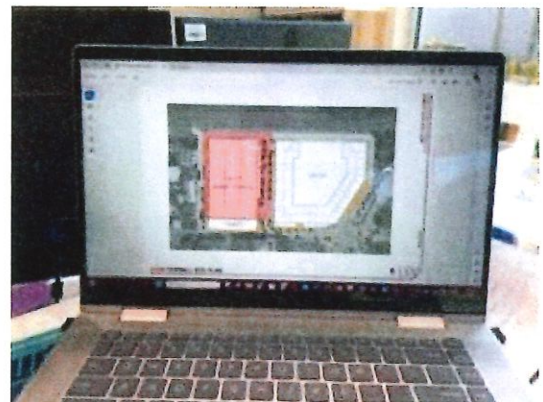


Photo 4: Community Meeting visuals

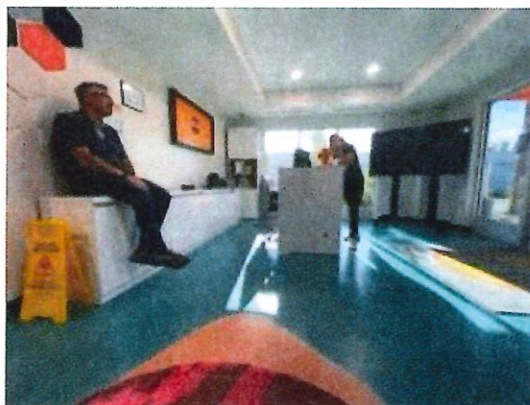


Photo 5: Community Meeting discussion with public attendants

NOTIC OF PUBLIC HEARING

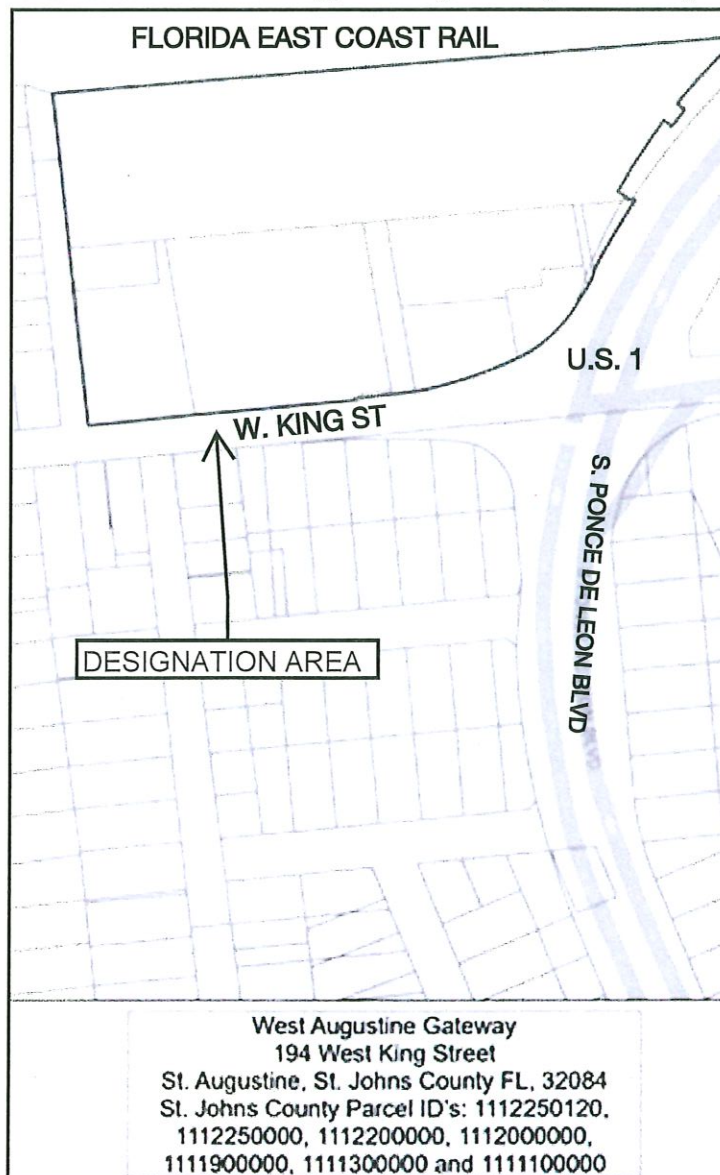
NOTICE IS HEREBY GIVEN that the City of St. Augustine, Florida will conduct a public hearing on October 9, 2023, at 5:00pm, in The Alcazar Room on the first floor of City Hall, located at 75 King Street, St. Augustine, Florida, 32085, to consider the following Resolution:

RESOLUTION 2023-35

A RESOLUTION DESIGNATING PARCEL NOS. 1112250120, 1112250000, 1112200000, 1112000000, 1111900000, 1111300000 1111100000 and A CERTAIN PORTION OF DEPOT STREET PER ORDINANCE NO.2023-23 BK:5809 PG:1804, LOCATED SOUTH OF THE FLORIDA EAST COAST RAILWAY AND NORTHWEST OF THE WEST KING STREET AND PONCE DE LEON BOULEVARD INTERSECTION, AT 194 WEST KING STREET, ST. AUGUSTINE, FLORIDA 32084, AS A BROWNFIELD REHABILITATION AREA AND FOR ENVIRONMENTAL REHABILITATION AND ECONOMIC DEVELOPMENT: PROVIDING AN EFFECTIVE DATE.

This meeting is open to the public in the City Commission Chambers. A full copy of said Resolution may be inspected at the Office of the City Clerk during regular business hours from this date forward. All interested parties may attending said meeting and be heard or send comments to the office mentions above.

Any person deciding to appeal any decision made by the Commission at the public hearing will need to ensure that a verbatim record of proceedings is made. In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordination at 904-825-1007 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.



ATTACHMENT

5

August 21, 2023

City of St. Augustine
P.O. Box 210
St. Augustine, Florida 32085

Re: Brownfield Designation - West Augustine Gateway, LLC
194 West King Street, St. Augustine, Florida 32084
Resolution Designating Parcel Nos. 1112250120, 1112250000, 1112200000, 1112000000,
1111900000, 1111300000 and 1111100000

To Whom this May Concern:

The applicant, who owns the property, has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the site. West Augustine Gateway, LLC is owned and controlled by Barry Broudy, who's family's business has been located and operating on the site for more than 70 years. Furthermore, West Augustine Gateway, LLC has engaged an experienced project developer and project management organization, Nine Oaks Development, Inc., who has extensive experience in redevelopment of urban projects, including Brownfield designated sites (www.nineoaksdevelopment.com).

Based on the credentials and record of success in consummating the development of various commercial and residential properties in Northeast Florida, West Augustine Gateway, LLC and its development partner Nine Oaks Development, Inc. has the necessary financial resources and experience to implement and complete the site development pursuant to a rehabilitation agreement and redevelopment plan. Please contact us if you require any further documents or need clarification:

Barry Broudy, West Augustine Gateway, LLC
904-347-5929
barry@broudys.com

J. Jason Perry, Nine Oaks Development, Inc.
404-788-1945
jerry@nineoaksdev.com

Sincerely,

 on behalf of
Barry Broudy, West Augustine Gateway, LLC

376.80 Brownfield program administration process.—

(2)(c) Brownfield area designation proposed by persons other than a governmental entity.—

For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

DATE: September 28, 2023

RE: **RESOLUTION 2023-37: DISPOSITION OF MUNICIPAL PROPERTY FOR AFFORDABLE HOUSING**

This resolution formalizes the determination of the City Commission at its March 28, 2022 meeting regarding the suitability of certain City properties for use for affordable housing. Three properties were identified as possibly suitable by staff: 450 N. Holmes Boulevard, 865 Fish Island Road, and 800 Plantation Island Drive South.

This resolution ratifies the City Commission's determination that 450 N. Holmes Boulevard is the only property suitable for affordable housing. 865 Fish Island Road was determined to be suitable for conservation, and 800 Plantation Island Drive South was swapped for more suitable parcels at 90 and 92 South Dixie Highway to be developed as a wrap-around homeless services facility consistent with the intent of F.S. 166.0451.

Please place Resolution 2023-37 on the agenda under Resolutions Requiring a Public Hearing, Item 8.C., at the October 9, 2023 City Commission meeting.

Thank you.



Isabelle C. Lopez
City Attorney

Attachment

xc: Meredith Breidenstein, Assistant City Manager
Reuben Franklin, Assistant City Manager
Darlene Galambos, City Clerk (*with original*)

Agenda Title:

Resolution 2023-37: Confirming the disposition of municipal property for affordable housing.

RESOLUTION NO. 2023-37

A RESOLUTION OF THE CITY COMMISSION OF ST. AUGUSTINE, FLORIDA CONFIRMING THE DISPOSITION OF MUNICIPAL PROPERTY FOR AFFORDABLE HOUSING.

WHEREAS, Florida Statutes Ch. 166.0451 requires that municipal governments prepare an inventory list of all real property within its jurisdiction that the municipality owns and is appropriate for use as affordable housing; and

WHEREAS, the City Commission of the City of St. Augustine reviewed properties owned by the City that could potentially meet the statutory requirement at its March 28, 2022 City Commission meeting; and

WHEREAS, Assistant City Manager, David Birchim, presented to the City Commission three properties for consideration: 450 N. Holmes Boulevard (see legal description attached as **Exhibit "A"**), 865 Fish Island Road (see legal description attached as **Exhibit "B"**), and 800 Plantation Island Drive South (see legal description attached as **Exhibit "C"**); and

WHEREAS, after public input and discussion the City Commission determined that the property at 865 Fish Island Road is not suitable for affordable housing, but instead will be used as conservation land, the property at 800 Plantation Island Drive South is also not suitable for affordable housing, but will be sold and the proceeds of the sale will be used for funding a City owned and operated wrap around homeless services facility; and

WHEREAS, the property at 450 N. Holmes Boulevard was determined to be suitable for affordable housing and the City itself has proceeded with preliminary planning for its development as an affordable housing project.

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF ST. AUGUSTINE, FLORIDA:

Section 1. The City Commission of the City of St. Augustine thereby confirms and ratifies its findings of March 28, 2022 and consistent with Florida Statutes Ch. 166.0451 identifies 450 N. Holmes Boulevard as appropriate for use as affordable housing and instructs its staff to post this property on its website.

Section 2. The City Commission of the City of St. Augustine accepted a land swap to transfer 800 Plantation Island Drive South in exchange for 90 and 92 South Dixie Highway (see legal descriptions attached as **Exhibit “D”**) for the development of the wrap around homeless services facility and finds that this disposition of municipal property is consistent with the intent of the statute.

ADOPTED in Regular Session of the City Commission for the City of St. Augustine, Florida this _____ day of _____, 2023.

CITY OF ST. AUGUSTINE, FLORIDA

ATTEST:

Nancy Sikes-Kline, Mayor-Commissioner

Darlene Galambos, City Clerk
(Seal)

EXHIBIT "A"

ALL THAT CERTAIN PARCEL OF LAND LYING AND BEING IN THE COUNTY OF ST. JOHNS AND STATE OF FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE NORTH 1/2 OF SECTION 14, TOWNSHIP 7 SOUTH, RANGE 29 EAST, COMPRISING PART OF GOVERNMENT LOT 1, PART OF GOVERNMENT LOT 2, AND PART OF GOVERNMENT LOT 3 OF SAID SECTION 14 EXCEPTING THEREFROM THE EAST 610.22 FEET OF SAID SECTION 14, TOWNSHIP 7 SOUTH, RANGE 29 EAST.

THE ABOVE PROPERTY BEING MORE FULLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE PHILLIP EMBARA GRANT, SECTION 42, TOWNSHIP 7 SOUTH, RANGE 29 EAST AND THE NORTH FINE OF SECTION 14, TOWNSHIP 7 SOUTH, RANGE 29 EAST, RUN THENCE SOUTH 21 DEGREES 28 MINUTES EAST, 1665.2 FEET ALONG THE WEST LINE OF SAID SECTION 14, THENCE SOUTH 86 DEGREES 50 MINUTES EAST 1852.19 FEET, THENCE NORTH 0 DEGREES 58 MINUTES WEST AND PARALLEL TO THE EAST LINE OF SAID SECTION 14 A DISTANCE 1733.15 FEET TO THE NORTH LINE OF SAID SECTION 14, SAID POINT BEING 610.3 FEET WESTERLY FROM THE NORTHEAST CORNER OF SAID SECTION 14 AS MEASURED ALONG THE NORTH LINE OF SAID SECTION, THENCE SOUTH 88 DEGREES 07 MINUTES WEST ALONG THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 1430.7 FEET TO THE POINT OF BEGINNING. EXCEPTING FROM THE ABOVE DESCRIBED PROPERTY THE SOUTH 15 FEET THEREOF, SAME HAVING BEEN PREVIOUSLY CONVEYED FOR ROAD PURPOSES.

PARCEL ID: 095080-0000 (VACANT)

ADDRESS: 450 N. HOLMES BOULEVARD, ST. AUGUSTINE, FLORIDA 32084

EXHIBIT "B"

LOTS FOUR (4) AND FIVE (5), BLOCK FOUR (4), HASTINGS LAND AND IMPROVEMENT CORPORATION SUBDIVISION OF THE TOWN OF HASTINGS, FLORIDA, ACCORDING TO MAP BOOK 2, PAGE 48, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

PARCEL ID: 161930-0001 (IMPROVED)

ADDRESS: 865 FISH ISLAND ROAD, ST. AUGUSTINE, FLORIDA 32080

EXHIBIT "C"

THAT PART OF SECTION 28, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 28; THENCE NORTH 01 DEGREES 22 MINUTES 52 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 1630.94 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 312 (A 250 FOOT WIDE RIGHT OF WAY) AND THE POINT OF BEGINNING; THENCE SOUTH 60 DEGREES 01 MINUTES 34 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 387.54 FEET; THENCE NORTH 29 DEGREES 58 MINUTES 26 SECONDS EAST 50.00 FEET; THENCE NORTH 60 DEGREES 01 MINUTES 34 SECONDS WEST 418.01 FEET TO SAID WEST LINE SECTION 28; THENCE SOUTH 01 DEGREES 22 MINUTES 52 SECONDS EAST, ALONG SAID WEST LINE, 58.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.46 ACRES MORE OR LESS.

PARCEL ID: 161930-0000 (VACANT)

ADDRESS: 800 PLANTATION ISLAND DRIVE, ST. AUGUSTINE, FLORIDA 32080

EXHIBT "D"

PARCEL 1:

LOT 10, BLOCK 4, SAN JUAN, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 15, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

PARCEL 2:

LOT(S) 9, 11, 12, 13, 14, 15, 16, 17, 18, 20 AND 22, BLOCK 4, SAN JUAN, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 15, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, LESS AND EXCEPT PORTION LYING WITHIN RIGHT-OF-WAY OF STATE ROAD NO. 207 AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED IN DEED BOOK 228, PAGE 175.

PARCEL 3:

LOT(S) 8 AND 9, BLOCK 3, TOGETHER WITH ALL OF HARPER AVENUE (A 50 FOOT WIDE COUNTY ROAD, VACATED JULY 19, 1969 AS RECORDED IN OFFICIAL RECORDS BOOK 152, PAGE 40), ALL LYING SOUTH OF STATE ROAD 207, SAN JUAN, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 15, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, LESS AND EXCEPT THOSE PARCELS OF LAND DESCRIBED IN THOSE INSTRUMENTS RECORDED IN OFFICIAL RECORDS BOOK 1117, PAGE 763 AND OFFICIAL RECORDS BOOK 3858, PAGE 608, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

PARCEL ID: 128290-0000 & 1283100000 (IMPROVED)

ADDRESS: 90 S. DIXIE HIGHWAY, ST. AUGUSTINE, FLORIDA 32084
92 S. DIXIE HIGHWAY, ST. AUGUSTINE, FLORIDA 32084

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

DATE: September 28, 2023

RE: **ORDINANCE 2023-31: CHARTER AMENDMENT**

Currently, two of the City's pension boards and regulations are codified in our municipal code, the General Employee pension and the Firefighters' pension. The Police Officer' pension has all of its provisions in the actual City Charter. There is some colorful history regarding how this anomaly occurred, but regardless having police pension matters codified in the Charter creates additional hurdles and costs.

Under state law, changes to the Charter created boards and changes that could impact employee rights in the Charter require a full referendum by the voters of the City. For example, in the recent past we had to place on an election ballot the minor change to the term of Police Pension Board members. This is an impractical and costly method of making changes.

Both the Police Union and the Police Pension Board have been briefed on the proposed change to remove the police pension matters from the Charter and instead create a new section in our municipal code for police pension matters. No substantive changes are proposed. The process requires an ordinance change, followed by a vote by referendum on the March 2024 Presidential Preference Primary Election.

Please place Ordinance 2023-31 on the regular agenda for first reading at the October 9, 2023 City Commission meeting.

Thank you.



Isabelle C. Lopez
City Attorney

Attachment

xc: Meredith Breidenstein, Assistant City Manager
Reuben Franklin, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Ordinance 2023-31: Charter amendment to remove the police pension section and codify it in the municipal code.

Business Impact Estimate

Proposed ordinance's title/reference: **ORDINANCE 2023-31: AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CHARTER OF THE CITY OF ST. AUGUSTINE TO REMOVE ARTICLE IX FROM THE CHARTER OF THE CITY OF ST. AUGUSTINE TO INSTEAD BE CODIFIED WITHIN THE CITY OF ST. AUGUSTINE MUNICIPAL CODE; PROVIDING FOR A REFERENDUM PROPOSITION FOR THE NEXT SPECIAL ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of St. Augustine is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of St. Augustine hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals, and welfare): **REMOVAL OF THE POLICE PENSION MATTER FROM THE CHARTER AND CODIFIED INTO THE CITY MUNICIPAL CODE TO ELIMINATE UNNECESSARY HURDLES AND COSTS WHEN AMENDMENTS ARE NEEDED. IT IS IN THE BEST INTEREST OF PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE TO ADOPT THIS AMENDMENT.**

¹ See Section 166.041(4)(c), Florida Statutes.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of St. Augustine, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur: **NONE.**

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible: **NONE.**

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs. **APPROXIMATELY \$110.00 TO ADVERTISE SECOND READING IN THE LOCAL NEWSPAPER AND \$1,113.00 TO PLACE THE REFERENDUM QUESTION ON THE PRESIDENTIAL PREFERENCE PRIMARY BALLOT.**

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: **NONE.**

4. Additional information the governing body deems useful (if any):

BOTH THE BOARD OF TRUSTEES OF THE ST. AUGUSTINE POLICE OFFICERS' RETIREMENT TRUST FUND AND COASTAL FLORIDA POLICE BENEVOLENT ASSOCIATION, INC. HAVE BEEN BRIEFED ON AND ARE IN AGREEMENT WITH THIS CHANGE. THIS CHANGE WILL ALSO SAVE COSTS GOING FORWARD WHEN AMENDMENTS ARE NEEDED BECAUSE A REFERENDUM QUESTION WILL NOT NEED TO BE PLACED ON AN ELECTION BALLOT.

ORDINANCE NO. 2023-31

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CHARTER OF THE CITY OF ST. AUGUSTINE TO REMOVE ARTICLE IX FROM THE CHARTER OF THE CITY OF ST. AUGUSTINE TO INSTEAD BE CODIFIED WITHIN THE CITY OF ST. AUGUSTINE MUNICIPAL CODE; CREATING CHAPTER 20, ARTICLE VI, SECTIONS 20-220 THROUGH 20-236 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO CODIFY THE POLICE OFFICERS RETIREMENT SYSTEM; PROVIDING FOR A REFERENDUM PROPOSITION FOR THE NEXT SPECIAL ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, on August 23, 2023 the City and Board of Trustees of the St. Augustine Police Officers' Retirement Trust Fund agreed to the removal of Article IX from the Charter in order to recodify it under the City Code of Ordinances in order to facilitate future amendments; and

WHEREAS, on September 15, 2023 the City and the Coastal Florida Police Benevolent Association, Inc. agreed to the removal of Article IX from the Charter in order to recodify it under the City Code of Ordinances in order to facilitate future amendments; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Removal of Part I, Article IX, Sections 9.01 through 9.16. Part I, Article IX, Sections 9.01 through 9.16 are hereby removed from the Charter, as follows:

~~**Article IX. Police Officers Retirement System**~~

~~**Sec. 9.01. System and fund created.**~~

~~(1) There is hereby created and established:~~

~~(a) A retirement system for police officers of the City of St. Augustine, Florida, to be known as the "St. Augustine Police Officers Retirement System," by and~~

in which name it shall, pursuant to this Act, transact all of its business and shall have the powers and privileges of a corporation, the same to be a department or instrumentality of such city.

- (b) ~~A special fund to be known as the "St. Augustine Police Officer's Retirement Fund," said fund to be used for the exclusive benefit of Plan Members and Beneficiaries. Any diversion of fund assets prior to the satisfaction of all liabilities related to the system shall be prohibited. The fund shall be collected, administered and disbursed according to the provisions of this Act. Actuarial deficits, if any, arising in the fund created under this Act shall be the obligation of the City of St. Augustine except as provided herein.~~
- (2) ~~The fund and the system hereby created shall be in substitution for the "St. Augustine Police Officers Retirement Fund" and the retirement system thereunder, now and heretofore existing in the City of St. Augustine in pursuance of the provisions of F.S. ch. 185; and said "Police Officers Retirement Fund" and the system thereunder now and heretofore existing in said city under the provisions of said Chapter 185, shall on the effective date of this Act, stand abolished.~~

~~Sec. 9.02. Definitions.~~

- (1) ~~"Accrued benefit" shall mean the total monthly benefit which shall have been earned by each member for all years of creditable service of said member as follows:~~
 - (a) ~~A member who terminates city employment with ten (10) or more years of creditable service shall earn a benefit at the rate of two percent (2.0%) of the member's average final salary for each year of creditable service.~~
 - (b) ~~A member who terminates city employment on or after March 1, 2000 with ten (10) or more years of creditable service may elect a benefit at the rate of two and one-half percent (2.5%) of the member's average final salary for each year of creditable service, subject to the early retirement provisions of Section 9.08(5).~~
 - (c) ~~A member who terminates city employment after October 1, 2005 with ten (10) or more years of creditable service shall earn a benefit at the rate of three percent (3%) of the member's average final salary for each year of creditable service earned after October 1, 2005. The three percent (3%) multiplier may apply to creditable service earned prior to October 1, 2005, subject to the provisions of Section 9.08(7).~~
- (2) ~~"Accumulated contributions" shall mean the sum of all amounts deducted from the salary of a member and contributed to the fund.~~
- (3) ~~"Actuarial equivalent" shall mean a benefit of equivalent value to that which would otherwise have been provided to the member, computed as follows:~~
 - (a) ~~For benefits payable in the form of a life annuity, a benefit equal to one hundred two (102) percent of that otherwise payable as ten-year certain and life annuity if the member is age fifty-five (55) or younger. If the member is older than fifty-five (55), 0.5 percent will be added to the one hundred two (102) percent for each year older, not to exceed one hundred eight (108) percent;~~

- ~~(b) For benefits payable in the form of a fifty (50) percent joint and survivor annuity, a benefit equal to ninety-four (94) percent of that otherwise payable as a ten-year certain and life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-four (94) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-four (94) percent for each year older, not to exceed one hundred (100) percent;~~
 - ~~(c) For benefits payable in the form of a fifty (50) percent joint and last survivor annuity, a benefit equal to ninety-seven (97) percent of that otherwise payable as a ten-year certain and life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-seven (97) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-seven (97) percent for each year older, not to exceed one hundred (100) percent;~~
 - ~~(d) For benefits payable in the form of a sixty-six and two-thirds (66⅔) percent joint and last survivor annuity, a benefit equal to ninety-three (93) percent of that otherwise payable as a ten-year certain and life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-three (93) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-three (93) percent for each year older, not to exceed one hundred (100) percent;~~
 - ~~(e) For benefits payable in the form of a one hundred (100) percent joint and last survivor annuity, a benefit equal to eighty-seven (87) percent of that otherwise payable as a ten-year certain and life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the eighty-seven (87) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the eighty-seven (87) percent for each year older, not to exceed one hundred (100) percent.~~
 - ~~(f) For benefits payable in any other form, actuarial equivalence means the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit, including lump sum distributions, shall be based on the RP-2000 static mortality table (h) unisex 50/50 for healthy lives projected to 2010 for healthy members and the RP-2000 static mortality table (d) unisex 50/50 projected to 2010 for disabled members; and an interest discount rate of 8% per annum, compounded annually. This definition may be amended by the city pursuant to the recommendation of the board with the advice of the plan's actuary and the city's actuary, such that the actuarial assumptions are not subject solely to city discretion.~~
- ~~(4) "Average final compensation" means one-twelfth of the average annual compensation of the five (5) best years of the last ten (10) years of creditable service prior to retirement, termination or death.~~

- ~~(5) "Beneficiary" shall mean any person so designated by a member as provided in section 11 [9.11]. In the event no designation is made the beneficiary of said member shall be his estate.~~
- ~~(6) "Board" shall mean the board of trustees as provided in this Act.~~
- ~~(7) "City" shall mean the City of St. Augustine, Florida.~~
- ~~(8) "Creditable service" for the purpose of this Act shall mean the total number of years and fractional parts of years of service of any police officer as follows:~~
- ~~(a) Periods of service as a police officer with the city prior to October 10, 1953, during which the police officer shall have contributed to this system or any predecessor retirement systems (other than the Federal Social Security System) for police officers of the City of St. Augustine. In determining the aggregate number of years of creditable service of any police officer, periods of absence for service in the Armed Forces after initial employment as a police officer, or any leaves of absence authorized by the city shall be added to the years of service as a police officer with the city, provided that credit for such military leave or authorized leave of absence shall not exceed five (5) years. Creditable service shall be granted to any member who is legally entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act, without such member making the contributions required under Section 9.07. Otherwise, the aggregate number of years of creditable service shall mean the total number of years and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer is not employed by the city.~~
- ~~(b) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include up to three (3) years of active duty in the U.S. armed forces or full-time employment as a law enforcement officer with another governmental entity prior to employment by the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior employment as a police officer. Such purchased service may not be used for vesting purposes. An eligible member may purchase creditable service under the system for such prior employment by paying into the fund the full actuarial cost of such creditable service, as determined by the plan actuary. Such payment must be made in full prior to entering the DROP or separation from city employment, whichever occurs earlier. In the event full payment is not made prior to such date, the member shall receive only the amount of creditable service, as determined by the actuary, for which the payment made, excluding interest, is the full actuarial cost. A member purchasing such additional creditable service must also pay the full cost of any actuarial calculations required. Payment for the purchase of creditable service pursuant to this paragraph may be made using any one or a combination of the following options:~~
- ~~1. Cash lump sum payment.~~

- ~~2. Installment payments, plus simple interest at the rate of four (4) percent per annum, deducted from the member's city salary over a period not to exceed five (5) years.~~
 - ~~3. Direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan, in accordance with Section 9.14.~~
- ~~(c) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include the years or fractional years that a member performs "Qualified Military Service" including voluntary or involuntary service in the armed forces of the United States as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), as amended, or has served in the National Guard or reserve military service of the armed forces of the United States, prior to or while in the employ of the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior service. Such purchased service may not be used for vesting purposes. The member must contribute the full actuarial cost of all such creditable service. Creditable service for National Guard or military reserve service shall be calculated by dividing the total number of official military reserve points by 365 to determine the equivalent years of fractional parts thereof to be credited. The combined total of all creditable service purchased pursuant to this paragraph and paragraph (b) of this subsection shall not exceed three (3) years. Payment for the purchase of National Guard or reserve military service shall be made in the same manner as provided in paragraph (b) of this subsection.~~
- ~~(d) This section is intended to satisfy the minimum requirements of USERRA, as may be amended from time to time. To the extent that this section does not meet the minimum requirements of USERRA, the provisions of USERRA shall govern.~~
- ~~(9) "Contributions" shall mean the amounts deducted from the salary as a member as provided in section 7 [9.07].~~
- ~~(10) "Disability retirement" shall mean retirement upon the disability retirement rate as provided in section 10 [9.10].~~
- ~~(11) "Fund" shall mean the St. Augustine Police Officers Retirement Fund as provided in this Act.~~
- ~~(12) "Member" shall mean any police officer entitled to participate in the system and fund as provided in this Act.~~
- ~~(13) "Past service liability" shall mean the liability attributable to all accrued benefits which shall have been earned by members prior to January 1, 1957.~~
- ~~(14) "Police officer" means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training,~~

~~guidance and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. § 943.10(5) and (7), respectively. "Police officer" also shall include a public safety officer who is responsible for performing both police and fire services.~~

~~(15) "Salary" shall mean the total cash or remuneration paid to a police officer for services rendered during a particular year. It shall include base salary, overtime, special incentive pay, and sick leave or vacation leave taken during the year. Salary shall not include lump-sum checks for leave pay accrued but never taken. Only fifty-two (52) weeks of salary may be credited in any year. For years beginning on and after October 1, 1994, salary in excess of \$150,000 shall be disregarded for all purposes of the system. As of October 1 of each calendar year thereafter, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective for that plan year in lieu of the dollar limitation provided in the preceding sentence. For an employee who became a member prior to October 1, 1994, this limitation shall not apply to the extent that salary allowed to be taken into account under the plan would be reduced below the amount allowed to be taken into account under the plan in effect on September 30, 1994. Salary in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code.~~

~~(16) "Service retirement" shall mean retirement upon the normal service retirement date or delayed service retirement date, as provided in section 8 [9.08].~~

~~(17) "System" shall mean the St. Augustine Police Officers Retirement System created by this Act.~~

~~(18) "Total current contribution" shall mean the total of all funds contributed for any given calendar year to the St. Augustine Police Officers' Retirement Fund, less the funds contributed that year toward amortizing the unfunded liability at December 31, 1960, (which funds shall in no event be less than three (3) percent of the unfunded liability at December 31, 1960, left unamortized at the end of the preceding calendar year).~~

~~(19) "Trustee" shall mean any member of the board of trustees as provided in this Act.~~
Sec. 9.03. Creation and maintenance of the fund.

~~The special fund created by this Act shall consist of moneys and assets derived from the following sources:~~

- ~~(1) From moneys and other assets of the "police officers retirement fund" held by the board of trustees of said fund on the effective date of Article IX hereof, in pursuance of F.S. ch. 185. The board of trustees of said fund shall take such action as may be required, on the effective date of this Act, to transfer to the trustees of the fund under the system hereby created such moneys and assets.~~

- ~~(2) From the net proceeds of the point eighty-five (.85) percent excise or license tax which may be imposed by ordinance of the city upon those casualty insurance companies to the extent and as described and permitted in F.S. § 185.08.~~
- ~~(3) Effective October 1, 2005, from a contribution of five and one-half (5.5) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the members' gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one percent of salary of each member which shall be paid over to the board.~~
- ~~(4) From the funds of the St. Augustine Police Benevolent Association. At such time as Article IX hereof, shall become operative and from time to time thereafter, there shall be transferred from the funds of the St. Augustine Police Benevolent Association such amounts as shall be agreed upon by the officers of said association and the board.~~
- ~~(5) From all gifts, bequests and devises when donated for the fund.~~
- ~~(6) From accretions to the fund by way of interest on bank deposits or otherwise.~~
- ~~(7) From all other sources of income now or hereafter authorized by law for the augmentation of such fund.~~
- ~~(8) The city shall contribute to the plan annually an amount which together with the contributions from police officers, the amount derived from the premium tax provided in F.S. § 185.08, and other income sources will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not longer than forty (40) years. The city contributions shall be deposited on at least a quarterly basis. If the required city contributions for any plan year should exceed five (5) percent of the combined salaries of contributing plan members, the cost of living adjustment provided in Section 9.12(10) shall not be accrued until the required city contribution for a subsequent plan year equals five (5) percent or less.~~
- ~~(9) The cost shall be determined by an actuarial valuation of the retirement plan which must be made at least every three (3) years commencing from the last actuarial report of the plan pursuant to F.S. § 185.35, as amended. Such valuation shall be prepared by an enrolled actuary.~~

Sec. 9.04. Board of trustees.

- ~~(1) In the municipality of St. Augustine, Florida, there is hereby created a Board of Trustees of the St. Augustine Police Officers' Retirement Trust Fund, which shall be solely responsible for administering the trust fund. Effective as of the effective date of this Act, and thereafter, the board of trustees shall consist of five (5) members, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of St. Augustine, Florida, who shall be appointed by the St. Augustine City Commission, and two (2) of whom shall be police officers as defined in F.S. § 185.02(1), who shall be elected by a majority of the police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four (4) members, and such person's name shall be submitted to the St.~~

~~Augustine City Commission. Upon receipt of the fifth person's name, said city commission shall, as a ministerial duty, appoint such person to the board of trustees as its member. The fifth member shall have the same rights as each of the other four (4) members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of two (2) years, unless sooner replaced by the city commission at whose pleasure he shall serve, and may succeed himself as a trustee. However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the police department as members of the board of trustees as provided in Laws of Fla. (1953) ch. 28230, as amended, together with any city manager and member of the City Commission of St. Augustine, Florida, as members of the board of trustees shall terminate on the effective date of this Act. Each police officer member shall serve as trustee for a period of two (2) years, unless he sooner leaves the employment of the municipality as a police officer, whereupon the City Commission of St. Augustine, Florida, shall choose his successor in the same manner as an original appointment. Each police officer may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.~~

- ~~(2) The trustees shall by majority vote elect from its members a chairman and a secretary. The board of trustees may by majority vote also elect from its members a vice chairman. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.~~

~~— The elected trustees shall be elected by the members of the system at an election — held in the following manner:~~

- ~~(a) By per capita vote of all the members at a meeting of which all members shall be notified in person or by mail five (5) days in advance. Elected trustees shall begin their term of office on the first Monday after election to said office. An election shall be compulsory every year.~~

- ~~(b) The first election of the elected trustees shall be held within thirty (30) days after the effective date of this Act. The members of the board of trustees other than the elected trustees shall appoint the judges and clerks for the election of the elected trustees, and shall establish such rules and procedures as may be necessary to conduct the election in an orderly and equitable manner.~~

~~— The time for said election shall be set by the two (2) trustees first appointed to the board and thereafter said election shall be held on that date each year, or such date as may be designated by the board. The votes shall be counted immediately following the election and the member receiving the greatest number of votes shall be declared elected.~~

- ~~(3) If a vacancy occurs in an elective office of trustee, the vacancy shall be filled within thirty (30) days after the date of the vacancy for the unexpired term in the same manner as the office was previously filled.~~

- ~~(4) Each trustee shall, within ten (10) days after his appointment or election, take an oath of office before the city chief accountant or a notary public, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to this system. Such oath shall be subscribed to by the trustee making it and certified by the said city chief accountant or notary public and retained as a permanent record in the files of the board.~~
- ~~(5) In addition to its quarterly meetings, the board shall hold special meetings at any time requested by the chairman or any three (3) trustees. The chairman shall designate the time and place of each meeting by written notice to the trustees and members, such notice to be delivered or placed in the mail to said trustees and members at least twenty-four (24) hours prior to the convening of said meeting. All meetings of the board shall be open to the members of the system and to the public.~~
- ~~(6) Three (3) trustees shall constitute a quorum at any meeting of the board. Each trustee shall be entitled to one vote in the meetings of the board. At least three (3) concurring votes shall be necessary for a decision by the board. The board shall have the right to dismiss any elected trustee if, after hearing before the members of the system, it is found that the said trustee has failed to comply with any of the stipulations of Article IX hereof, involving moral turpitude as defined by Florida Law.~~
- ~~(7) The board of trustees, subject to the limitations of this Act and within the standards and purposes of this Act, shall make such rules and regulations as are necessary for the effective administration of the system and fund created by this Act and for transaction of its business. The board shall keep records of all its proceedings and such records on each member as it may deem necessary and proper in its administration of this Act. Said board shall make investigations concerning the enforcement and effect of this Act and its adopted rules and regulations. It shall make an annual report to the members of the system which shall include a financial report of the receipts, disbursements, assets and liabilities of the fund.~~
- ~~(8) The board shall engage such actuarial, legal or other services as shall be required to transact the business of the fund. The compensation of all persons engaged by the board and all expenses necessary for the operation of the system shall be paid by said system at such rates and in such amounts as the board shall agree.~~
- ~~(9) The secretary of the board shall execute bonds in such amounts as may from time to time be fixed by the board for the faithful performance of his duties. The board shall establish a system of accounting, and do all things, take all actions, and make all rules and regulations, not inconsistent with the provisions of this Act, that it deems necessary and proper to safeguard the funds placed in its custody and to carry out the provisions of this Act.~~
- ~~(10) The secretary of the board shall be the custodian of all records maintained by the board. The secretary shall permit inspection of all records held in his custody by any trustee or member of the system. The secretary shall keep a record of all persons receiving retirement payments under this system, in which it shall be noted the time when the pension begins and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all police officers employed by the City, including the name, address, and dates of employment of each police officer.~~

- ~~(11) In the absence of the chairman of the board at any meeting of the trustees the vice chairman shall serve as chairman and in the absence of both the chairman and the vice chairman at any meeting of the trustees, the secretary shall serve as chairman.~~
- ~~(12) At least once every three (3) years, the board of trustees, shall retain an independent consultant professional qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the date of the hearing.~~
- ~~(13) In connection with the administration of the fund the board of trustees is authorized and empowered to institute proceedings in court and be sued, in the name of the system.~~

~~Sec. 9.045. City attorney to represent board of trustees.~~

~~The city attorney shall give advice to said board of trustees in all matters pertaining to their duties in the administration of said municipal police officers' retirement trust fund whenever requested; and he or she shall represent and defend said board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board; provided, however, that if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.~~

~~Sec. 9.05. Management of the funds.~~

- ~~(1) The board is solely responsible for administering the trust, and shall be responsible for investing the assets of the system in accordance with this section. The board shall exercise its duties with respect to the system for the exclusive purpose of providing benefits to members and their beneficiaries and defraying the reasonable expenses of administering the system. The board shall exercise its investment authority with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise with like character and like aims, and by diversifying the investments of the system so as to reduce the risk of large losses, unless under the circumstances it is clearly prudent not to do so. The board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the assets of the system have been invested, as well as the proceeds of such investments and any moneys belonging to the fund, in accordance with this section. The board may employ outside investment counsel to advise the board in the making and disposition of investments.~~
- ~~(2) The board shall adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, incorporating the following requirements for specific investments:~~

- ~~(a) The board may invest in money market instruments, stocks, corporate bonds, bonds or other obligations of the United States of America, either directly or through pooled or commingled funds.~~
- ~~(b) The board may make direct investment in bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of the State of Florida, if the obligations are rated investment grade by at least one nationally recognized rating organization.~~
- ~~(c) The board may invest up to twenty-five (25) percent at cost basis, of its assets in real estate only through participation in commingled funds or insurance company group annuity separate accounts holding diversified real properties. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein.~~
- ~~(d) The board may invest up to fifteen (15) percent of its assets in mortgage loan securities secured by real property only through participation in commingled funds or insurance company separate accounts holding diversified mortgage securities. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein. Mortgage securities of commingled funds must be issued by an agency of or enterprise sponsored by the United States Government, including, but not limited to, the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.~~
- ~~(e) The board may invest up to five (5) percent of its assets in stock and corporate bonds of any one (1) issuing company either directly or through pooled or commingled funds.~~
- ~~(f) The aggregate investment in stock either directly or through pooled or commingled funds shall not exceed seventy (70) percent (at cost) of the assets of the fund.~~
- ~~(g) The average credit quality of the fixed income portfolio shall be rated "A" or higher. No more than 15% of the fixed income portfolio may be rated lower than "BBB". The duration of the fixed income portfolio shall remain within 35% of the duration of a market index selected by the board. If there is no index selected, the default index shall be the Lehman Aggregate Bond Index.~~
- ~~(h) The board may invest up to twenty-five percent (25%) of the assets of the fund, in corporate obligations and/or securities of a foreign corporation or a foreign commercial entity that are not subject to United States securities laws. United States dollar-denominated securities listed and traded on a United States exchange would not be included in this limitation.~~
- ~~(3) The board shall deposit the funds and securities of the city police officers' retirement trust fund in a qualified public depository as defined in section 280.02(26), Florida~~

~~Statutes, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes.~~

- ~~(4) The board may issue drafts upon the city police officers' retirement trust fund pursuant to Article IX hereof, and rules and regulations prescribed by the board. All such drafts shall be consecutively numbered, be signed by the chairman and secretary and state upon their faces the purposes for which the drafts are drawn. The city director of financial services shall retain such drafts when paid, as permanent vouchers for disbursements made, and no other money shall otherwise be drawn from the fund.~~
- ~~(5) No trustee shall have any interest, direct or indirect, in the gains or profits of any investment made by the board, save insofar as such trustee may be a member or beneficiary of the system. No trustee shall in any manner, directly or indirectly, for himself or as an agent, use the funds or deposits of the system except to make such payments therefrom as are authorized by the board, nor shall any member of the board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the fund.~~
- ~~(6) The board shall have the right to purchase an individual annuity from an insurance company, when a member becomes eligible for service retirement, in an amount sufficient to pay the retired member his earned monthly pension of retirement.~~
- ~~(7) Notwithstanding any provision of this section to the contrary, the Board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in section 215.473, Florida Statutes, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The Board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the members of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by section 215.473, Florida Statutes, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this paragraph.~~

~~Sec. 9.06. Participation in the system.~~

- ~~(1) All full-time police officers employed by the City of St. Augustine shall be members of this system.~~
- ~~(2) The membership of any police officer in this system shall cease upon the payment from the fund of his accumulated contributions.~~
- ~~(3) The contributions required of a member under this Act shall cease upon service retirement, disability retirement, death or other termination of employment, except as hereinafter provided.~~

~~(4) Should a member be involuntarily laid off, suspended, or discharged, or voluntarily terminate his employment as a police officer with the city and withdraw his accumulated contributions from the fund, he shall, for the purposes of this Act, be deemed to be a new employee as of his date of reinstatement or reemployment and his creditable service shall commence as of such date. Provided that in the event that such member's accumulated contributions are left in the fund and he is reinstated or reemployed within five years of the termination of his last period of employment the police officer may have his creditable service credit restored for membership under the system during his last period of employment; provided however that if said member shall not reenter employment by the end of five years following his involuntary layoff, suspension, discharge or termination his accumulated contribution shall be paid to him and he shall thereafter receive no creditable service credit for such prior employment.~~

~~(5) Reserved.~~

~~(6) Members entitled to a service retirement pension under this system shall not forfeit the same upon dismissal as a police officer, but shall be retired as hereinafter provided.~~

~~Sec. 9.07. Contributions to the fund.~~

~~(1) Effective October 1, 2005, each member shall contribute to the Fund for each pay period at the rate of five and one-half (5.5) percent of salary. The city shall deduct such contribution from the salary of each member for every payroll period and shall immediately pay said contribution to the board. Effective March 1, 2000, each member may be required to contribute to the fund an amount up to an additional three percent (3%) of salary (above the five and one-half (5.5) percent of salary amount specified above, for the period necessary to meet plan contribution requirements. However, before there is any increase in the member contribution rate, the prefunded future cost of living adjustment provided in Section 9.12(10) shall be reduced in whole or part for members who have not retired prior to the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. In the event the additional member contributions specified in this subsection are not sufficient to meet the minimum contribution requirements for the plan, then future cost of living adjustments will be reduced in whole or part for those members who retire on or after March 1, 2000 and are retired at the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. Once the suspension of cost of living adjustments is no longer necessary to meet minimum plan funding requirements, such adjustments will be restored in reverse order of their suspension. No member shall have any entitlement to cost of living adjustments that are suspended pursuant to this agreement. In the event that shortfalls in funding still exist after the above contribution increases and benefit adjustments are implemented, additional future benefits will be reduced to meet plan funding requirements.~~

~~Sec. 9.08. Service retirement.~~

~~(1) Each member may become eligible for service retirement on his normal service retirement date, which shall be the first day of the calendar month next following the date on which said member shall have either completed ten (10) years of creditable service and attained at least his fifty-fifth birthday or completed twenty-five (25)~~

~~years of creditable service and attained at least his fifty-second birthday; provided, however, should such member continue employment beyond his normal service requirement date, such member may retire on the first day of any calendar month thereafter, which date shall be the delayed service retirement date. For members who retire or terminate city employment on or after October 1, 2004, the normal service retirement date shall be upon attaining twenty-five (25) years of creditable service, regardless of age. Effective March 1, 2000, a member who terminates city employment with more than ten (10) but less than twenty-five (25) years of creditable service shall be eligible for a normal service retirement benefit upon reaching age 55.~~

- ~~(2) Each member who shall become eligible for service retirement as hereinabove provided shall receive a monthly pension which shall commence on his normal service retirement date or delayed service retirement date, and except as provided in section 9 [9.09], shall continue to be paid each month thereafter to the member or his beneficiary for ten (10) years and to the member for his remaining lifetime thereafter. The amount of such monthly pension shall be the accrued benefit as of his date of retirement.~~
- ~~(3) From a contribution of four (4) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund, including installment payments deducted from a member's salary to purchase additional creditable service pursuant to Section 9.02(8)(b) and (c), shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the member's gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one (1) percent of the salary of each member which shall be paid over to the board. Effective March 1, 2000 the city shall make a total contribution of two and one-half (2.5) percent of the salary of each member which shall be paid over to the board.~~
- ~~(4) If a member recovers from disability and reenters the service of the city as a police officer his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the city will not be considered as credited service for the purposes of the plan.~~
- ~~(5) For members who retire from active employment and begin receiving benefits prior to March 1, 2000 a temporary supplemental retirement allowance shall be paid the retirant if his date of retirement precedes his sixty-fifth birth date. The amount of temporary supplemental retirement allowance shall be equal to the retirant's credited service, multiplied by one-half of one (0.50) percent of his average final compensation. The temporary supplemental retirement allowance terminates upon the retirant's attainment of age sixty-five (65) years or his prior death.~~
- ~~(6) A member who terminates employment on or after March 1, 2000 may elect one of the following early retirement options based on age and years of creditable service at retirement:
 - ~~(a) A member with at least 10 years of creditable service who has reached age 50 may retire with an early retirement benefit equal to 2.0% of average final~~~~

~~compensation multiplied by years of creditable service, with a reduction of three percent (3%) for each year by which the member's age at early retirement precedes the normal service retirement date.~~

~~(7) A member with ten (10) or more years of creditable service who terminates employment on or after October 1, 2005 shall earn a retirement benefit equal to three percent (3%) of average final salary for each year of creditable service worked after October 1, 2005. Notwithstanding any provision of this section to the contrary, the three percent (3%) multiplier shall also apply to creditable service earned by such members prior to October 1, 2005, as follows:~~

~~(a) For members with less than twenty (20) years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each one (1) year of creditable service worked after October 1, 2005, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.~~

~~(b) For members with twenty (20) or more years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to four (4) years of creditable service earned prior to October 1, 2005 for each of the first two years of creditable service worked after October 1, 2005; and the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each year worked thereafter, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.~~

~~(8) Distribution of a member's benefit under this Plan must commence no later than April 1 of the calendar year following the later of the calendar year during which the member attains age seventy and one-half (70½), age 72 for members who attain age 70½ on or after January 1, 2020, or the calendar year in which the member terminates employment with the Employer.~~

~~Sec. 9.09. Optional modes of pension.~~

~~(1) Each member shall have the right at any time at least two (2) years prior to actual retirement to elect to have his pension payable under any one of the options set forth in this section in lieu of the pension otherwise payable to him upon service retirement under any of the provisions of this Act. The amount of any such optional pension shall be the actuarial equivalent of the amount of such pension otherwise payable to him. The member shall make such an election by written request to the board and this election shall be subject to the approval of the board.~~

~~— Option A. Straight life option: A member may elect to receive an increased pension with such pension payments terminating immediately upon the death of the member.~~

~~— Option B. Joint and last survivor option: A member may elect to receive a modified pension payable to the member during the joint lifetime of the member and a joint pensioner designated by the member, and following the death of either of them, one hundred (100) percent, sixty-six and two thirds (66⅔) percent or fifty (50) percent of such monthly amount payable to the survivor for the lifetime of the survivor.~~

- ~~Option C. Such other amount and form of retirement payments of benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring member.~~
- ~~(2) The election by a member of any one of the options stated in this section 9 [9.09] shall be null and void if the member dies prior to retirement; provided, however, that Option A and Option B above shall not be voided in event a member continues in employment subsequent to becoming eligible for service retirement and dies prior to actual retirement. The election by a member of Option B above shall be null and void if the person designated to receive last survivor benefits by the member dies before the member's actual retirement.~~
- ~~(3) A member who has elected any one of the options stated in this section 9 [9.09] may, at any time within the period provided for such election, revoke any election by written notification to the board.~~
- ~~(4) This subsection (4) applies to distributions made on or after January 1, 1993. Notwithstanding any provision to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.~~
- ~~(a) For a member eligible for service retirement who elects to receive a single sum payment or equal installments over a period of less than ten (10) years, an "eligible rollover distribution" is that portion of the single sum or installment that represents city contributions under Section 414(h) of the Internal Revenue Code, to the extent that it exceeds the required minimum distribution, if applicable, under Section 401(a)(9) of the Internal Revenue Code.~~
- ~~(b) For a member or surviving spouse who receives a refund of accumulated contributions under section 9.11(4) hereof, an "eligible rollover contribution" is that portion of the accumulated contributions that represents the city contributions under Section 414(h) of the Internal Revenue Code.~~
- ~~(c) An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~
- ~~(d) A "distributee" includes a member or former member, or a member's or former member's, surviving spouse.~~
- ~~(e) A "direct rollover" is a payment by the system to the eligible retirement plan specified by the distributee.~~
- ~~(5) If a member elects an option with a joint pensioner and the member's retirement benefits have commenced, the member may thereafter change the designated joint pensioner up to two times. The consent of a member's joint pensioner or of the board of trustees to any such change shall not be required. The amount of the retirement income payable to the member upon designation of a new joint~~

~~pensioner shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the plan. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid to the member's estate.~~

~~Sec. 9.10. Disability retirement.~~

- ~~(1) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a police officer. A member may become eligible for disability retirement on his disability retirement date provided such eligibility is approved by resolution of the board. Such member may retire from the service of the city under the plan if he becomes totally and permanently disabled as defined in F.S. § 185.18(2), by reason of any cause other than a cause set out in F.S. § 185.18(3), on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.~~
- ~~(2) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability commencing prior to his normal retirement date is the monthly income payable for ten (10) years certain and life for which, if the police officer's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than forty-two (42) percent of his average monthly compensation as of his disability retirement date. If the disability is other than in the line of duty, the police officer's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than twenty-five (25) percent of his average monthly compensation as of his disability retirement date.~~
- ~~(3) The monthly retirement income to which a police officer is entitled in the event of his disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement (the "disability retirement date"), and any portion due for a partial month shall be paid together with the first payment.~~
- ~~(4) Upon termination of a member's monthly disability pension because of recovery from such disability, and provided he reenters active employment as a police officer one year after such recovery, he shall continue to be a member of the system and shall thereafter make his required contributions to the fund. In such event the member's creditable service credit for service as a police officer prior to his disability retirement shall be restored but he shall not receive creditable service credit for the period of his disability, nor for any periods for which he did not make regular contributions. Should the member fail to reenter active employment as a police officer within one year after recovery from disability his membership under this system shall terminate.~~
- ~~(5) Once each year following the disability retirement of a member who is receiving a monthly disability pension, the board may require such member to undergo a medical examination conducted by a duly qualified physician appointed by the board. Following such medical examination, the board may determine whether the~~

~~member is capable of performing useful and efficient service as a police officer [and if he is,] the board shall order his disability pension discontinued. Should the member refuse to submit to any medical examination required by the board, his monthly disability pension shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights to any further disability pension shall cease and his membership under the system shall thereupon terminate.~~

- ~~(6) No member shall be eligible for disability retirement whose disability was incurred while committing a felony.~~
- ~~(7) Disability in the line of duty. Any condition or impairment of health of any and all police officers employed in the city caused by hypertension, heart disease, hardening of the arteries, or any condition set forth in section 112.181, Florida Statutes, resulting in total or partial disability or death shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty; provided however, that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition; provided further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section shall be applicable to all police officers employed in the city only with reference to pension and retirement benefits under this system.~~

~~Sec. 9.11. Benefits upon death or termination.~~

- ~~(1) Each member shall name a beneficiary to receive any benefits payable upon the member's death, such designation to be made on a form provided by the board. A member may change his designation of the beneficiary from time to time in the same manner.~~
- ~~(2) In event a member who has elected Option B under section 9 [9.09] dies subsequent to his normal service retirement date but while still employed as a police officer, in lieu of any other benefit payable hereunder by reason of death, there shall be payable to his beneficiary the same monthly pension that would otherwise have been payable under Option B if the member had retired on his normal service retirement date.~~
- ~~(3) Should a member's death occur prior to his normal service retirement date, or after his normal service retirement date and before reaching his delayed service retirement death, unless such death occurs following disability retirement as provided in section 10 [9.10], there shall be paid to his beneficiary a monthly pension which shall commence on the first day of the calendar month next following the death of the member and shall continue to be paid each month thereafter for a period equal to the lesser of one hundred twenty (120) months or the life expectancy of the beneficiary. The amount of such monthly pension shall be the accrued benefit of the member as of the date of death. In the event of the member's death following disability retirement, the provisions of section 10 [9.10] shall be operative.~~

- ~~(4) If the employment of any member who has not completed ten (10) years of creditable service is terminated other than by service retirement or death, such member shall be entitled to a refund of one hundred (100) percent of his accumulated contribution made to the fund without interest. Any such terminated member may leave his accumulated contributions in the fund for a period not exceeding five (5) years pending reemployment, and upon reemployment as a police officer within said five (5) years, all creditable service credit under the system for his last period of employment shall be restored. Any such member who fails to be reemployed as a police officer within five (5) years shall be refunded one hundred percent of his contributions to the fund, without interest, and all prior creditable service credit shall be forfeited should he be reemployed at a later date. Upon payment of the accumulated contributions as herein provided, the membership of such terminated member shall thereupon cease and no further benefits shall be payable under the system. That portion of a terminated member's benefit that is not vested shall be forfeited and used only to reduce future costs of the system.~~
- ~~(5) Any other provision of the Act notwithstanding any member who has completed ten (10) years of creditable service at such time as employment as a police officer is terminated shall be entitled to a monthly pension, provided such member shall not withdraw his accumulated contributions. Such monthly pension shall commence on the first day of any calendar month coinciding with or following the member's otherwise early or normal service retirement date and shall continue to be paid each month thereafter as though the member had retired under the provisions of section 9.08 of this Act. Benefits shall be distributed or shall commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70½), age 72 for members who attain age 70½ on or after January 1, 2020, or the calendar year in which the member terminates employment, and shall be paid:~~
- ~~(a) Over the lifetime of the member or the lifetimes of the member and beneficiary;
or~~
- ~~(b) Over a period not exceeding the joint life expectancy of the member and beneficiary.~~
- ~~(6) Notwithstanding the provisions of this section, a retiree may change his or her designation of beneficiary up to two times without the approval of the Board or the current beneficiary.~~
- ~~(7) If a member dies on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the member's beneficiaries shall be entitled to any benefits the member would have been entitled to had he or she resumed employment and then died while employed.~~

~~Sec. 9.12. Miscellaneous.~~

- ~~(1) The authority having the power to hire the services of a police officer shall prepare such records and from time to time shall furnish such information concerning a member as the board may require in the discharge of its duties. Upon the employment of a police officer, the authority shall inform the police officer of his duties and obligations in connection with the system as a condition of employment.~~

- ~~(2) Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, than on discovery of any such error the board shall correct the same and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.~~
- ~~(3) All pensions and other benefits accrued or accruing to any person under the provisions of this Act, and the accumulated contributions and cash securities in the funds created under this Act, are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatever, nor shall any assignment thereof be enforceable in any court.~~
- ~~(4) All provisions of any ordinance of the City inconsistent with the provisions of Article IX hereof, are hereby repealed to the extent of such inconsistencies.~~
- ~~(5) If this Act shall later be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the member or beneficiary shall not be affected thereby.~~
- ~~(6) In the event of a complete discontinuance of contributions to the fund or upon termination of the system, the interest of each member in the system to the extent then funded shall become one hundred (100) percent nonforfeitable, and the assets of the system shall be apportioned and distributed in accordance with the provisions of F.S. § 185.37, as amended.~~
- ~~(7) If any clause, section or provision of this Act shall be declared to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Act, and the remaining portion of said Act shall be in force and effect, and shall be as valid as if such invalid portion had not been incorporated.~~
- ~~(8) Vested rights which may exist on the effective date of this Act in favor of any member of the existing retirement system under F.S. ch. 185 shall not be impaired; provided, that any person who may claim that the abolishment of the retirement system under said F.S. ch. 185 violates a claimed vested right thereunder, shall, within one year of the effective date of this Act, notify the board in writing of such claim. Upon receipt of such claim the board shall, without delay, in an appropriate proceeding and forum, obtain a judicial construction with respect to the question of such claim of violated vested rights. Should the final judgment or decree in said proceeding sustain the claim of any such person, the board shall conform its administration of the fund in relation to such person to meet with the requirements of any such decree or judgment.~~
- ~~(9) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system shall be guilty of a misdemeanor of the first degree and be subject to punishment as provided by law.~~
- ~~(10) The board of trustees is hereby authorized to grant periodic cost-of-living adjustments to benefits payable to all retired members, including members who are participating in the deferred retirement option program in accordance with section 9.13, during the continuation of benefits being payable under this plan;~~

~~however, such adjustment shall not be made more frequently than on an annual basis. The conditions for granting such adjustments are as follows:~~

- ~~(a) The granting of same is actuarially sound and will not substantially affect the financial stability of the plan and will not require additional funding of the plan from any city funds from any source apart from funds received as tax levy proceeds authorized by F.S. ch. 185.08.~~
- ~~(b) The board shall formally approve the adjustments based on data contained in the current actuarial evaluation.~~
- ~~(c) The adjustment shall be divided into a "prefunded" component and an "ad hoc" component such that, once approved and for the purpose of the actuarial evaluations, the prefunded percentage increase will be assumed to be repeated on an annual basis for future years and the ad hoc increase will not be assumed to be repeated on an annual basis for future years. Future actuarial evaluations may determine that a modification to the assumed future prefunded increases will be necessary.~~
- ~~(d) Prefunded adjustments shall be based upon the monthly benefit being paid to a retiree on the month preceding the adjustment date, but excluding any temporary supplemental retirement allowances paid according to section 9.08(5). The average cost-of-living index, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor relative to the United States as a whole, shall be consideration for such adjustments. However, in no event shall the percentage for the prefunded component of the annual cost-of-living adjustment exceed two (2) percent for any annual adjustment date, nor shall any retiree's benefit be reduced below any benefit being received on March 1, 2000.~~
- ~~(e) The ad hoc component of the cost-of-living adjustment may be granted only when surplus funds are available within the plan and only if all other provisions of this section are satisfied. This portion of the adjustment shall be based upon the monthly benefit being paid to a retiree on the month preceding the adjustment date but excluding any temporary supplemental and retirement allowances paid according to section 9.08(5). The sum of the prefunded and ad hoc portions of the adjustment shall not exceed either three (3) percent or the average cost-of-living index as determined by the Bureau of Labor Statistics of the U.S. Department of Labor, relative to the United States as a whole, whichever is the lesser amount.~~
- ~~(f) Notwithstanding the foregoing provisions of Subsection (10), paragraphs (a) through (e), members who retire before March 1, 2000 shall receive an annual cost of living adjustment of up to three (3) percent. Up to two (2) percent of this cost of living adjustment will be part of the fixed benefit structure of the plan. The remaining amount (up to one percent annually) will be granted pursuant to the "ad hoc" adjustment provisions of this subsection. Members who retire on or after March 1, 2000 will be eligible for a cost of living adjustment in accordance with the foregoing provisions of Subsection (10), paragraphs (a) through (e). Cost of living adjustments may be adjusted in accordance with Section 9.07(1).~~

~~(11) Maximum benefit limitation.~~

- ~~(a) The maximum annual benefit payable under the system shall be limited to ninety thousand dollars (\$90,000.00) subject to adjustment for increases in the cost of living in accordance with the following sentence. As of the first day of January of each calendar year, the maximum dollar limitation shall be adjusted automatically to an amount determined by the Commissioner of the Internal Revenue Service effective for that calendar year and shall apply only to that calendar year.~~
- ~~— Retirees in payment status whose benefits were limited in any year by the application of this limitation shall have their benefits adjusted automatically in subsequent years to take into account the then current dollar limit.~~
- ~~(b) In the event a member has earned a benefit, which during a previous limitation year has met all the requirements of Section 415 of the Internal Revenue Code ("Code"), and if the member's accrued benefit exceeds the limitation of Section 415 of the Code or the current limitation year, the member's maximum annual benefit, as described in subsection (a) of this section, shall not be less than the accrued benefit allowable under such previous limitation year.~~
- ~~(c) If the retirement benefit is payable in a form other than a straight life annuity or a joint and survivor annuity with the spouse as joint annuitant, the annual benefit limitation in any year shall be the actuarial equivalent (as defined in subsection (f) of this section) of the maximum annual benefit for that year (payable in the form of a straight life annuity), as described above.~~
- ~~(d) In the event payment of a retirement benefit under the system to a member commences prior to the date he (she) attains age sixty-two (62), the maximum annual benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit assumed to commence at age sixty-two (62) for the purpose of applying the benefit limit described in subsection (a) of this section. For a "qualified participant" as defined in Internal Revenue Code Section 415(b)(2)(H), this paragraph shall not apply.~~
- ~~— For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent (as defined in subsection (f) of this section), determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age sixty-two (62) (or the then current age if greater).~~
- ~~— Adjustments described in this subsection (d) shall not reduce the maximum annual benefit below seventy-five thousand dollars (\$75,000.00), if the retirement benefit commences on or after attainment of age 55, or if the benefit commences before age 55, the actuarial equivalent of the \$75,000 limitation for age 55.~~
- ~~(e) In the event payment of a retirement benefit under the system to a member commences after the date he (she) attains age 65, the maximum benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit commencing at age 65 for the purpose of applying the benefit limit described in subsection (a) of this section.~~

- ~~— For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent, determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age 65.~~
- ~~(f) For the purpose of adjusting benefits in accordance with this section, actuarial equivalent shall be determined using the 1983 Group Annuity Mortality Table and an interest rate of five (5) percent for adjustments under subsections (c), (d) and (e) of this section. For adjustment under subsections (c), (d) and (e), no cost-of-living adjustment shall be taken into account before the year for which such adjustment first takes effect.~~
- ~~(g) If a retirement benefit is payable to a member who has less than ten (10) years of participation in the system, the limitation described in subsection (a) of this section shall be multiplied by a fraction, the numerator of which is the member's years of participation and the denominator of which is ten (10).~~
- ~~(h) If the city maintains a tax-qualified, defined contribution plan covering the same member, the total of such member's "defined contribution fraction" and his (her) "defined benefit fraction" (both as defined in Section 415 of the Code) at the end of any limitation year shall not exceed one (1.0). If a reduction in a member's benefits is required so that the sum of the two (2) fractions described above will not exceed one (1.0) the numerator of the "defined benefit fraction" shall be adjusted downward sufficiently to insure that the two-plan limitation described above is not exceeded. This limitation shall not be applicable to plan years beginning on and after January 1, 2000.~~
- ~~(i) Adjustments described in subsections (b) and (d) of this section 9.12(11) shall not apply to (i) income received as a pension, annuity or similar allowance as a result of personal injuries or sickness or (ii) amounts received as a result of an employee's death by the employee's beneficiaries, survivors or estate.~~

~~Sec. 9.13. Deferred retirement option program for police officers (DROP).~~

- ~~(1) A deferred retirement option plan ("DROP") is hereby established for eligible police officers, effective October 1, 2004.~~
- ~~(2) Eligibility and participation:~~
- ~~(a) A police officer who is actively employed by the city and reaches the normal service retirement date shall be eligible to participate in the DROP.~~
- ~~(b) A member's election to participate in the DROP shall be irrevocable~~
- ~~(c) An eligible member may participate in the DROP for a maximum of sixty (60) months from the date the DROP plan takes effect (if the member is eligible at that time), or for a maximum of sixty (60) months from the date the member reaches his or her earliest normal service retirement date, whichever occurs first. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city. An eligible member may defer entry into DROP beyond the date the member is first eligible to enter the DROP. If a member defers entry into the DROP, the maximum DROP period will be reduced for each month of deferred entry. In no event will the maximum DROP period be extended beyond sixty (60) months from the date the member is first eligible to participate. Example: A member is eligible to~~

~~participate in DROP for a maximum sixty (60) months from the date the member is first eligible to participate; however, if the member defers entry into the DROP for twelve months after reaching the earliest normal service retirement age (or if the member has already reached the earliest normal service retirement age at the time the DROP takes effect, twelve months after that date), the member will be able to participate in the DROP for a maximum of forty-eight (48) months. Notwithstanding any provision to the contrary, any member who completes twenty-five (25) years of service before age fifty-two (52) may defer entry into the DROP until age 52, with no reduction in the DROP period. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city.~~

~~(3) DROP plan features:~~

- ~~(a) An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month during the DROP period. No member or city contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.~~
- ~~(b) A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.~~
- ~~(c) As a condition of participating in the DROP, the member must agree to resign from city employment at the conclusion of the DROP period and must submit an irrevocable letter of resignation prior to entering the DROP.~~
- ~~(d) Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.~~
- ~~(e) The member's DROP account will earn interest at an annual rate of six and one-half percent (6.5%) compounded monthly.~~
- ~~(f) Within thirty (30) days following a DROP participant's termination of city employment or death, the member's entire DROP account balance shall be distributed to the member [or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (g) below] in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 9.09(4) of the pension plan.~~
- ~~(g) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.~~

- ~~(h) The pension board shall adopt any necessary rules for administering the DROP.~~

~~Sec. 9.14. Rollovers or transfers into the fund.~~

~~Effective October 1, 2004, the fund will accept member rollover cash contributions and/or direct cash rollovers of distributions for the purchase of creditable service pursuant to Section 9.02(8), as follows:~~

- ~~(a) Direct transfers or member rollover contributions from other plans. The plan will accept either a direct transfer or an eligible rollover distribution from a qualified plan described in section 401(a) of the Code, from an annuity contract described in section 403(b) of the Code, or from an eligible plan described in section 457(b) of the Code, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, as permitted under the Internal Revenue Code.~~
- ~~(b) Member rollover contributions from 401(a) plans and IRAs. The plan will accept a member rollover contribution of the portion of a distribution from a qualified plan described in section 401(a) of the Code, or from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code, that is eligible to be rolled over and would otherwise be includible in the member's gross income.~~

~~Sec. 9.15. Maximum pension benefits.~~

- ~~(1) Basic limitation. Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.~~
- ~~(2) Adjustments to basic limitation for form of benefit. If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Code Section 415(b) limit applicable at the annuity starting date is reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the death benefits under the form of benefit.~~
- ~~(3) Benefits not taken into account. For purposes of this section, the following benefits shall not be taken into account in applying these limits:~~
- ~~(a) Any ancillary benefit which is not directly related to retirement income benefits;~~
- ~~(b) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1).~~
- ~~(4) COLA effect. Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:~~

- ~~(a) A member's applicable limit will be applied to the member's annual benefit in the member's first calendar year of benefit payments without regard to any automatic cost of living adjustments;~~
- ~~(b) Thereafter, in any subsequent calendar year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but~~
- ~~(c) In no event shall a member's benefit payable under the system in any calendar year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.~~

~~Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.~~

~~(5) Other adjustments in limitations:~~

- ~~(a) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).~~
 - ~~(b) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire or police department of the City, the adjustments provided for in (5)(a) above shall not apply.~~
 - ~~(c) The reductions provided for in (5)(a) above shall not be applicable to disability benefits pursuant to section 9.10, or pre-retirement death benefits paid pursuant to section 9.11.~~
 - ~~(d) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.~~
- ~~(6) Less than ten (10) years of service. The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service with the City shall be the amount determined under subsection (1) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to section 9.10, or pre-retirement death benefits paid pursuant to section 9.11.~~

- ~~(7) Participation in other defined benefit plans. The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.~~
- ~~(8) Ten thousand dollar (\$10,000) limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable plan year and for any prior plan year and the City has not any time maintained a qualified defined contribution plan in which the member participated.~~
- ~~(9) Reduction of benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures to defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.~~
- ~~(10) Service credit purchase limits.~~
- ~~(a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, if allowed by the system, then the requirements of this section will be treated as met only if:~~
- ~~1. The requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b); or~~
 - ~~2. The requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).~~
 - ~~3. For purposes of applying subparagraph (10)(a)1., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph 3., and for purposes of applying subparagraph (10)(a)2. the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph 3.~~
- ~~(b) For purposes of this subsection the term "permissive service credit" means service credit—~~

- ~~1. Recognized by the system for purposes of calculating a member's benefit under the plan;~~
- ~~2. Which such member has not received under the plan; and~~
- ~~3. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.~~

~~Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (10)(b)2., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.~~

~~(c) For purposes of applying the limits in this subsection (10), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a calendar year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).~~

- ~~1. However, for calendar years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For calendar years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).~~
- ~~2. For limitation years beginning on and after January 1, 2007, compensation for the calendar year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the calendar year that includes the date of the employee's severance from employment if:~~
 - ~~a. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee which the employee continued in employment with the employer; or~~

- ~~b. The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.~~
- ~~3. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.~~
- ~~(d) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:~~
 - ~~1. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).~~
 - ~~2. If payment pursuant to subparagraph (10)(d)1. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution~~
- ~~(11) Additional limitation on pension benefits. Notwithstanding anything herein to the contrary:~~
 - ~~(a) The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost of living increases or adjustments.~~
 - ~~(b) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.~~

~~Sec. 9.16. Share plan.~~

~~In accordance with F.S. § 185.35(6), a defined contribution plan component ("share plan") is hereby established for police officers as part of this System. The share plan will be funded exclusively with F.S. ch. 185 premium tax revenues in accordance with the default rules in F.S. § 185.35(a)-(d) as follows: all annual premium tax revenues received up to the amount collected in 2002 and distributed to the city in 2003 (\$249,401) shall be used to reduce city pension contributions. Annual premium tax revenues received in excess of \$249,401 shall be split 50-50, with one-half of the excess used to fund the share plan, and one-half of the excess used to reduce city pension contributions. The share plan shall not become operative until annual premium tax revenues exceed \$249,401 and the details of the share plan are agreed to by the city and union.~~

Section 2. Creating Chapter 20, Article VI, Sections 20-220 through 20-236. Chapter 20, Article VI, Sections 20-220 through 20-236 are hereby created in the Code, as follows:

Article VI. Police Officers Retirement System

Sec. 20-220. System and fund created.

(1) There is hereby created and established:

(a) A retirement system for police officers of the City of St. Augustine, Florida, to be known as the "St. Augustine Police Officers Retirement System," by and in which name it shall, pursuant to this Act, transact all of its business and shall have the powers and privileges of a corporation, the same to be a department or instrumentality of such city.

(b) A special fund to be known as the "St. Augustine Police Officer's Retirement Fund," said fund to be used for the exclusive benefit of Plan Members and Beneficiaries. Any diversion of fund assets prior to the satisfaction of all liabilities related to the system shall be prohibited. The fund shall be collected, administered and disbursed according to the provisions of this Act. Actuarial deficits, if any, arising in the fund created under this Act shall be the obligation of the City of St. Augustine except as provided herein.

(2) The fund and the system hereby created shall be in substitution for the "St. Augustine Police Officers Retirement Fund" and the retirement system thereunder, now and heretofore existing in the City of St. Augustine in pursuance of the provisions of F.S. ch. 185; and said "Police Officers Retirement Fund" and the system thereunder now and heretofore existing in said city under the provisions of said Chapter 185, shall on the effective date of this Act, stand abolished.

Sec. 20-221. Definitions.

(1) "Accrued benefit" shall mean the total monthly benefit which shall have been earned by each member for all years of creditable service of said member as follows:

(a) A member who terminates city employment with ten (10) or more years of creditable service shall earn a benefit at the rate of two percent (2.0%) of the member's average final salary for each year of creditable service.

(b) A member who terminates city employment on or after March 1, 2000 with ten (10) or more years of creditable service may elect a benefit at the rate of two and one-half percent (2.5%) of the member's average final salary for each year of creditable service, subject to the early retirement provisions of Section 20-228(5).

(c) A member who terminates city employment after October 1, 2005 with ten (10) or more years of creditable service shall earn a benefit at the rate of three percent (3%) of the member's average final salary for each year of creditable service earned after October 1, 2005. The three percent (3%) multiplier may apply to creditable service earned prior to October 1, 2005, subject to the provisions of Section 20-228(7).

- (2) "Accumulated contributions" shall mean the sum of all amounts deducted from the salary of a member and contributed to the fund.
- (3) "Actuarial equivalent" shall mean a benefit of equivalent value to that which would otherwise have been provided to the member, computed as follows:
- (a) For benefits payable in the form of a life annuity, a benefit equal to one hundred two (102) percent of that otherwise payable as ten-year certain-and-life annuity if the member is age fifty-five (55) or younger. If the member is older than fifty-five (55), 0.5 percent will be added to the one hundred two (102) percent for each year older, not to exceed one hundred eight (108) percent;
 - (b) For benefits payable in the form of a fifty (50) percent joint-and-survivor annuity, a benefit equal to ninety-four (94) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-four (94) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-four (94) percent for each year older, not to exceed one hundred (100) percent;
 - (c) For benefits payable in the form of a fifty (50) percent joint-and-last-survivor annuity, a benefit equal to ninety-seven (97) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-seven (97) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-seven (97) percent for each year older, not to exceed one hundred (100) percent;
 - (d) For benefits payable in the form of a sixty-six and two-thirds ($66\frac{2}{3}$) percent joint-and-last-survivor annuity, a benefit equal to ninety-three (93) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-three (93) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-three (93) percent for each year older, not to exceed one hundred (100) percent;
 - (e) For benefits payable in the form of a one hundred (100) percent joint-and-last-survivor annuity, a benefit equal to eighty-seven (87) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the eighty-seven (87) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the eighty-seven (87) percent for each year older, not to exceed one hundred (100) percent.
 - (f) For benefits payable in any other form, actuarial equivalence means the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit, including lump sum distributions, shall be based on the RP-

2000 static mortality table (h) unisex 50/50 for healthy lives projected to 2010 for healthy members and the RP-2000 static mortality table (d) unisex 50/50 projected to 2010 for disabled members; and an interest discount rate of 8% per annum, compounded annually. This definition may be amended by the city pursuant to the recommendation of the board with the advice of the plan's actuary and the city's actuary, such that the actuarial assumptions are not subject solely to city discretion.

- (4) "Average final compensation" means one-twelfth of the average annual compensation of the five (5) best years of the last ten (10) years of creditable service prior to retirement, termination, or death.
- (5) "Beneficiary" shall mean any person so designated by a member as provided in section 20-231. In the event no designation is made the beneficiary of said member shall be his estate.
- (6) "Board" shall mean the board of trustees as provided in this Act.
- (7) "City" shall mean the City of St. Augustine, Florida.
- (8) "Creditable service" for the purpose of this Act shall mean the total number of years and fractional parts of years of service of any police officer as follows:
 - (a) Periods of service as a police officer with the city prior to October 10, 1953, during which the police officer shall have contributed to this system or any predecessor retirement systems (other than the Federal Social Security System) for police officers of the City of St. Augustine. In determining the aggregate number of years of creditable service of any police officer, periods of absence for service in the Armed Forces after initial employment as a police officer, or any leaves of absence authorized by the city shall be added to the years of service as a police officer with the city, provided that credit for such military leave or authorized leave of absence shall not exceed five (5) years. Creditable service shall be granted to any member who is legally entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act, without such member making the contributions required under Section 20-227. Otherwise, the aggregate number of years of creditable service shall mean the total number of years and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer is not employed by the city.
 - (b) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include up to three (3) years of active duty in the U.S. armed forces or full-time employment as a law enforcement officer with another governmental entity prior to employment by the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior employment as a police officer. Such purchased service may not be used for vesting purposes. An eligible member may purchase creditable service under the system for such prior employment by paying into the fund the full actuarial cost of such creditable service, as determined by the plan actuary. Such payment must be made in full prior to entering the DROP or separation from city employment, whichever occurs

earlier. In the event full payment is not made prior to such date, the member shall receive only the amount of creditable service, as determined by the actuary, for which the payment made, excluding interest, is the full actuarial cost. A member purchasing such additional creditable service must also pay the full cost of any actuarial calculations required. Payment for the purchase of creditable service pursuant to this paragraph may be made using any one or a combination of the following options:

1. Cash lump sum payment.
2. Installment payments, plus simple interest at the rate of four (4) percent per annum, deducted from the member's city salary over a period not to exceed five (5) years.
3. Direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan, in accordance with Section 20-234.

(c) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include the years or fractional years that a member performs "Qualified Military Service" including voluntary or involuntary service in the armed forces of the United States as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), as amended, or has served in the National Guard or reserve military service of the armed forces of the United States, prior to or while in the employ of the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior service. Such purchased service may not be used for vesting purposes. The member must contribute the full actuarial cost of all such creditable service. Creditable service for National Guard or military reserve service shall be calculated by dividing the total number of official military reserve points by 365 to determine the equivalent years of fractional parts thereof to be credited. The combined total of all creditable service purchased pursuant to this paragraph and paragraph (b) of this subsection shall not exceed three (3) years. Payment for the purchase of National Guard or reserve military service shall be made in the same manner as provided in paragraph (b) of this subsection.

(d) This section is intended to satisfy the minimum requirements of USERRA, as may be amended from time to time. To the extent that this section does not meet the minimum requirements of USERRA, the provisions of USERRA shall govern.

(9) "Contributions" shall mean the amounts deducted from the salary as a member as provided in section 20-227.

(10) "Disability retirement" shall mean retirement upon the disability retirement rate as provided in section 20-230.

(11) "Fund" shall mean the St. Augustine Police Officers Retirement Fund as provided in this Act.

(12) "Member" shall mean any police officer entitled to participate in the system and fund as provided in this Act.

- (13) "Past service liability" shall mean the liability attributable to all accrued benefits which shall have been earned by members prior to January 1, 1957.
- (14) "Police officer" means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. § 943.10(5) and (7), respectively. "Police officer" also shall include a public safety officer who is responsible for performing both police and fire services.
- (15) "Salary" shall mean the total cash or remuneration paid to a police officer for services rendered during a particular year. It shall include base salary, overtime, special incentive pay, and sick leave or vacation leave taken during the year. Salary shall not include lump-sum checks for leave pay accrued but never taken. Only fifty-two (52) weeks of salary may be credited in any year. For years beginning on and after October 1, 1994, salary in excess of \$150,000 shall be disregarded for all purposes of the system. As of October 1 of each calendar year thereafter, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective for that plan year in lieu of the dollar limitation provided in the preceding sentence. For an employee who became a member prior to October 1, 1994, this limitation shall not apply to the extent that salary allowed to be taken into account under the plan would be reduced below the amount allowed to be taken into account under the plan in effect on September 30, 1994. Salary in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code.
- (16) "Service retirement" shall mean retirement upon the normal service retirement date or delayed service retirement date, as provided in section 20-228.
- (17) "System" shall mean the St. Augustine Police Officers Retirement System created by this Act.
- (18) "Total current contribution" shall mean the total of all funds contributed for any given calendar year to the St. Augustine Police Officers' Retirement Fund, less the funds contributed that year toward amortizing the unfunded liability at December 31, 1960, (which funds shall in no event be less than three (3) percent of the unfunded liability at December 31, 1960, left unamortized at the end of the preceding calendar year).
- (19) "Trustee" shall mean any member of the board of trustees as provided in this Act.

Sec. 20-222. Creation and maintenance of the fund.

The special fund created by this Act shall consist of moneys and assets derived from the following sources:

- (1) From moneys and other assets of the "police officers retirement fund" held by the board of trustees of said fund on the effective date of Article VI hereof, in pursuance of F.S. ch. 185. The board of trustees of said fund shall take such action as may be required, on the effective date of this Act, to transfer to the trustees of the fund under the system hereby created such moneys and assets.
- (2) From the net proceeds of the point eighty-five (.85) percent excise or license tax which may be imposed by ordinance of the city upon those casualty insurance companies to the extent and as described and permitted in F.S. § 185.08.
- (3) Effective October 1, 2005, from a contribution of five and one-half (5.5) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the members' gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one percent of salary of each member which shall be paid over to the board.
- (4) From the funds of the St. Augustine Police Benevolent Association. At such time as Article VI hereof, shall become operative and from time to time thereafter, there shall be transferred from the funds of the St. Augustine Police Benevolent Association such amounts as shall be agreed upon by the officers of said association and the board.
- (5) From all gifts, bequests and devises when donated for the fund.
- (6) From accretions to the fund by way of interest on bank deposits or otherwise.
- (7) From all other sources of income now or hereafter authorized by law for the augmentation of such fund.
- (8) The city shall contribute to the plan annually an amount which together with the contributions from police officers, the amount derived from the premium tax provided in F.S. § 185.08, and other income sources will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not longer than forty (40) years. The city contributions shall be deposited on at least a quarterly basis. If the required city contributions for any plan year should exceed five (5) percent of the combined salaries of contributing plan members, the cost of living adjustment provided in Section 20-232(10) shall not be accrued until the required city contribution for a subsequent plan year equals five (5) percent or less.
- (9) The cost shall be determined by an actuarial valuation of the retirement plan which must be made at least every three (3) years commencing from the last actuarial report of the plan pursuant to F.S. § 185.35, as amended. Such valuation shall be prepared by an enrolled actuary.

Sec. 20-223. Board of trustees.

- (1) In the municipality of St. Augustine, Florida, there is hereby created a Board of Trustees of the St. Augustine Police Officers' Retirement Trust Fund, which shall be solely responsible for administering the trust fund. Effective as of the effective date of this Act, and thereafter, the board of trustees shall consist of five (5) members, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of St. Augustine, Florida, who shall be appointed by the St. Augustine City Commission, and two (2) of whom shall be police officers as defined in F.S. § 185.02(1), who shall be elected by a majority of the police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four (4) members, and such person's name shall be submitted to the St. Augustine City Commission. Upon receipt of the fifth person's name, said city commission shall, as a ministerial duty, appoint such person to the board of trustees as its member. The fifth member shall have the same rights as each of the other four (4) members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of two (2) years, unless sooner replaced by the city commission at whose pleasure he shall serve, and may succeed himself as a trustee. However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the police department as members of the board of trustees as provided in Laws of Fla. (1953) ch. 28230, as amended, together with any city manager and member of the City Commission of St. Augustine, Florida, as members of the board of trustees shall terminate on the effective date of this Act. Each police officer member shall serve as trustee for a period of two (2) years, unless he sooner leaves the employment of the municipality as a police officer, whereupon the City Commission of St. Augustine, Florida, shall choose his successor in the same manner as an original appointment. Each police officer may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.
- (2) The trustees shall by majority vote elect from its members a chairman and a secretary. The board of trustees may by majority vote also elect from its members a vice chairman. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.
- The elected trustees shall be elected by the members of the system at an election held in the following manner:
- (a) By per capita vote of all the members at a meeting of which all members shall be notified in person or by mail five (5) days in advance. Elected trustees shall begin their term of office on the first Monday after election to said office. An election shall be compulsory every year.
- (b) The first election of the elected trustees shall be held within thirty (30) days after the effective date of this Act. The members of the board of trustees other than the elected trustees shall appoint the judges and clerks for the election of

the elected trustees, and shall establish such rules and procedures as may be necessary to conduct the election in an orderly and equitable manner.

The time for said election shall be set by the two (2) trustees first appointed to the board and thereafter said election shall be held on that date each year, or such date as may be designated by the board. The votes shall be counted immediately following the election and the member receiving the greatest number of votes shall be declared elected.

- (3) If a vacancy occurs in an elective office of trustee, the vacancy shall be filled within thirty (30) days after the date of the vacancy for the unexpired term in the same manner as the office was previously filled.
- (4) Each trustee shall, within ten (10) days after his appointment or election, take an oath of office before the city chief accountant or a notary public, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to this system. Such oath shall be subscribed to by the trustee making it and certified by the said city chief accountant or notary public and retained as a permanent record in the files of the board.
- (5) In addition to its quarterly meetings, the board shall hold special meetings at any time requested by the chairman or any three (3) trustees. The chairman shall designate the time and place of each meeting by written notice to the trustees and members, such notice to be delivered or placed in the mail to said trustees and members at least twenty-four (24) hours prior to the convening of said meeting. All meetings of the board shall be open to the members of the system and to the public.
- (6) Three (3) trustees shall constitute a quorum at any meeting of the board. Each trustee shall be entitled to one vote in the meetings of the board. At least three (3) concurring votes shall be necessary for a decision by the board. The board shall have the right to dismiss any elected trustee if, after hearing before the members of the system, it is found that the said trustee has failed to comply with any of the stipulations of Article VI hereof, involving moral turpitude as defined by Florida Law.
- (7) The board of trustees, subject to the limitations of this Act and within the standards and purposes of this Act, shall make such rules and regulations as are necessary for the effective administration of the system and fund created by this Act and for transaction of its business. The board shall keep records of all its proceedings and such records on each member as it may deem necessary and proper in its administration of this Act. Said board shall make investigations concerning the enforcement and effect of this Act and its adopted rules and regulations. It shall make an annual report to the members of the system which shall include a financial report of the receipts, disbursements, assets, and liabilities of the fund.
- (8) The board shall engage such actuarial, legal, or other services as shall be required to transact the business of the fund. The compensation of all persons engaged by the board and all expenses necessary for the operation of the system shall be paid by said system at such rates and in such amounts as the board shall agree.
- (9) The secretary of the board shall execute bonds in such amounts as may from time to time be fixed by the board for the faithful performance of his duties. The board shall establish a system of accounting, and do all things, take all actions, and make all rules and regulations, not inconsistent with the provisions of this Act, that it

deems necessary and proper to safeguard the funds placed in its custody and to carry out the provisions of this Act.

- (10) The secretary of the board shall be the custodian of all records maintained by the board. The secretary shall permit inspection of all records held in his custody by any trustee or member of the system. The secretary shall keep a record of all persons receiving retirement payments under this system, in which it shall be noted the time when the pension begins and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all police officers employed by the City, including the name, address, and dates of employment of each police officer.
- (11) In the absence of the chairman of the board at any meeting of the trustees the vice chairman shall serve as chairman and in the absence of both the chairman and the vice chairman at any meeting of the trustees, the secretary shall serve as chairman.
- (12) At least once every three (3) years, the board of trustees, shall retain an independent consultant professional qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the date of the hearing.
- (13) In connection with the administration of the fund the board of trustees is authorized and empowered to institute proceedings in court and be sued, in the name of the system.

Sec. 20-224. City attorney to represent board of trustees.

The city attorney shall give advice to said board of trustees in all matters pertaining to their duties in the administration of said municipal police officers' retirement trust fund whenever requested; and he or she shall represent and defend said board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board; provided, however, that if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.

Sec. 20-225. Management of the funds.

- (1) The board is solely responsible for administering the trust, and shall be responsible for investing the assets of the system in accordance with this section. The board shall exercise its duties with respect to the system for the exclusive purpose of providing benefits to members and their beneficiaries and defraying the reasonable expenses of administering the system. The board shall exercise its investment authority with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise with like character and like aims, and by diversifying the investments of the system so as to reduce the risk of large losses, unless under the circumstances it is clearly prudent not to do so. The board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the

securities and investments in which any of the assets of the system have been invested, as well as the proceeds of such investments and any moneys belonging to the fund, in accordance with this section. The board may employ outside investment counsel to advise the board in the making and disposition of investments.

(2) The board shall adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, incorporating the following requirements for specific investments:

(a) The board may invest in money market instruments, stocks, corporate bonds, bonds, or other obligations of the United States of America, either directly or through pooled or commingled funds.

(b) The board may make direct investment in bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of the State of Florida, if the obligations are rated investment grade by at least one nationally recognized rating organization.

(c) The board may invest up to twenty-five (25) percent at cost basis, of its assets in real estate only through participation in commingled funds or insurance company group annuity separate accounts holding diversified real properties. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein.

(d) The board may invest up to fifteen (15) percent of its assets in mortgage loan securities secured by real property only through participation in commingled funds or insurance company separate accounts holding diversified mortgage securities. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein. Mortgage securities of commingled funds must be issued by an agency of or enterprise sponsored by the United States Government, including, but not limited to, the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(e) The board may invest up to five (5) percent of its assets in stock and corporate bonds of any one (1) issuing company either directly or through pooled or commingled funds.

(f) The aggregate investment in stock either directly or through pooled or commingled funds shall not exceed seventy (70) percent (at cost) of the assets of the fund.

(g) The average credit quality of the fixed income portfolio shall be rated "A" or higher. No more than 15% of the fixed income portfolio may be rated lower than "BBB". The duration of the fixed income portfolio shall remain within 35% of the duration of a market index selected by the board. If there is no index selected, the default index shall be the Lehman Aggregate Bond Index.

- (h) The board may invest up to twenty-five percent (25%) of the assets of the fund, in corporate obligations and/or securities of a foreign corporation or a foreign commercial entity that are not subject to United States securities laws. United States dollar-denominated securities listed and traded on a United States exchange would not be included in this limitation.
- (3) The board shall deposit the funds and securities of the city police officers' retirement trust fund in a qualified public depository as defined in section 280.02(26), Florida Statutes, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes.
- (4) The board may issue drafts upon the city police officers' retirement trust fund pursuant to Article VI hereof, and rules and regulations prescribed by the board. All such drafts shall be consecutively numbered, be signed by the chairman and secretary and state upon their faces the purposes for which the drafts are drawn. The city director of financial services shall retain such drafts when paid, as permanent vouchers for disbursements made, and no other money shall otherwise be drawn from the fund.
- (5) No trustee shall have any interest, direct or indirect, in the gains or profits of any investment made by the board, save insofar as such trustee may be a member or beneficiary of the system. No trustee shall in any manner, directly or indirectly, for himself or as an agent, use the funds or deposits of the system except to make such payments therefrom as are authorized by the board, nor shall any member of the board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the fund.
- (6) The board shall have the right to purchase an individual annuity from an insurance company, when a member becomes eligible for service retirement, in an amount sufficient to pay the retired member his earned monthly pension of retirement.
- (7) Notwithstanding any provision of this section to the contrary, the Board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in section 215.473, Florida Statutes, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The Board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the members of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by section 215.473, Florida Statutes, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this paragraph.

Sec. 20-226. Participation in the system.

- (1) All full-time police officers employed by the City of St. Augustine shall be members of this system.

- (2) The membership of any police officer in this system shall cease upon the payment from the fund of his accumulated contributions.
- (3) The contributions required of a member under this Act shall cease upon service retirement, disability retirement, death or other termination of employment, except as hereinafter provided.
- (4) Should a member be involuntarily laid off, suspended, or discharged, or voluntarily terminate his employment as a police officer with the city and withdraw his accumulated contributions from the fund, he shall, for the purposes of this Act, be deemed to be a new employee as of his date of reinstatement or reemployment and his creditable service shall commence as of such date. Provided that in the event that such member's accumulated contributions are left in the fund and he is reinstated or reemployed within five years of the termination of his last period of employment the police officer may have his creditable service credit restored for membership under the system during his last period of employment; provided however that if said member shall not reenter employment by the end of five years following his involuntary layoff, suspension, discharge or termination his accumulated contribution shall be paid to him and he shall thereafter receive no creditable service credit for such prior employment.
- (5) Reserved.
- (6) Members entitled to a service retirement pension under this system shall not forfeit the same upon dismissal as a police officer, but shall be retired as hereinafter provided.

Sec. 20-227. Contributions to the fund.

- (1) Effective October 1, 2005, each member shall contribute to the Fund for each pay period at the rate of five and one-half (5.5) percent of salary. The city shall deduct such contribution from the salary of each member for every payroll period and shall immediately pay said contribution to the board. Effective March 1, 2000, each member may be required to contribute to the fund an amount up to an additional three percent (3%) of salary (above the five and one-half (5.5) percent of salary amount specified above, for the period necessary to meet plan contribution requirements. However, before there is any increase in the member contribution rate, the prefunded future cost of living adjustment provided in Section 20-232(10) shall be reduced in whole or part for members who have not retired prior to the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. In the event the additional member contributions specified in this subsection are not sufficient to meet the minimum contribution requirements for the plan, then future cost of living adjustments will be reduced in whole or part for those members who retire on or after March 1, 2000 and are retired at the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. Once the suspension of cost of living adjustments is no longer necessary to meet minimum plan funding requirements, such adjustments will be restored in reverse order of their suspension. No member shall have any entitlement to cost of living adjustments that are suspended pursuant to this agreement. In the event that shortfalls in funding still exist after the above contribution increases and benefit

adjustments are implemented, additional future benefits will be reduced to meet plan funding requirements.

Sec. 20-228. Service retirement.

- (1) Each member may become eligible for service retirement on his normal service retirement date, which shall be the first day of the calendar month next following the date on which said member shall have either completed ten (10) years of creditable service and attained at least his fifty-fifth birthday or completed twenty-five (25) years of creditable service and attained at least his fifty-second birthday; provided, however, should such member continue employment beyond his normal service requirement date, such member may retire on the first day of any calendar month thereafter, which date shall be the delayed service retirement date. For members who retire or terminate city employment on or after October 1, 2004, the normal service retirement date shall be upon attaining twenty-five (25) years of creditable service, regardless of age. Effective March 1, 2000, a member who terminates city employment with more than ten (10) but less than twenty-five (25) years of creditable service shall be eligible for a normal service retirement benefit upon reaching age 55.
- (2) Each member who shall become eligible for service retirement as hereinabove provided shall receive a monthly pension which shall commence on his normal service retirement date or delayed service retirement date, and except as provided in section 20-229, shall continue to be paid each month thereafter to the member or his beneficiary for ten (10) years and to the member for his remaining lifetime thereafter. The amount of such monthly pension shall be the accrued benefit as of his date of retirement.
- (3) From a contribution of four (4) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund, including installment payments deducted from a member's salary to purchase additional creditable service pursuant to Section 20-221(8)(b) and (c), shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the member's gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one (1) percent of the salary of each member which shall be paid over to the board. Effective March 1, 2000 the city shall make a total contribution of two and one-half (2.5) percent of the salary of each member which shall be paid over to the board.
- (4) If a member recovers from disability and reenters the service of the city as a police officer his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the city will not be considered as credited service for the purposes of the plan.
- (5) For members who retire from active employment and begin receiving benefits prior to March 1, 2000 a temporary supplemental retirement allowance shall be paid the retirant if his date of retirement precedes his sixty-fifth birth date. The amount of temporary supplemental retirement allowance shall be equal to the retirant's

credited service, multiplied by one-half of one (0.50) percent of his average final compensation. The temporary supplemental retirement allowance terminates upon the retirant's attainment of age sixty-five (65) years or his prior death.

(6) A member who terminates employment on or after March 1, 2000 may elect one of the following early retirement options based on age and years of creditable service at retirement:

(a) A member with at least 10 years of creditable service who has reached age 50 may retire with an early retirement benefit equal to 2.0% of average final compensation multiplied by years of creditable service, with a reduction of three percent (3%) for each year by which the member's age at early retirement precedes the normal service retirement date.

(7) A member with ten (10) or more years of creditable service who terminates employment on or after October 1, 2005 shall earn a retirement benefit equal to three percent (3%) of average final salary for each year of creditable service worked after October 1, 2005. Notwithstanding any provision of this section to the contrary, the three percent (3%) multiplier shall also apply to creditable service earned by such members prior to October 1, 2005, as follows:

(a) For members with less than twenty (20) years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each one (1) year of creditable service worked after October 1, 2005, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.

(b) For members with twenty (20) or more years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to four (4) years of creditable service earned prior to October 1, 2005 for each of the first two years of creditable service worked after October 1, 2005; and the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each year worked thereafter, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.

(8) Distribution of a member's benefit under this Plan must commence no later than April 1 of the calendar year following the later of the calendar year during which the member attains age seventy and one-half (70½), age 72 for members who attain age 70½ on or after January 1, 2020, or the calendar year in which the member terminates employment with the Employer.

Sec. 20-229. Optional modes of pension.

(1) Each member shall have the right at any time at least two (2) years prior to actual retirement to elect to have his pension payable under any one of the options set forth in this section in lieu of the pension otherwise payable to him upon service retirement under any of the provisions of this Act. The amount of any such optional pension shall be the actuarial equivalent of the amount of such pension otherwise payable to him. The member shall make such an election by written request to the board and this election shall be subject to the approval of the board.

Option A. Straight life option: A member may elect to receive an increased pension with such pension payments terminating immediately upon the death of the member.

Option B. Joint and last survivor option: A member may elect to receive a modified pension payable to the member during the joint lifetime of the member and a joint pensioner designated by the member, and following the death of either of them, one hundred (100) percent, sixty-six and two-thirds (66 $\frac{2}{3}$) percent or fifty (50) percent of such monthly amount payable to the survivor for the lifetime of the survivor.

Option C. Such other amount and form of retirement payments of benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring member.

- (2) The election by a member of any one of the options stated in this section 20-229 shall be null and void if the member dies prior to retirement; provided, however, that Option A and Option B above shall not be voided in event a member continues in employment subsequent to becoming eligible for service retirement and dies prior to actual retirement. The election by a member of Option B above shall be null and void if the person designated to receive last survivor benefits by the member dies before the member's actual retirement.
- (3) A member who has elected any one of the options stated in this section 20-229 may, at any time within the period provided for such election, revoke any election by written notification to the board.
- (4) This subsection (4) applies to distributions made on or after January 1, 1993. Notwithstanding any provision to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
 - (a) For a member eligible for service retirement who elects to receive a single-sum payment or equal installments over a period of less than ten (10) years, an "eligible rollover distribution" is that portion of the single sum or installment that represents city contributions under Section 414(h) of the Internal Revenue Code, to the extent that it exceeds the required minimum distribution, if applicable, under Section 401(a)(9) of the Internal Revenue Code.
 - (b) For a member or surviving spouse who receives a refund of accumulated contributions under section 20-231(4) hereof, an "eligible rollover contribution" is that portion of the accumulated contributions that represents the city contributions under Section 414(h) of the Internal Revenue Code.
 - (c) An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (d) A "distributee" includes a member or former member, or a member's or former member's, surviving spouse.
- (e) A "direct rollover" is a payment by the system to the eligible retirement plan specified by the distributee.
- (5) If a member elects an option with a joint pensioner and the member's retirement benefits have commenced, the member may thereafter change the designated joint pensioner up to two times. The consent of a member's joint pensioner or of the board of trustees to any such change shall not be required. The amount of the retirement income payable to the member upon designation of a new joint pensioner shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the plan. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid to the member's estate.

Sec. 20-230. Disability retirement.

- (1) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a police officer. A member may become eligible for disability retirement on his disability retirement date provided such eligibility is approved by resolution of the board. Such member may retire from the service of the city under the plan if he becomes totally and permanently disabled as defined in F.S. § 185.18(2), by reason of any cause other than a cause set out in F.S. § 185.18(3), on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.
- (2) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability commencing prior to his normal retirement date is the monthly income payable for ten (10) years certain and life for which, if the police officer's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than forty-two (42) percent of his average monthly compensation as of his disability retirement date. If the disability is other than in the line of duty, the police officer's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than twenty-five (25) percent of his average monthly compensation as of his disability retirement date.
- (3) The monthly retirement income to which a police officer is entitled in the event of his disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement (the "disability retirement date"), and any portion due for a partial month shall be paid together with the first payment.
- (4) Upon termination of a member's monthly disability pension because of recovery from such disability, and provided he reenters active employment as a police officer one year after such recovery, he shall continue to be a member of the system and shall thereafter make his required contributions to the fund. In such event the

member's creditable service credit for service as a police officer prior to his disability retirement shall be restored but he shall not receive creditable service credit for the period of his disability, nor for any periods for which he did not make regular contributions. Should the member fail to reenter active employment as a police officer within one year after recovery from disability his membership under this system shall terminate.

- (5) Once each year following the disability retirement of a member who is receiving a monthly disability pension, the board may require such member to undergo a medical examination conducted by a duly qualified physician appointed by the board. Following such medical examination, the board may determine whether the member is capable of performing useful and efficient service as a police officer [and if he is,] the board shall order his disability pension discontinued. Should the member refuse to submit to any medical examination required by the board, his monthly disability pension shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights to any further disability pension shall cease and his membership under the system shall thereupon terminate.
- (6) No member shall be eligible for disability retirement whose disability was incurred while committing a felony.
- (7) Disability in the line of duty. Any condition or impairment of health of any and all police officers employed in the city caused by hypertension, heart disease, hardening of the arteries, or any condition set forth in section 112.181, Florida Statutes, resulting in total or partial disability or death shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty; provided however, that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition; provided further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section shall be applicable to all police officers employed in the city only with reference to pension and retirement benefits under this system.

Sec. 20-231. Benefits upon death or termination.

- (1) Each member shall name a beneficiary to receive any benefits payable upon the member's death, such designation to be made on a form provided by the board. A member may change his designation of the beneficiary from time to time in the same manner.
- (2) In event a member who has elected Option B under section 20-229 dies subsequent to his normal service retirement date but while still employed as a police officer, in lieu of any other benefit payable hereunder by reason of death, there shall be payable to his beneficiary the same monthly pension that would otherwise have been payable under Option B if the member had retired on his normal service retirement date.

- (3) Should a member's death occur prior to his normal service retirement date, or after his normal service retirement date and before reaching his delayed service retirement death, unless such death occurs following disability retirement as provided in section 20-230, there shall be paid to his beneficiary a monthly pension which shall commence on the first day of the calendar month next following the death of the member and shall continue to be paid each month thereafter for a period equal to the lesser of one hundred twenty (120) months or the life expectancy of the beneficiary. The amount of such monthly pension shall be the accrued benefit of the member as of the date of death. In the event of the member's death following disability retirement, the provisions of section 20-230 shall be operative.
- (4) If the employment of any member who has not completed ten (10) years of creditable service is terminated other than by service retirement or death, such member shall be entitled to a refund of one hundred (100) percent of his accumulated contribution made to the fund without interest. Any such terminated member may leave his accumulated contributions in the fund for a period not exceeding five (5) years pending reemployment, and upon reemployment as a police officer within said five (5) years, all creditable service credit under the system for his last period of employment shall be restored. Any such member who fails to be reemployed as a police officer within five (5) years shall be refunded one hundred percent of his contributions to the fund, without interest, and all prior creditable service credit shall be forfeited should he be reemployed at a later date. Upon payment of the accumulated contributions as herein provided, the membership of such terminated member shall thereupon cease and no further benefits shall be payable under the system. That portion of a terminated member's benefit that is not vested shall be forfeited and used only to reduce future costs of the system.
- (5) Any other provision of the Act notwithstanding any member who has completed ten (10) years of creditable service at such time as employment as a police officer is terminated shall be entitled to a monthly pension, provided such member shall not withdraw his accumulated contributions. Such monthly pension shall commence on the first day of any calendar month coinciding with or following the member's otherwise early or normal service retirement date and shall continue to be paid each month thereafter as though the member had retired under the provisions of section 20-228 of this Act. Benefits shall be distributed or shall commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70½), age 72 for members who attain age 70½ on or after January 1, 2020, or the calendar year in which the member terminates employment, and shall be paid:
- (a) Over the lifetime of the member or the lifetimes of the member and beneficiary;
or
- (b) Over a period not exceeding the joint life expectancy of the member and beneficiary.
- (6) Notwithstanding the provisions of this section, a retiree may change his or her designation of beneficiary up to two times without the approval of the Board or the current beneficiary.
- (7) If a member dies on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the member's beneficiaries shall be entitled to any

benefits the member would have been entitled to had he or she resumed employment and then died while employed.

Sec. 20-232. Miscellaneous.

- (1) The authority having the power to hire the services of a police officer shall prepare such records and from time to time shall furnish such information concerning a member as the board may require in the discharge of its duties. Upon the employment of a police officer, the authority shall inform the police officer of his duties and obligations in connection with the system as a condition of employment.
- (2) Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, than on discovery of any such error the board shall correct the same and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.
- (3) All pensions and other benefits accrued or accruing to any person under the provisions of this Act, and the accumulated contributions and cash securities in the funds created under this Act, are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatever, nor shall any assignment thereof be enforceable in any court.
- (4) All provisions of any ordinance of the City inconsistent with the provisions of Article VI hereof, are hereby repealed to the extent of such inconsistencies.
- (5) If this Act shall later be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the member or beneficiary shall not be affected thereby.
- (6) In the event of a complete discontinuance of contributions to the fund or upon termination of the system, the interest of each member in the system to the extent then funded shall become one hundred (100) percent nonforfeitable, and the assets of the system shall be apportioned and distributed in accordance with the provisions of F.S. § 185.37, as amended.
- (7) If any clause, section or provision of this Act shall be declared to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Act, and the remaining portion of said Act shall be in force and effect, and shall be as valid as if such invalid portion had not been incorporated.
- (8) Vested rights which may exist on the effective date of this Act in favor of any member of the existing retirement system under F.S. ch. 185 shall not be impaired; provided, that any person who may claim that the abolishment of the retirement system under said F.S. ch. 185 violates a claimed vested right thereunder, shall, within one year of the effective date of this Act, notify the board in writing of such claim. Upon receipt of such claim the board shall, without delay, in an appropriate proceeding and forum, obtain a judicial construction with respect to the question of such claim of violated vested rights. Should the final judgment or decree in said proceeding sustain the claim of any such person, the board shall conform its

administration of the fund in relation to such person to meet with the requirements of any such decree or judgment.

- (9) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system shall be guilty of a misdemeanor of the first degree and be subject to punishment as provided by law.
- (10) The board of trustees is hereby authorized to grant periodic cost-of-living adjustments to benefits payable to all retired members, including members who are participating in the deferred retirement option program in accordance with section 20-233, during the continuation of benefits being payable under this plan; however, such adjustment shall not be made more frequently than on an annual basis. The conditions for granting such adjustments are as follows:
- (a) The granting of same is actuarially sound and will not substantially affect the financial stability of the plan and will not require additional funding of the plan from any city funds from any source apart from funds received as tax levy proceeds authorized by F.S. ch. 185.08.
- (b) The board shall formally approve the adjustments based on data contained in the current actuarial evaluation.
- (c) The adjustment shall be divided into a "prefunded" component and an "ad hoc" component such that, once approved and for the purpose of the actuarial evaluations, the prefunded percentage increase will be assumed to be repeated on an annual basis for future years and the ad hoc increase will not be assumed to be repeated on an annual basis for future years. Future actuarial evaluations may determine that a modification to the assumed future prefunded increases will be necessary.
- (d) Prefunded adjustments shall be based upon the monthly benefit being paid to a retirant on the month preceding the adjustment date, but excluding any temporary supplemental retirement allowances paid according to section 20-228(5). The average cost-of-living index, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor relative to the United States as a whole, shall be consideration for such adjustments. However, in no event shall the percentage for the prefunded component of the annual cost-of-living adjustment exceed two (2) percent for any annual adjustment date, nor shall any retiree's benefit be reduced below any benefit being received on March 1, 2000.
- (e) The ad hoc component of the cost-of-living adjustment may be granted only when surplus funds are available within the plan and only if all other provisions of this section are satisfied. This portion of the adjustment shall be based upon the monthly benefit being paid to a retirant on the month preceding the adjustment date but excluding any temporary supplemental and retirement allowances paid according to section 20-228(5). The sum of the prefunded and ad hoc portions of the adjustment shall not exceed either three (3) percent or the average cost-of-living index as determined by the Bureau of Labor Statistics of the U.S. Department of Labor, relative to the United States as a whole, whichever is the lesser amount.

(f) Notwithstanding the foregoing provisions of Subsection (10), paragraphs (a) through (e), members who retire before March 1, 2000 shall receive an annual cost of living adjustment of up to three (3) percent. Up to two (2) percent of this cost of living adjustment will be part of the fixed benefit structure of the plan. The remaining amount (up to one percent annually) will be granted pursuant to the "ad hoc" adjustment provisions of this subsection. Members who retire on or after March 1, 2000 will be eligible for a cost of living adjustment in accordance with the foregoing provisions of Subsection (10), paragraphs (a) through (e). Cost of living adjustments may be adjusted in accordance with Section 20-227(1).

(11) Maximum benefit limitation.

(a) The maximum annual benefit payable under the system shall be limited to ninety-thousand dollars (\$90,000.00) subject to adjustment for increases in the cost of living in accordance with the following sentence. As of the first day of January of each calendar year, the maximum dollar limitation shall be adjusted automatically to an amount determined by the Commissioner of the Internal Revenue Service effective for that calendar year and shall apply only to that calendar year.

Retirees in payment status whose benefits were limited in any year by the application of this limitation shall have their benefits adjusted automatically in subsequent years to take into account the then current dollar limit.

(b) In the event a member has earned a benefit, which during a previous limitation year has met all the requirements of Section 415 of the Internal Revenue Code ("Code"), and if the member's accrued benefit exceeds the limitation of Section 415 of the Code or the current limitation year, the member's maximum annual benefit, as described in subsection (a) of this section, shall not be less than the accrued benefit allowable under such previous limitation year.

(c) If the retirement benefit is payable in a form other than a straight-life annuity or a joint-and-survivor annuity with the spouse as joint annuitant, the annual benefit limitation in any year shall be the actuarial equivalent (as defined in subsection (f) of this section) of the maximum annual benefit for that year (payable in the form of a straight-life annuity), as described above.

(d) In the event payment of a retirement benefit under the system to a member commences prior to the date he (she) attains age sixty-two (62), the maximum annual benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit assumed to commence at age sixty-two (62) for the purpose of applying the benefit limit described in subsection (a) of this section. For a "qualified participant" as defined in Internal Revenue Code Section 415(b)(2)(H), this paragraph shall not apply.

For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent (as defined in subsection (f) of this section), determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age sixty-two (62) (or the then current age if greater).

Adjustments described in this subsection (d) shall not reduce the maximum annual benefit below seventy-five thousand dollars (\$75,000.00), if the retirement benefit commences on or after attainment of age 55, or if the benefit commences before age 55, the actuarial equivalent of the \$75,000 limitation for age 55.

- (e) In the event payment of a retirement benefit under the system to a member commences after the date he (she) attains age 65, the maximum benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit commencing at age 65 for the purpose of applying the benefit limit described in subsection (a) of this section.

For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent, determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age 65.

- (f) For the purpose of adjusting benefits in accordance with this section, actuarial equivalent shall be determined using the 1983 Group Annuity Mortality Table and an interest rate of five (5) percent for adjustments under subsections (c), (d) and (e) of this section. For adjustment under subsections (c), (d) and (e), no cost-of-living adjustment shall be taken into account before the year for which such adjustment first takes effect.
- (g) If a retirement benefit is payable to a member who has less than ten (10) years of participation in the system, the limitation described in subsection (a) of this section shall be multiplied by a fraction, the numerator of which is the member's years of participation and the denominator of which is ten (10).
- (h) If the city maintains a tax-qualified, defined contribution plan covering the same member, the total of such member's "defined contribution fraction" and his (her) "defined benefit fraction" (both as defined in Section 415 of the Code) at the end of any limitation year shall not exceed one (1.0). If as reduction in a member's benefits is required so that the sum of the two (2) fractions described above will not exceed one (1.0) the numerator of the "defined benefit fraction" shall be adjusted downward sufficiently to insure that the two-plan limitation described above is not exceeded. This limitation shall not be applicable to plan years beginning on and after January 1, 2000.
- (i) Adjustments described in subsections (b) and (d) of this section 20-232(11) shall not apply to (i) income received as a pension, annuity or similar allowance as a result of personal injuries or sickness or (ii) amounts received as a result of an employee's death by the employee's beneficiaries, survivors or estate.

Sec. 20-233. Deferred retirement option program for police officers (DROP).

- (1) A deferred retirement option plan ("DROP") is hereby established for eligible police officers, effective October 1, 2004.
- (2) Eligibility and participation:
- (a) A police officer who is actively employed by the city and reaches the normal service retirement date shall be eligible to participate in the DROP.

- (b) A member's election to participate in the DROP shall be irrevocable
- (c) An eligible member may participate in the DROP for a maximum of sixty (60) months from the date the DROP plan takes effect (if the member is eligible at that time), or for a maximum of sixty (60) months from the date the member reaches his or her earliest normal service retirement date, whichever occurs first. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city. An eligible member may defer entry into DROP beyond the date the member is first eligible to enter the DROP. If a member defers entry into the DROP, the maximum DROP period will be reduced for each month of deferred entry. In no event will the maximum DROP period be extended beyond sixty (60) months from the date the member is first eligible to participate. Example: A member is eligible to participate in DROP for a maximum sixty (60) months from the date the member is first eligible to participate; however, if the member defers entry into the DROP for twelve months after reaching the earliest normal service retirement age (or if the member has already reached the earliest normal service retirement age at the time the DROP takes effect, twelve months after that date), the member will be able to participate in the DROP for a maximum of forty-eight (48) months. Notwithstanding any provision to the contrary, any member who completes twenty-five (25) years of service before age fifty-two (52) may defer entry into the DROP until age 52, with no reduction in the DROP period. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city.

(3) DROP plan features:

- (a) An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month during the DROP period. No member or city contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.
- (b) A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.
- (c) As a condition of participating in the DROP, the member must agree to resign from city employment at the conclusion of the DROP period and must submit an irrevocable letter of resignation prior to entering the DROP.
- (d) Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- (e) The member's DROP account will earn interest at an annual rate of six and one-half percent (6.5%) compounded monthly.

- (f) Within thirty (30) days following a DROP participant's termination of city employment or death, the member's entire DROP account balance shall be distributed to the member [or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (g) below] in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 20-229(4) of the pension plan.
- (g) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.
- (h) The pension board shall adopt any necessary rules for administering the DROP.

Sec. 20-234. Rollovers or transfers into the fund.

Effective October 1, 2004, the fund will accept member rollover cash contributions and/or direct cash rollovers of distributions for the purchase of creditable service pursuant to Section 20-221(8), as follows:

- (a) Direct transfers or member rollover contributions from other plans. The plan will accept either a direct transfer or an eligible rollover distribution from a qualified plan described in section 401(a) of the Code, from an annuity contract described in section 403(b) of the Code, or from an eligible plan described in section 457(b) of the Code, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, as permitted under the Internal Revenue Code.
- (b) Member rollover contributions from 401(a) plans and IRAs. The plan will accept a member rollover contribution of the portion of a distribution from a qualified plan described in section 401(a) of the Code, or from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code, that is eligible to be rolled over and would otherwise be includible in the member's gross income.

Sec. 20-235. Maximum pension benefits.

- (1) Basic limitation. Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.

- (2) Adjustments to basic limitation for form of benefit. If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Code Section 415(b) limit applicable at the annuity starting date is reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the death benefits under the form of benefit.
- (3) Benefits not taken into account. For purposes of this section, the following benefits shall not be taken into account in applying these limits:
- (a) Any ancillary benefit which is not directly related to retirement income benefits;
 - (b) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1).
- (4) COLA effect. Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:
- (a) A member's applicable limit will be applied to the member's annual benefit in the member's first calendar year of benefit payments without regard to any automatic cost of living adjustments;
 - (b) Thereafter, in any subsequent calendar year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
 - (c) In no event shall a member's benefit payable under the system in any calendar year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

(5) Other adjustments in limitations.

- (a) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).
- (b) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire or police department of the City, the adjustments provided for in (5)(a) above shall not apply.
- (c) The reductions provided for in (5)(a) above shall not be applicable to disability benefits pursuant to section 20-230, or pre-retirement death benefits paid pursuant to section 20-231.

- (d) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.
- (6) Less than ten (10) years of service. The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service with the City shall be the amount determined under subsection (1) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to section 20-230, or pre-retirement death benefits paid pursuant to section 20-231.
- (7) Participation in other defined benefit plans. The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.
- (8) Ten thousand dollar (\$10,000) limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable plan year and for any prior plan year and the City has not any time maintained a qualified defined contribution plan in which the member participated.
- (9) Reduction of benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures to defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.
- (10) Service credit purchase limits.
- (a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, if allowed by the system, then the requirements of this section will be treated as met only if:

1. The requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b); or
2. The requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).
3. For purposes of applying subparagraph (10)(a)1., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph 3., and for purposes of applying subparagraph (10)(a)2. the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph 3.

(b) For purposes of this subsection the term "permissive service credit" means service credit—

1. Recognized by the system for purposes of calculating a member's benefit under the plan.
2. Which such member has not received under the plan; and
3. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (10)(b)2., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(c) For purposes of applying the limits in this subsection (10), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a calendar year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

1. However, for calendar years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For calendar years beginning

after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).

2. For limitation years beginning on and after January 1, 2007, compensation for the calendar year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the calendar year that includes the date of the employee's severance from employment if:

a. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee which the employee continued in employment with the employer; or

b. The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

3. Back pay, within the meaning of Treasury Regulations Section 1.415(c) - 2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(d) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

1. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

2. If payment pursuant to subparagraph (10)(d)1. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution

(11) Additional limitation on pension benefits. Notwithstanding anything herein to the contrary.

(a) The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(b) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement

benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

Sec. 20-236. Share plan.

In accordance with F.S. § 185.35(6), a defined contribution plan component ("share plan") is hereby established for police officers as part of this System. The share plan will be funded exclusively with F.S. ch. 185 premium tax revenues in accordance with the default rules in F.S. § 185.35(a)—(d) as follows: all annual premium tax revenues received up to the amount collected in 2002 and distributed to the city in 2003 (\$249,401) shall be used to reduce city pension contributions. Annual premium tax revenues received in excess of \$249,401 shall be split 50-50, with one-half of the excess used to fund the share plan, and one-half of the excess used to reduce city pension contributions. The share plan shall not become operative until annual premium tax revenues exceed \$249,401 and the details of the share plan are agreed to by the city and union.

Section 3. Referendum Proposition. That the next special election of the City of St. Augustine, Florida, shall contain the following proposition title and summary consistent with Chapter 101.161, Florida Statutes:

Proposition 1

Removing Article IX from Charter to Codify in City Code

Shall the regulations for the St. Augustine Police Officers Retirement System and St. Augustine Police Officers Retirement Fund be removed from the Charter of the City of St. Augustine, Florida and instead codified within the City of St. Augustine municipal code to facilitate future amendments?

Eliminación del Artículo IX de los Estatutos para codificarlo en el Código de la Ciudad

¿Deberían eliminarse los reglamentos del Sistema de Jubilación de Oficiales de Policía de Saint Augustine y el Fondo de Jubilación de Oficiales de Policía de Saint Augustine de los Estatutos de la Ciudad de Saint Augustine, Florida y, en su lugar, codificarse dentro del código municipal de la Ciudad de Saint Augustine para facilitar futuras enmiendas?

☐ Yes/Sí

☐ No

Section 4. Confirmation by Referendum Vote. Should the above Section not be confirmed by referendum ballot during the next special or general election, then said Section of this Ordinance shall be null and void and the corresponding Section of the City Charter shall remain as it was prior to the adoption of this Ordinance.

Section 5. Presidential Preference Primary Election May Serve as Special Election.

The presidential preference primary election, scheduled for March 19, 2024, is designated as a special election for the City of St. Augustine, and this referendum proposition shall be placed on the ballot of this special election.

Section 6. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 7. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 9. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(5), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2023.

Nancy Sikes-Kline, Mayor-Commissioner

ATTEST:

Darlene Galambos, City Clerk
(SEAL)

Coastal Florida Police Benevolent Association, Inc.

810 Fentress Ct., Suite 150, Daytona Beach, FL 32117 (386) 304-2393

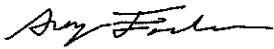
Friday, September 15, 2023

The Honorable Nancy Sikes-Kline
Mayor of St. Augustine

Dear Mayor:

Please be advised that Coastal Florida PBA, the bargaining agent for the police officers of the city of St. Augustine, fully supports the current referendum to move the police pension provisions from the city charter to city code. Additionally, I would like to take this opportunity to let you know that it has been our please to work with the Chief of Police and your entire administration.

Sincerely,



Greg T. Forhan, General
Counsel Coastal Florida PBA
gforhan@cfpba.us
Phone: (386) 304-2393

Protecting The Protectors

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David P. Birchim, AICP
City Manager

DATE: September 25, 2023

RE: Agenda Item: Resolution 2023-34 between the City of St. Augustine (City) and the State of Florida, Department of State (DOS) and Historic St. Augustine Buildings Rehabilitation Grant Agreement

As you are aware, the City, has received funding from the DOS for five rehabilitation projects, totaling \$3,620,000. Grant funds will be used to replace the roof at the Pena-Peck House; paint the Pena-Peck house; repair/replace the Visitor's Information Center floor; apply a waterproof sealant to City Hall/Lightner and replace the remaining 129 windows at City Hall/Lightner. A copy of the project agreement and scope is enclosed for your review.

In order to satisfy DOS program guidelines, the City must execute the attached agreement for this grant and Resolution 2023-34. Staff recommends approval of both documents to begin the projects.

If you concur, please place this item on the Agenda for the Commission meeting scheduled for Monday, October 9, 2023, under 9.B, Resolutions for consideration. As always, please do not hesitate to contact me if you have any questions. Thank you for your assistance.



Barb Moore
General Services Group Manager

BLM

Encl: Resolution 2023-34
Historic St. Augustine Building Rehabilitation Grant Agreement
Funding Request

xc: Meredith Breidenstein, Assistant City Manager
Darlene Galambos, City Clerk
file

AGREEMENT BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF STATE
AND
City of St. Augustine
24.h.sc.900.121

This Agreement is by and between the State of Florida, Department of State, Division of Historical Resources hereinafter referred to as the "Division," and the City of St. Augustine hereinafter referred to as the "Grantee."

The Grantee has been awarded a Special Category Grant by the Division, grant number 24.h.sc.900.121 for the Project "Historic St. Augustine Buildings Rehabilitation - Line Item," in the amount of \$3,620,000 ("Grant Award Amount"). The Division enters into this Agreement pursuant to Line Item 3237, contained in the 2024 General Appropriations Act, SB2500, Laws of Florida. The Division has the authority to administer this grant in accordance with Section 267.0617, *Florida Statutes*.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **Grant Purpose.** This grant shall be used exclusively for the "Historic St. Augustine Buildings Rehabilitation - Line Item," the public purpose for which these funds were appropriated.

- a) The Grantee shall perform the following **Scope of Work**:

Grant funds will be used to repair/restore the Alcazar Hotel, the Pena-Peck House, and the St. Augustine Visitor's Information Center, in St. Augustine. Work items include replace one-hundred and twenty-nine (129) non-historic windows in the Alcazar Hotel with historically appropriate materials; apply a waterproof sealant to the Alcazar Hotel; repair/replace the roof on the Pena-Peck House; repaint the Pena-Peck House; and repair/replace the floors of the Visitor's Information Center. Grant funds will also be used for architectural/engineering services.

All window and/or door replacements shall be submitted to the Bureau of Historic Preservation for review and approval before any window and/or door replacement work commences.

Water repellent coating specifications will be submitted to the Division of Historical Resources for review and approval prior to application on the building.

All tasks associated with the Project shall meet the requirements set forth in this agreement.

- b) The Grantee agrees to provide the following **Deliverables** and **Performance Measures** related to the Scope of Work for payments to be awarded.

#	Payment Type	Deliverable Description	Documentation	Payment Amount
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1	Fixed Price	Provide a copy of the professional architectural/engineering consultant's credentials and a project timeline to the Division for review and approval.	One (1) digital copy of the professional architectural/engineering consultant credentials; One (1) digital copy of the project timeline.	\$905,000
2	Fixed Price	Complete and submit a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least thirty percent (30%) of the project completed for review and approval; Photographic documentation of installed project identification sign with Grant Funding Acknowledgement.	One (1) digital copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least thirty percent (30%) of the project completed; Photographic documentation of installed project identification sign with Grant Funding Acknowledgement.	\$905,000
3	Fixed Price	Complete and Submit one (1) copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least sixty percent (60%) of the project completed.	One (1) digital copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least sixty percent (60%) of the project completed.	\$905,000

4	Fixed Price	Complete and submit an Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least one hundred percent (100%) of the project completed, including all retainage amounts paid, for review and approval. In addition, a new/updated FMSF form (for previously extant structures over 50 years old) for the property and executed Restrictive Covenant filed with the County Clerk shall be submitted prior to final payment; a Single Audit Form shall be completed by the Grantee and submitted along with the Final Progress Report prior to final payment; documentation to support all paid expenditures including detailed paid invoices, bank records, and canceled checks.	One (1) digital copy of the completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least one hundred percent (100%) of the project completed, including all retainage amounts paid; One (1) copy of the new/updated FMSF form (for previously extant structures over 50 years old); One (1) copy of the executed Restrictive Covenant filed with the County Clerk; One (1) Single Audit Form; One (1) copy of the final progress report; documentation to support all paid expenditures including detailed paid invoices, bank records, and canceled checks.	\$905,000
Totals				\$3,620,000

- c) The Grantee has provided an Estimated Project Budget based upon reasonable expenditures projected to accomplish the Grantee's Scope of Work and Deliverables outlined in the Agreement. The Budget provides details of how grant and match funds will be spent. All expenditures shall be in accordance with this budget (which is incorporated as part of this Agreement and entitled Attachment A) and must be incurred during the term of this Agreement, as stated in Section 2 of this Agreement.

2. **Length of Agreement.** This Agreement shall begin on 07/01/23 and shall end 06/30/25, unless terminated in accordance with the provisions of Section 33 of this Agreement. Contract extensions will not be granted unless Grantee is able to provide substantial written justification and the Division approves such extension. The Grantee's written request for such extension must be submitted to the Division no later than thirty (30) days prior to the termination date of this Agreement and no amendment will be valid until a written amendment is signed by both parties as required in Section 7 and Section 15 of this Agreement.
3. **Contract Administration.** The parties are legally bound by the requirements of this Agreement. Each party's contract manager, named below, will be responsible for monitoring its performance under this Agreement, and will be the official contact for each party. Any notice(s) or other communications in regard to this agreement shall be directed to or delivered to the other party's contract manager by utilizing the information below. Any change in the contact information below shall be submitted in writing to the contract manager within 10 days of the change.

For the Division of Historical Resources:

Harley Burgis
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399
Phone: 850.245.6393
Email: harley.burgis@dos.myflorida.com

For the Grantee:

Contact: Julie Courtney
Address: PO Box 210 St. Augustine Florida 32085-0210
Phone: 904.209.4283
Email: jcourtney@citystaug.com

4. **Grant Payments.** All grant payments are requested online via www.dosgrants.com by submitting a payment request with documentation that the deliverable has been completed. The total grant award shall not exceed the Grant Award Amount, which shall be paid by the Division in consideration for the Grantee's minimum performance as set forth by the terms and conditions of this Agreement. Grant payment requests are not considered complete for purposes of payment until review of the deliverables for compliance with the terms and conditions of this Agreement by the appropriate Division staff is complete and approval of the deliverable given. The grant payment schedule is outlined below:
 - a) All payments will be made in the amounts identified with the Deliverables in Section 1 of this agreement
 - b) All payments will be made in accordance with the completion of those Deliverables.
5. **Electronic Payments.** The Grantee can choose to use electronic funds transfer (EFT) to receive grant payments. All grantees wishing to receive their award through electronic funds transfer must submit a Direct Deposit Authorization form to the Florida Department of Financial Services (DFS). If EFT has already been set up for the organization and a payment has been received at the account in the past year, the Grantee does not need to submit another authorization form unless the organization has changed bank accounts. If the grantee has not received a payment at the account in the past year, they should check with DFS at (850) 413-5517 or e-mail at DirectDeposit@MyFloridaCFO.com to see if their EFT request is still active. The authorization form is accessible at https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/vendors/vendor-relations/dfs-a1-26e-direct-deposit-vendors.pdf?sfvrsn=eff728cf_16 where information pertaining to payment status is also available.
6. **Florida Substitute Form W-9.** A completed Substitute Form W-9 is required from any entity that receives a payment from the State of Florida that may be subject to 1099 reporting. The Department of Financial Services (DFS) must have the correct Taxpayer Identification Number (TIN) and other related information in order to report accurate tax information to the Internal Revenue Service (IRS). To register or access a Florida Substitute Form W-9 visit flvendor.myfloridacfo.com. **A copy of the Grantee's Florida Substitute Form W-9 must be submitted to the Division, as required, in advance of or with the executed Agreement.**
7. **Amendment to Agreement.** Either party may request modification of the provisions of this Agreement by contacting the Division to request an Amendment to the Contract. **Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.** If changes are implemented without the Division's written approval, the organization is subject to noncompliance, and the grant award is subject to reduction, partial, or complete refund to the State of Florida and termination of this agreement.

8. Financial Consequences. The Department shall apply the following financial consequences for failure to perform the minimum level of services required by this Agreement in accordance with Sections 215.971 and 287.058, *Florida Statutes*.

- a) Any advanced funds will be returned to the State of Florida if unexpended within the first 3 months of disbursement.
- b) Payments will be withheld or reduced for failure to complete services as identified in the Scope of Work and Deliverables, provide documentation that the deliverable has been completed, or demonstrate the appropriate use of state funds.
- c) If the grantee has spent less than the Grant Award Amount in state funds to complete the Scope of Work, the final payment will be reduced by an amount equal to the difference between spent state dollars and the Grant Award Amount.
- d) The Division may reduce individual payments by 10% if the completed Deliverable does not meet the Secretary of the Interior's Standards and Guidelines or other industry standards applicable to the project.

The Division shall reduce total grant funding for the Project in direct proportion to match contributions not met by the end of the grant period. This reduction shall be calculated by dividing the actual match amount by the required match amount indicated in the Agreement and multiplying the product by the Grant Award Amount indicated in the Agreement. Pursuant to Section 17, Grantee shall refund to the Division any excess funds paid out prior to a reduction of total grant funding.

9. Additional Special Conditions.

Development Projects

1. All project work must be in compliance with the Secretary of the Interior's Standards and Guidelines available online at www.nps.gov/tps/standards.htm.
2. The Grantee shall provide photographic documentation of the restoration activity. Guidelines regarding the photographic documentation are available online at <https://dos.myflorida.com/historical/grants/special-category-grants/>.
3. Architectural Services
 - a. All projects shall require contracting for architectural services. Engineering services may also be required if determined necessary by the Division.
 - b. The Grantee may request a waiver of this requirement from the Division if they believe that the architectural/engineering services are not needed for the Project. The Division shall make a recommendation to the Grantee after review of the proposed work.
4. Architectural Documents and Construction Contracts

The Grantee shall submit the architectural services contract to the Department for review and approval prior to final execution. Procurement documentation supporting maximum open competition must be submitted to the Division for review and approval prior to execution of project contracts. In addition, pursuant to *Section 267.031(5)(i), Florida Statutes*, the Grantee shall submit architectural planning documents to the Department for review and approval. All projects must produce the following:

a. Construction documents that reflect the complete scope of work as defined in section 1.a of this agreement

b. If construction documents are not appropriate (as determined by the Division), the grantee will have their architect, engineer, or contractor provide written material specifications for the tasks identified in the scope of work.

c. In the instance that some of the items identified in the scope or work do require drawings and others do not, the grantee will have their architect provide drawings for the scope items for the instances when it is required and have their architect, engineer, or contractor provide material specifications in instances when drawings are not required.

It should be evident in the drawings any and all alterations being made to historic buildings structures and sites. These final documents must include details of all repair work to historic fabric, including details on repair methodology and material, as well as all replacement materials for historic fabric that cannot be repaired. For development projects, details and product sheets for all exterior finishes (windows, doors, lighting, exterior wall material, etc.) and significant interior finishes (flooring, wall material, lighting, ceiling material and finish, etc.), must also be included.

5. For the construction phase of the Project, in addition to the review submissions indicated above, a copy of the construction contract must be submitted to the Department for review and approval **prior** to final execution. Procurement documentation supporting maximum open competition **must be** submitted to the Division for review and approval prior to execution of project contracts. Department review and approval of said contracts shall not be construed as acceptance by or imposition upon the Department of any financial liability in connection with said contracts.

6. For projects involving ground disturbance (examples include: historic building or structure relocation, grading and site work, installation of sewer and water lines, subgrade foundation repairs or damp proofing, construction of new foundations and installation of landscape materials), the Grantee shall ensure that the following requirements are included in all contracts for architectural and engineering services:

a. Ground disturbance around historic buildings or elsewhere on the site shall be minimized, thus reducing the possibility of damage to or destruction of significant archaeological resources.

b. If an archaeological investigation of the Project site has not been completed, the architect or engineer shall contact the Department for assistance in determining the actions necessary to evaluate the potential for adverse effects of the ground disturbing activities on significant archaeological resources.

c. Significant archaeological resources shall be protected and preserved in place whenever possible. Heavy machinery shall not be allowed in areas where significant archaeological resources may be disturbed or damaged. Significance is evaluated based on an evaluation of identity, age, location, and context in conjunction with their capacity to reveal information through the investigatory research designs, methods, and techniques used by archeologists.

d. When preservation of significant archaeological resources in place is not feasible, a mitigation plan shall be developed in consultation with and approved by the Department's Compliance Review Section (contact information available online at www.flheritage.com). The mitigation plan shall be implemented under the direction of an archaeologist meeting the *Secretary of the Interiors' Professional Qualification Standards for Archaeology*.

e. Documentation of archaeological investigation and required mitigation actions shall be submitted to the Compliance Review Section for review and approval. This documentation shall conform to the *Secretary of the Interior's Standards for Archaeological Documentation*, and the reporting standards of the Compliance Review Section set forth in *Chapter 1A-46, Florida Administrative Code*.

f. Copyright and Royalties: When publications, brochures, films, or similar materials are developed, directly or indirectly, from a program, project or activity supported by grant funds, any copyright resulting therefrom shall be held by the Florida Department of State, Division of Historical Resources. The author may arrange for copyright of such materials only after approval from the Department. Any copyright arranged for by the author shall include acknowledgment of grant assistance. As a condition of grant assistance, the grantee agrees to, and awards to the Department and, if applicable, to the Federal Government, and to its officers, agents, and employees acting within their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for official purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright.

8. Demolition of Historic Property: If a development project includes the demolition of whole structures on a property, historic or not, then the applicant must submit a detailed explanation as to why the structure is being demolished. If it is because the structure is structurally unsound, then an engineer's report may be requested. If the structure to be demolished is historic or contributing resource to the property, then the applicant must also submit a salvage report, detailing what, if any, of the building can be salvaged and how the applicant plans to reuse those materials.

Acquisition Project

The Grantee shall provide the following information to the Division for review and approval:

1. A copy of the complete summary appraisal prepared by a Florida State Certified General Real Estate Appraiser. Two appraisals are required if the first appraisal exceeds \$500,000.
2. A copy of a title policy.
3. A copy of an executed option or purchase agreement.
4. A copy of the certified land survey.
5. A copy of a professional archaeological survey if the property is being proposed for purchase as a significant archaeological site.

Museum Exhibit Projects

The Grantee shall provide the following information to the Division for review and approval:

1. Copyright and Royalties: When publications, brochures, films, or similar materials are developed, directly or indirectly, from a program, project or activity supported by grant funds, any copyright resulting therefrom shall be held by the Florida Department of State, Division of Historical Resources. The Division and the Grantee have agreed that the Department and Grantee will be co-owners of copyright of the product described in the scope of work of this Grant Award Agreement and will each hold irrevocable license throughout the world for official purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright. Any copyright use by the Grantee shall include acknowledgment of grant assistance from the Department.
2. The Grantee shall submit museum exhibit project contracts to the Division for review and approval prior to execution. Procurement documentation supporting maximum open competition must be submitted upon request to the Division for review and approval prior to execution of project contracts.

3. The Grantee shall submit museum exhibit fabrication and design plans, including specifications, to the Division for review and approval prior to installation.

10. Credit Line(s) to Acknowledge Grant Funding. Pursuant to Section 286.25, *Florida Statutes*, in publicizing, advertising, or describing the sponsorship of the program the Grantee shall include the following statement:

- a) "This project is sponsored in part by the Department of State, Division of Historical Resources and the State of Florida." Any variation in this language must receive prior approval in writing by the Division.
- b) All site-specific projects must include a Project identification sign, with the aforementioned language, that must be placed on site. The cost of preparation and erection of the Project identification sign are allowable project costs. Routine maintenance costs of Project signs are not allowable project costs. A photograph of the aforementioned sign must be submitted to the Division as soon as it is erected. Non-site-specific projects that produce report(s) must include the aforementioned language in the report.

11. Encumbrance of Funds. The Grantee shall execute a binding contract for at least a part of the Scope of Work by September 30, except as allowed below.

- a) Extension of Encumbrance Deadline: The encumbrance deadline indicated above may be extended by written approval of the Division. To be eligible for this extension, the Grantee must demonstrate to the Division that encumbrance of grant funding and the required match by binding contract(s) is achievable by the end of the requested extended encumbrance period. The Grantee's written request for extension of the encumbrance deadline must be submitted to the Department no later than fifteen (15) days prior to the encumbrance deadline indicated above.
- b) Encumbrance Deadline Exception: For projects not involving contract services the Grantee and the Department shall consult on a case-by-case basis to develop an acceptable encumbrance schedule.

12. Grant Reporting Requirements. The Grantee must submit the following reports to the Division. All reports shall document the completion of any deliverables/tasks, expenses and activities that occurred during that reporting period. All reports on grant progress will be submitted online via www.dosgrants.com.

- a) **First Project Progress Report** is due by October 31, for the period ending September 30 (first year of the Grant Period).
- b) **Second Project Progress Report** is due by January 31, for the period ending December 31 (first year of the Grant Period).
- c) **Third Project Progress Report** is due by April 30, for the period ending March 31 (first year of the Grant Period).
- d) **Fourth Project Progress Report** is due by July 31, for the period ending June 30 (first year of the Grant Period).
- e) **Fifth Project Progress Report** is due by October 31, for the period ending September 30 (second year of the Grant Period).
- f) **Sixth Project Progress Report** is due by January 31, for the period ending December 31 (second year of the Grant Period).

g) **Seventh Project Progress Report** is due by April 30, for the period ending March 31 (second year of the Grant Period).

h) **Final Report.** The Grantee must submit a Final Report to the Division within one month of the Grant Period End Date set forth in Section 2 above.

13. **Matching Funds.** The Grantee is required to provide a 100% match of the Grant Award Amount unless reduced as provided in this section. Of the required match, a minimum of 25% must be cash on hand. The remaining match may include in-kind services, volunteer labor, donated materials, and additional cash. For projects located in Rural Economic Development Initiative (REDI) counties or communities that have been designated in accordance with Sections 288.0656 and 288.06561, *Florida Statutes*, Grantees may request a reduction of the match amount. The Grantee must submit documentation that the minimum match requirements have been met and provide to the Division documentation evidencing expenses incurred to comply with this requirement.

14. **Grant Completion Deadline.** The grant completion deadline is the end date of this Agreement set forth in Section 2 above. The Grant Completion Deadline is the date when all grant and matching funds have been paid out or incurred in accordance with the work described in the Scope of Work, detailed in the Estimated Project Budget. If the Grantee finds it necessary to request an extension of the Grant Completion Deadline, an Amendment to the Agreement must be executed as per Section 7, and the stipulations in Section 15 must be met.

15. **Extension of the Grant Completion Deadline.** An extension of the completion date must be requested at least thirty (30) days prior to the end of the Grant Period and may not exceed 180 days, unless the Grantee can clearly demonstrate extenuating circumstances. An extenuating circumstance is one that is beyond the control of the Grantee, and one that prevents timely completion of the Project such as a natural disaster, death or serious illness of the individual responsible for the completion of the Project, litigation related to the Project, or failure of the contractor or architect to provide the services for which they were contracted to provide. An extenuating circumstance does not include failure to read or understand the administrative requirements of a grant or failure to raise sufficient matching funds. Changes to the original completion deadline shall be valid only when requested in writing, approved by the Division, and an Amendment to the Agreement has been executed by both parties and attached to the original of this Agreement. The Grantee must provide documentation that a portion of the grant funds and match contributions are encumbered and demonstrate to the satisfaction of the Division that project work is progressing at a rate such that completion is achievable within the extended Grant Period.

16. **Non-allowable Grant Expenditures.** The Grantee agrees to expend all grant funds received under this agreement solely for the purposes for which they were authorized and appropriated. Expenditures shall be in compliance with the state guidelines for allowable Project costs as outlined in the Department of Financial Services' Reference Guide for State Expenditures (revised 10/2022), which are incorporated by reference and are available online at https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf?sfvrsn=b4cc3337_2. The following categories of expenditures are non-allowable for expenditure of grant funds and as contributions to required match:

- a) Expenditures for work not included in the Scope of Work of the executed Grant Award Agreement;
- b) Costs of goods and services not procured in accordance with procurement procedures set forth in the Grant Award Agreement;
- c) Costs not consistent with the grant project type, as described in section V.C.2. of the program guidelines and as selected in the application;

- d) Expenses incurred or obligated prior to or after the Grant Period, as indicated in the Grant Award Agreement;
- e) Expenses associated with lobbying or attempting to influence Federal, State, or local legislation, the judicial branch, or any state agency;
- f) Expenditures for work not consistent with the applicable historic preservation standards as outlined in the Secretary of the Interior's Guidelines available at www.nps.gov/tps/standards/treatment-guidelines-2017.pdf, standards available at <http://www.nps.gov/tps/standards.htm> and [nps.gov/history/local-law/arch_stnds_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm) or applicable industry standards;
- g) Costs for projects having as their primary purpose the fulfillment of Federal or State historic preservation regulatory requirements, specifically, costs of consultation and mitigation measures required under Section 106 of the *National Historic Preservation Act of 1966*, as amended, or under Section 267.031, F.S.;
- h) Projects directed at activities or Historic Properties that are restricted to private or exclusive participation or access, which shall include restricting access on the basis of sex, race, color, religion, national origin, disability, age, pregnancy, handicap, or marital status;
- i) Entertainment, food, beverages, plaques, awards, or gifts;
- j) Costs or value of donations or In-kind Contributions not documented in accordance with the provisions of the Grant Award Agreement;
- k) Indirect costs including Grantee overhead, management expenses, general operating costs and other costs that are not readily identifiable as expenditures for the materials and services required to complete the work identified in the Scope of Work in the Grant Award Agreement. Examples of indirect costs include: rent/mortgage, utilities, janitorial services, insurance, accounting, internet service, monthly expenses associated to security systems, non-grant related administrative and clerical staffing, marketing, and fundraising activities;
- l) Administrative and project management expenditures such as expenditures that are directly attributable to management of the grant-assisted Project and meeting the reporting and associated requirements of the Grant Award Agreement, whether grant expenditures or match contributions, which in aggregate exceed 5% of the grant award amount;
- m) Grantee operational support (i.e., organization salaries not directly related to grant activities; travel expenditures; per diem; or supplies);
- n) Insurance costs (Exception: costs for builder's risk, workers' compensation and contractor's liability insurance);
- o) Capital improvements to non-historic properties or non-historic additions to a Historic Property (Exception: pre-approved items of work for Museum Exhibit projects);
- p) Capital improvements to the interior of Religious Properties (Exception: repairs to elements of the structural system. Examples include: foundation repairs, repairs to columns, load bearing wall framing, roof framing, masonry repairs, window and exterior door repairs and restoration practices associated with the building envelope);

- q) Accessibility improvements for Religious Properties;
- r) Vehicular circulation (drives/driveways) within the property or from the property to surrounding streets and parking (Exception: provision of code-required handicapped parking pad(s));
- s) Sidewalks, paths, walkways, landscape features and accessories, planting, irrigation systems and site lighting (Exceptions: historic walkways; sidewalk required to link the code-required handicapped parking pad(s) to the accessible entry; historic retaining walls/planting/sodding required to halt documented erosion; pruning, removal or relocation of trees posing an immediate threat to the historic or archaeological resource; and limited site lighting required for security, all if approved by the Division);
- t) Fences and gates (Exception: restoration or in-kind replacement of damaged or missing historic fences, gates or sections of these);
- u) Furniture, including but not limited to: desks, tables, seating, rugs and mats, artwork and decorations, window treatments, case goods (including cabinets, countertops, or bookshelves) with no historic precedent, systems' furniture, movable partitions and acoustical treatments and components, unless specific prior approval has been granted by the Division (Exception: museum display units necessary for approved Museum Exhibit projects)
- v) Equipment (a) including but not limited to portable sound systems, specialty fixtures and equipment, visual display units, appliances, computers, cameras, printers, scanners, projection systems, portable light fixtures, and total stations unless specific prior approval has been granted by the Division (b) If special equipment is required for completion of the Project, it shall be rented for the grant term unless it can be shown that acquiring the equipment is cheaper than renting the equipment and approval has been provided by the Division as part of the documentation presented at the time of application. If the value of special equipment is to be used as a match contribution, the value of the match contribution shall be limited to the cost of rental for the Grant Period at the market rate for such rental in the region;
- w) Supplies that will not be consumed in use during the duration of this project;
- x) Costs associated with attending or hosting conferences, summits, workshops or presentation including facility rental fees including facility rental fees (Exception: municipal or county required public meetings necessary for completion of the grant-assisted project);
- y) Travel expenditures, including those of personnel responsible for items of work approved by the Division, administrative personnel, contracted or subcontracted employees, either for purposes of work on-site or research off-site; and
- z) Tuition waivers, fees, and other non-grant related costs associated with employing students for grant projects.

17. Unobligated and Unearned Funds and Allowable Costs. In accordance with Section 215.971, *Florida Statutes*, the Grantee shall refund to the State of Florida any balance of unobligated funds which has been advanced or paid to the Grantee. In addition, funds paid in excess of the amount to which the recipient is entitled under the terms and conditions of the agreement must be refunded to the state agency. Further, the recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period. Expenditures of state financial assistance must be in compliance with the laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the *Reference Guide for State Expenditures*.

18. **Repayment.** All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of the "Department of State" and mailed directly to the following address: Florida Department of State, Attention: Grants Program Supervisor, Division of Historical Resources, 500 South Bronough Street Tallahassee, FL 32399. In accordance with Section 215.34(2), *Florida Statutes*, if a check or other draft is returned to the Department for collection, Grantee shall pay to the Department a service fee of \$15.00 or five percent (5%) of the face amount of the returned check or draft, whichever is greater.
19. **Single Audit Act.** Each Grantee, other than a Grantee that is a State agency, shall submit to an audit pursuant to Section 215.97, *Florida Statutes*. See Attachment B for additional information regarding this requirement.
20. **Retention of Accounting Records.** Financial records, supporting documents, statistical records, and all other records including electronic storage media pertinent to the Project shall be retained for a period of five (5) years after the close out of the grant. If any litigation or audit is initiated, or claim made, before the expiration of the five-year period, the records shall be retained until the litigation, audit, or claim has been resolved.
21. **Obligation to Provide State Access to Grant Records.** The Grantee must make all grant records of expenditures, copies of reports, books, and related documentation available to the Division or a duly authorized representative of the State of Florida for inspection at reasonable times for the purpose of making audits, examinations, excerpts, and transcripts.
22. **Obligation to Provide Public Access to Grant Records.** The Division reserves the right to unilaterally cancel this Agreement in the event that the Grantee refuses public access to all documents or other materials made or received by the Grantee that are subject to the provisions of Chapter 119, *Florida Statutes*, known as the *Florida Public Records Act*. The Grantee must immediately contact the Division's Contract Manager for assistance if it receives a public records request related to this Agreement.
23. **Investment of Funds Received But Not Paid Out.** The Grantee may temporarily invest any or all grant funds received but not expended, in an interest bearing account pursuant to Section 216.181(16)(b), *Florida Statutes*. Interest earned on such investments should be returned to the Division quarterly, except that interest accrued less than \$100 within any quarter may be held until the next quarter when the accrued interest totals more than \$100. All interest accrued and not paid to the Division, regardless of amount, must be submitted with the Grantee's final Progress Report at the end of the Grant Period.
24. **Noncompliance with Grant Requirements.** Any Grantee that has not submitted required reports or satisfied other administrative requirements for this grant or other Division of Historical Resources grants or grants from any other Florida Department of State (DOS) Division will be in noncompliance status and subject to the DOS Grants Compliance Procedure. Grant compliance issues must be resolved before a grant award agreement may be executed, and before grant payments for any DOS grant may be released.
25. **Accounting Requirements.** The Grantee must maintain an accounting system that provides a complete record of the use of all grant funds as follows:
 - a) The accounting system must be able to specifically identify and provide audit trails that trace the receipt, maintenance, and expenditure of state funds;
 - b) Accounting records must adequately identify the sources and application of funds for all grant activities

and must classify and identify grant funds by using the same budget categories that were approved in the grant application. If Grantee's accounting system accumulates data in a different format than the one in the grant application, subsidiary records must document and reconcile the amounts shown in the Grantee's accounting records to those amounts reported to the Division.

- c) An interest-bearing checking account or accounts in a state or federally chartered institution may be used for revenues and expenses described in the Scope of Work and detailed in the Estimated Project Budget.
- d) The name of the account(s) must include the grant award number;
- e) The Grantee's accounting records must have effective control over and accountability for all funds, property, and other assets; and
- f) Accounting records must be supported by source documentation and be in sufficient detail to allow for a proper pre-audit and post-audit (such as invoices, bills, and canceled checks).

- 26. Availability of State Funds.** The State of Florida's performance and obligation to pay under this Agreement are contingent upon an annual appropriation by the Florida Legislature, or the United States Congress in the case of a federally funded grant. In the event that the state or federal funds upon which this Agreement is dependent are withdrawn, this Agreement will be automatically terminated and the Division shall have no further liability to the Grantee, beyond those amounts already released prior to the termination date. Such termination will not affect the responsibility of the Grantee under this Agreement as to those funds previously distributed. In the event of a state revenue shortfall, the total grant may be reduced accordingly.
- 27. Independent Contractor Status of Grantee.** The Grantee, if not a state agency, agrees that its officers, agents and employees, in performance of this Agreement, shall act in the capacity of independent contractors and not as officers, agents, or employees of the state. The Grantee is not entitled to accrue any benefits of state employment, including retirement benefits and any other rights or privileges connected with employment by the State of Florida.
- 28. Grantee's Subcontractors.** The Grantee shall be responsible for all work performed and all expenses incurred in connection with this Agreement. The Grantee may subcontract, as necessary, to perform the services and to provide commodities required by this Agreement. The Division shall not be liable to any subcontractor(s) for any expenses or liabilities incurred under the Grantee's subcontract(s), and the Grantee shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under its subcontract(s). The Grantee must take the necessary steps to ensure that each of its subcontractors will be deemed to be "independent contractors" and will not be considered or permitted to be agents, servants, joint ventures, or partners of the Division.
- 29. Liability.** The Division will not assume any liability for the acts, omissions to act, or negligence of, the Grantee, its agents, servants, or employees; nor may the Grantee exclude liability for its own acts, omissions to act, or negligence, to the Division.
- a) The Grantee shall be responsible for claims of any nature, including but not limited to injury, death, and property damage arising out of activities related to this Agreement by the Grantee, its agents, servants, employees, and subcontractors. The Grantee, other than a Grantee which is the State or the State's agencies or subdivisions, as defined in Section 768.28, *Florida Statutes*, shall indemnify and hold the Division harmless from any and all claims of any nature and shall investigate all such claims at its own

expense. If the Grantee is governed by Section 768.28, *Florida Statutes*, it shall only be obligated in accordance with that Section.

- b) Neither the state nor any agency or subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, by entering into this Agreement.
- c) The Division shall not be liable for attorney fees, interest, late charges or service fees, or cost of collection related to this Agreement.
- d) The Grantee shall be responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to perform the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities; and provided that it is understood by the Grantee that the Division shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

30. Strict Compliance with Laws. The Grantee shall perform all acts required by this Agreement in strict conformity with all applicable laws and regulations of the local, state and federal law.

31. No Discrimination. The Grantee and their subcontractors may not discriminate against any employee employed under this Agreement, or against any applicant for employment because of race, color, religion, gender, national origin, age, pregnancy, handicap or marital status. The following or a similar provision must be inserted into all of the subcontracts for services executed under this Agreement:

- a) No employee or applicant for employment engaged under this Agreement may be discriminated against because of race, color, religion, gender, national origin, age, pregnancy, handicap or marital status.

32. Breach of Agreement. The Division will demand the return of grant funds already received, will withhold subsequent payments, and/or will terminate this agreement if the Grantee improperly expends and manages grant funds, fails to prepare, preserve or surrender records required by this Agreement, or otherwise violates this Agreement.

33. Termination of Agreement.

- a) Termination by the Division. The Division will terminate or end this Agreement if the Grantee fails to fulfill its obligations herein. In such event, the Division will provide the Grantee a notice of its violation by letter, and shall give the Grantee fifteen (15) calendar days from the date of receipt to cure its violation. If the violation is not cured within the stated period, the Division will terminate this Agreement. The notice of violation letter shall be delivered to the Grantee's Contract Manager, personally, or mailed to his/her specified address by a method that provides proof of receipt. In the event that the Division terminates this Agreement, the Grantee will be compensated for any work completed in accordance with this Agreement, prior to the notification of termination, if the Division deems this reasonable under the circumstances. Grant funds previously advanced and not expended on work completed in accordance with this Agreement shall be returned to the Division, with interest, within thirty (30) days after termination of this Agreement. The Division does not waive any of its rights to additional damages, if grant funds are returned under this Section.
- b) Termination for convenience. The Division or the Grantee may terminate the grant in whole or in part when

both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated.

- c) **Termination by Grantee.** The Grantee may unilaterally cancel the grant at any time prior to the first payment on the grant although the Department must be notified in writing prior to cancellation. After the initial payment, the Project may be terminated, modified, or amended by the Grantee only by mutual agreement of the Grantee and the Division. Request for termination prior to completion must fully detail the reasons for the action and the proposed disposition of the uncompleted work.

34. Preservation of Remedies. No delay or omission to exercise any right, power, or remedy accruing to either party upon breach or violation by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default.

35. Non-Assignment of Agreement. The Grantee may not assign, sublicense nor otherwise transfer its rights, duties or obligations under this Agreement without the prior written consent of the Division, which consent shall not unreasonably be withheld. The agreement transferee must demonstrate compliance with the requirements of the Project. If the Division approves a transfer of the Grantee's obligations, the Grantee shall remain liable for all work performed and all expenses incurred in connection with this Agreement. In the event the Legislature transfers the rights, duties, and obligations of the Division to another governmental entity pursuant to Section 20.06, *Florida Statutes*, or otherwise, the rights, duties, and obligations under this Agreement shall be transferred to the successor governmental agency as if it was the original party to this Agreement.

36. Required Procurement Procedures for Obtaining Goods and Services. The Grantee shall provide maximum open competition when procuring goods and services related to the grant-assisted project. Procurement documentation supporting maximum open competition may be requested by the Division for review and approval prior to execution of these subcontracts.

- a) The Grantee must procure all professional services (architects, conservators, historic preservation consultants, structural engineers, landscape architects) using at least a request for qualifications, and the grantee must solicit at least three (3) responses to their request for the service.
- b) All contracts for procurement of goods and services (construction, exhibit fabrication, etc.) not included in Section 36.a. as described above must be procured in the manner described below:
 - 1. **Procurement of Goods and Services Not Exceeding \$35,000.** The Grantee must use the applicable procurement method described below:
 - i. **Purchases Up to \$2,500:** Procurement of goods and services where individual purchases do not exceed \$2,500 may be conducted at the Grantee's discretion using good purchasing practices.
 - ii. **Purchases or Contract Amounts Between \$2,500 and \$35,000:** Goods and services costing between \$2,500 and \$35,000 require informal competition such as written quotations and informal bids, and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.
 - 2. **Procurement of Goods and Services Exceeding \$35,000.** Goods and services costing over \$35,000 may be procured by either formal invitation to bid or request for proposals, and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.
 - i. Any formal competitive solicitation shall be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies and of the public opening,

and must include all contractual terms and conditions applicable to the procurement, and the criteria to be used in determining acceptability and relative merit of the bid, proposal, or reply.

- c) State entities should follow required procedures set forth in Chapter 287, Florida Statutes and Rule 60A 1.0 of Florida Administrative Code. If the grantee is a non-state entity (local government or non-profit organization) and has existing procurement requirements and procedures, follow the more restrictive, as long as state requirements are still met.

- 37. **Conflicts of Interest.** The Grantee hereby certifies that it is cognizant of the prohibition of conflicts of interest described in Sections 112.311 through 112.326, *Florida Statutes*, and affirms that it will not enter into or maintain a business or other relationship with any employee of the Department of State that would violate those provisions. The Grantee further agrees to seek authorization from the General Counsel for the Department of State prior to entering into any business or other relationship with a Department of State Employee to avoid a potential violation of those statutes.
- 38. **Binding of Successors.** This Agreement shall bind the successors, assigns and legal representatives of the Grantee and of any legal entity that succeeds to the obligations of the Division of Historical Resources.
- 39. **No Employment of Unauthorized Aliens.** The employment of unauthorized aliens by the Grantee is considered a violation of Section 274A (a) of the Immigration and Nationality Act. If the Grantee knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.
- 40. **Severability.** If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder will remain in full force and effect, and such term or provision shall be deemed stricken.
- 41. **Americans with Disabilities Act.** All programs and facilities related to this Agreement must meet the standards of Sections 553.501-553.513, *Florida Statutes*, and the Americans with Disabilities Act of 1990 as amended (42 U.S.C. 12101, *et seq.*), which is incorporated herein by reference.
- 42. **Governing Law.** This Agreement shall be construed, performed, and enforced in all respects in accordance with the laws and rules of Florida. Venue or location for any legal action arising under this Agreement will be in Leon County, Florida.
- 43. **Restrictive Covenants.** For Acquisition and Development projects directed at Real Property, if funded, the Grantee (and the Property Owner, if not the Grantee) must file a Restrictive Covenant on the property with the Clerk of Court for ten (10) years for Development and twenty (20) for Acquisition prior to final release of grant funds and close-out of the project.
- 44. **Entire Agreement.** The entire Agreement of the parties consists of the following documents:
 - a) This Agreement
 - b) Estimated Project Budget (Attachment A)
 - c) Single Audit Act Requirements and Exhibit I (Attachment B)

In acknowledgment of this grant, provided from funds appropriated in the FY2024 General Appropriation Act, I hereby certify that I have read this entire Agreement, and will comply with all of its requirements.

Department of State:

Grantee:

By:

By: _____
Authorizing Official for the Grantee

Alissa Lotane, Division Director

Typed name and title

Date

Date

ATTACHMENT A

Estimated Project Budget

Description	Grant Funds	Cash Match	In Kind Match
Replace one-hundred and twenty-nine (129) non-historic windows in the Alcazar Hotel with historically appropriate materials	\$1,562,500	\$0	\$0
Apply a waterproof sealant to the Alcazar Hotel	\$1,300,000	\$0	\$0
Repair/replace the roof on the Pena-Peck House	\$570,000	\$0	\$0
Repaint the Pena-Peck House	\$60,000	\$0	\$0
Repair/replace the floors of the Visitor's Information Center	\$90,000	\$0	\$0
Architectural/engineering services	\$37,500	\$0	\$0
Totals	\$3,620,000	\$0	\$0

ATTACHMENT B

FLORIDA SINGLE AUDIT ACT REQUIREMENTS

AUDIT REQUIREMENTS

The administration of resources awarded by the Department of State to the Grantee may be subject to audits and/or monitoring by the Department of State as described in this Addendum to the Grant Award Agreement.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department of State staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department of State. In the event the Department of State determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by Department of State 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 nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A recipient that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this agreement lists the federal resources awarded through the Department of State by this agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of State. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If 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 CFR 200, Subpart F - Audit Requirements, 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).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

U.S. Government Printing Office www.ecfr.gov

Part II: State Funded

This part is applicable if the recipient is a nonstate 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 (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement lists the state financial assistance awarded through the Department of State by this agreement. 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 the Department of State, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
2. For 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) and 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 (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the recipient expends less than \$750,000 in state financial assistance in its fiscal 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 nonstate 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).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

State of Florida Department Financial Services (Chief Financial Officer)

<http://www.myfloridacfo.com/>

State of Florida Legislature (Statutes, Legislation relating to the Florida Single Audit Act)

<http://www.leg.state.fl.us/>

Part III: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this agreement shall be submitted, when required by 2 CFR §200.512, by or on behalf of the recipient directly to each of the following:
 - A. The Department of State through the <https://dosgrants.com/> grants management system.

B. The Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

2. 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. The Department of State through the <https://dosgrants.com/> grants management system.

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, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Recipients, when submitting financial reporting packages to the Department of State for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 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 in correspondence accompanying the reporting package.

4. Recipients, when submitting financial reporting packages to the Department of State for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 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 in correspondence accompanying the reporting package.

Part IV: Record Retention

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five years from the date the audit report is issued, and shall allow the Department of State, or its designee, the CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of State, or its designee, the CFO, or Auditor General upon request for a period of at least three years from the date the audit report is issued, unless extended in writing by the Department of State.

EXHIBIT 1

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Not Applicable

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Not Applicable

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

MATCHING RESOURCES FOR FEDERAL PROGRAMS:

Not applicable.

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Florida Department of State, Acquisition, Restoration of Historic Properties Grants, CSFA Number 45.032. Award Amount: \$3,620,000

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

The compliance requirements of this state project may be found in Part Four (State Project Compliance Requirements) of the State Projects Compliance Supplement located at <https://apps.fldfs.com/fsaa/>.



CITY OF
ST. AUGUSTINE
EST. 1565

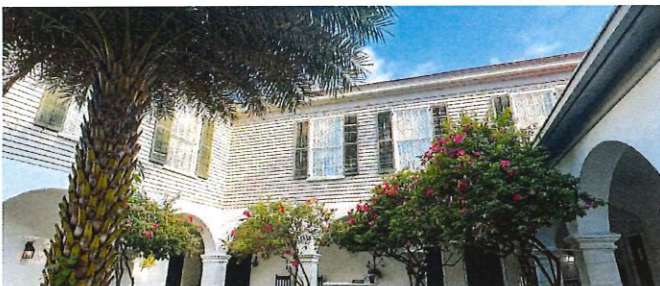
HISTORIC BUILDING REHABILITATION FUNDING REQUEST

The City of St. Augustine is responsible for maintaining several historic properties recognized by the National Register of Historic Places. The cost to maintain these historic buildings is challenging for a small city. In order to fund the critical building rehabilitation projects, they must be achieved in multi-year phases. This results in a never-ending cycle of construction that negatively impacts the quality of life for residents and the tourism experience for millions of annual visitors. The City is requesting your assistance to fund essential historic property rehabilitation projects.



ALCAZAR HOTEL BUILDING (CITY HALL)

- 75 King Street
- Replacement of old windows
- (cir. 1980) - **\$1,600,000**
- Pressure wash, repair cracks, waterproof coquina concrete structure - **\$1,300,000**



PENA-PECK HOUSE (THE WOMEN'S EXCHANGE)

- 143 St. George Street
- Replace roof - **\$570,000**
- Painting exterior and interior - **\$60,000**



VISITOR INFORMATION CENTER (VIC)

- 10 S. Castillo Drive
- Replace floor - **\$90,000**



LIGHTNER MUSEUM

REHABILITATION FUNDING REQUEST

The historic Alcazar Hotel houses St. Augustine City Hall, the world famous Lightner Museum, as well as other offices and shops.

The Lightner Museum building has on-going maintenance and rehabilitation needs.

Please support efforts to find funding for the necessary rehabilitation projects that will allow this property to thrive.



ALCAZAR HOTEL BUILDING (LIGHTNER MUSEUM)

- 75 King Street
- Repair of historic terra cotta columns, building trim and ornamentation - **\$400,000**
- Preserve original features, surfaces, and materials of the historic Hotel Alcazar Baths - **\$5,000,000 to \$7,000,000**

For more information, contact David Birchim, AICP Assistant City Manager
at 904.209.4323 or DBirchim@CityStAug.com

RESOLUTION NO. 2023-34

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA AUTHORIZING THE CITY MANAGER TO APPLY FOR ASSISTANCE FROM THE STATE OF FLORIDA, DEPARTMENT OF STATE, FOR THE HISTORIC ST. AUGUSTINE BUILDINGS REHABILITATION-LINE ITEM PROJECT.

WHEREAS, the City of St. Augustine desires to complete the following project for the benefit of the citizens of the City of St. Augustine:

Project Title: Historic St. Augustine Buildings Rehabilitation – Line Item

Total Estimated Cost of the Project: \$3,620,000

Brief Description of the Project (“PROJECT”): The Historic St. Augustine Buildings Rehabilitation - Line Item is a grant that will be used to repair/restore the Alcazar Hotel, the Pena-Peck House, and the St. Augustine Visitor’s Information Center. Work items include replace one-hundred twenty-nine (129) non-historic windows in the Alcazar hotel with historically appropriate materials; apply a waterproof sealant to the Alcazar Hotel; replace the roof on the Pena-Peck House; repaint the Pena-Peck house; and repair/replace the floors of the Visitor’s Information Center. Grant funds will also be used for architectural/engineering services.

WHEREAS, the State of Florida, Department of State provides funding through its Division of Historical Resources to local governments through the 2024 General Appropriations Act.

WHEREAS, the City requires the assistance of the State of Florida, Department of State for funding and assistance in completing the Project;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF
THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:**

1. That the City Commission hereby authorizes the Project described above.

2. That the City Commission hereby authorizes the City Manager to complete and execute all documents necessary with the State of Florida, Department of State to seek and receive the described funds and all construction and other contracts necessary to complete the Project.

ADOPTED by the City Commission of the City of St. Augustine, Florida in regular session, this _____ day of _____, 2023.

ATTEST:

Nancy Sikes-Kline, Mayor-Commissioner

Darlene Galambos, City Clerk

(SEAL)

AGREEMENT BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF STATE
AND
City of St. Augustine
24.h.sc.900.121

This Agreement is by and between the State of Florida, Department of State, Division of Historical Resources hereinafter referred to as the "Division," and the City of St. Augustine hereinafter referred to as the "Grantee."

The Grantee has been awarded a Special Category Grant by the Division, grant number 24.h.sc.900.121 for the Project "Historic St. Augustine Buildings Rehabilitation - Line Item," in the amount of \$3,620,000 ("Grant Award Amount"). The Division enters into this Agreement pursuant to Line Item 3237, contained in the 2024 General Appropriations Act, SB2500, Laws of Florida. The Division has the authority to administer this grant in accordance with Section 267.0617, *Florida Statutes*.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **Grant Purpose.** This grant shall be used exclusively for the "Historic St. Augustine Buildings Rehabilitation - Line Item," the public purpose for which these funds were appropriated.

- a) The Grantee shall perform the following **Scope of Work**:

Grant funds will be used to repair/restore the Alcazar Hotel, the Pena-Peck House, and the St. Augustine Visitor's Information Center, in St. Augustine. Work items include replace one-hundred and twenty-nine (129) non-historic windows in the Alcazar Hotel with historically appropriate materials; apply a waterproof sealant to the Alcazar Hotel; repair/replace the roof on the Pena-Peck House; repaint the Pena-Peck House; and repair/replace the floors of the Visitor's Information Center. Grant funds will also be used for architectural/engineering services.

All window and/or door replacements shall be submitted to the Bureau of Historic Preservation for review and approval before any window and/or door replacement work commences.

Water repellent coating specifications will be submitted to the Division of Historical Resources for review and approval prior to application on the building.

All tasks associated with the Project shall meet the requirements set forth in this agreement.

- b) The Grantee agrees to provide the following **Deliverables** and **Performance Measures** related to the Scope of Work for payments to be awarded.

#	Payment Type	Deliverable Description	Documentation	Payment Amount
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1	Fixed Price	Provide a copy of the professional architectural/engineering consultant's credentials and a project timeline to the Division for review and approval.	One (1) digital copy of the professional architectural/engineering consultant credentials; One (1) digital copy of the project timeline.	\$905,000
2	Fixed Price	Complete and submit a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least thirty percent (30%) of the project completed for review and approval; Photographic documentation of installed project identification sign with Grant Funding Acknowledgement.	One (1) digital copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least thirty percent (30%) of the project completed; Photographic documentation of installed project identification sign with Grant Funding Acknowledgement.	\$905,000
3	Fixed Price	Complete and Submit one (1) copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least sixty percent (60%) of the project completed.	One (1) digital copy of a completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least sixty percent (60%) of the project completed.	\$905,000

4	Fixed Price	Complete and submit an Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least one hundred percent (100%) of the project completed, including all retainage amounts paid, for review and approval. In addition, a new/updated FMSF form (for previously extant structures over 50 years old) for the property and executed Restrictive Covenant filed with the County Clerk shall be submitted prior to final payment; a Single Audit Form shall be completed by the Grantee and submitted along with the Final Progress Report prior to final payment; documentation to support all paid expenditures including detailed paid invoices, bank records, and canceled checks.	One (1) digital copy of the completed Application and Certificate for Payment (AIA Document G702) and Schedule of Contract Values (AIA Document G703), or their equivalents, showing at least one hundred percent (100%) of the project completed, including all retainage amounts paid; One (1) copy of the new/updated FMSF form (for previously extant structures over 50 years old); One (1) copy of the executed Restrictive Covenant filed with the County Clerk; One (1) Single Audit Form; One (1) copy of the final progress report; documentation to support all paid expenditures including detailed paid invoices, bank records, and canceled checks.	\$905,000
Totals				\$3,620,000

c) The Grantee has provided an Estimated Project Budget based upon reasonable expenditures projected to accomplish the Grantee's Scope of Work and Deliverables outlined in the Agreement. The Budget provides details of how grant and match funds will be spent. All expenditures shall be in accordance with this budget (which is incorporated as part of this Agreement and entitled Attachment A) and must be incurred during the term of this Agreement, as stated in Section 2 of this Agreement.

2. **Length of Agreement.** This Agreement shall begin on 07/01/23 and shall end 06/30/25, unless terminated in accordance with the provisions of Section 33 of this Agreement. Contract extensions will not be granted unless Grantee is able to provide substantial written justification and the Division approves such extension. The Grantee's written request for such extension must be submitted to the Division no later than thirty (30) days prior to the termination date of this Agreement and no amendment will be valid until a written amendment is signed by both parties as required in Section 7 and Section 15 of this Agreement.
3. **Contract Administration.** The parties are legally bound by the requirements of this Agreement. Each party's contract manager, named below, will be responsible for monitoring its performance under this Agreement, and will be the official contact for each party. Any notice(s) or other communications in regard to this agreement shall be directed to or delivered to the other party's contract manager by utilizing the information below. Any change in the contact information below shall be submitted in writing to the contract manager within 10 days of the change.

For the Division of Historical Resources:

Harley Burgis
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399
Phone: 850.245.6393
Email: harley.burgis@dos.myflorida.com

For the Grantee:

Contact: Julie Courtney
Address: PO Box 210 St. Augustine Florida 32085-0210
Phone: 904.209.4283
Email: jcourtney@citystaug.com

4. **Grant Payments.** All grant payments are requested online via www.dosgrants.com by submitting a payment request with documentation that the deliverable has been completed. The total grant award shall not exceed the Grant Award Amount, which shall be paid by the Division in consideration for the Grantee's minimum performance as set forth by the terms and conditions of this Agreement. Grant payment requests are not considered complete for purposes of payment until review of the deliverables for compliance with the terms and conditions of this Agreement by the appropriate Division staff is complete and approval of the deliverable given. The grant payment schedule is outlined below:
 - a) All payments will be made in the amounts identified with the Deliverables in Section 1 of this agreement
 - b) All payments will be made in accordance with the completion of those Deliverables.
5. **Electronic Payments.** The Grantee can choose to use electronic funds transfer (EFT) to receive grant payments. All grantees wishing to receive their award through electronic funds transfer must submit a Direct Deposit Authorization form to the Florida Department of Financial Services (DFS). If EFT has already been set up for the organization and a payment has been received at the account in the past year, the Grantee does not need to submit another authorization form unless the organization has changed bank accounts. If the grantee has not received a payment at the account in the past year, they should check with DFS at (850) 413-5517 or e-mail at DirectDeposit@MyFloridaCFO.com to see if their EFT request is still active. The authorization form is accessible at https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/vendors/vendor-relations/dfs-a1-26e-direct-deposit-vendors.pdf?sfvrsn=eff728cf_16 where information pertaining to payment status is also available.
6. **Florida Substitute Form W-9.** A completed Substitute Form W-9 is required from any entity that receives a payment from the State of Florida that may be subject to 1099 reporting. The Department of Financial Services (DFS) must have the correct Taxpayer Identification Number (TIN) and other related information in order to report accurate tax information to the Internal Revenue Service (IRS). To register or access a Florida Substitute Form W-9 visit fvendor.myfloridacfo.com. **A copy of the Grantee's Florida Substitute Form W-9 must be submitted to the Division, as required, in advance of or with the executed Agreement.**
7. **Amendment to Agreement.** Either party may request modification of the provisions of this Agreement by contacting the Division to request an Amendment to the Contract. **Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.** If changes are implemented without the Division's written approval, the organization is subject to noncompliance, and the grant award is subject to reduction, partial, or complete refund to the State of Florida and termination of this agreement.

8. Financial Consequences. The Department shall apply the following financial consequences for failure to perform the minimum level of services required by this Agreement in accordance with Sections 215.971 and 287.058, *Florida Statutes*.

- a) Any advanced funds will be returned to the State of Florida if unexpended within the first 3 months of disbursement.
- b) Payments will be withheld or reduced for failure to complete services as identified in the Scope of Work and Deliverables, provide documentation that the deliverable has been completed, or demonstrate the appropriate use of state funds.
- c) If the grantee has spent less than the Grant Award Amount in state funds to complete the Scope of Work, the final payment will be reduced by an amount equal to the difference between spent state dollars and the Grant Award Amount.
- d) The Division may reduce individual payments by 10% if the completed Deliverable does not meet the Secretary of the Interior's Standards and Guidelines or other industry standards applicable to the project.

The Division shall reduce total grant funding for the Project in direct proportion to match contributions not met by the end of the grant period. This reduction shall be calculated by dividing the actual match amount by the required match amount indicated in the Agreement and multiplying the product by the Grant Award Amount indicated in the Agreement. Pursuant to Section 17, Grantee shall refund to the Division any excess funds paid out prior to a reduction of total grant funding.

9. Additional Special Conditions.

Development Projects

1. All project work must be in compliance with the Secretary of the Interior's Standards and Guidelines available online at www.nps.gov/tps/standards.htm.
2. The Grantee shall provide photographic documentation of the restoration activity. Guidelines regarding the photographic documentation are available online at <https://dos.myflorida.com/historical/grants/special-category-grants/>.
3. Architectural Services
 - a. All projects shall require contracting for architectural services. Engineering services may also be required if determined necessary by the Division.
 - b. The Grantee may request a waiver of this requirement from the Division if they believe that the architectural/engineering services are not needed for the Project. The Division shall make a recommendation to the Grantee after review of the proposed work.
4. Architectural Documents and Construction Contracts

The Grantee shall submit the architectural services contract to the Department for review and approval prior to final execution. Procurement documentation supporting maximum open competition must be submitted to the Division for review and approval prior to execution of project contracts. In addition, pursuant to *Section 267.031(5)(i), Florida Statutes*, the Grantee shall submit architectural planning documents to the Department for review and approval. All projects must produce the following:

a. Construction documents that reflect the complete scope of work as defined in section 1.a of this agreement

b. If construction documents are not appropriate (as determined by the Division), the grantee will have their architect, engineer, or contractor provide written material specifications for the tasks identified in the scope of work.

c. In the instance that some of the items identified in the scope or work do require drawings and others do not, the grantee will have their architect provide drawings for the scope items for the instances when it is required and have their architect, engineer, or contractor provide material specifications in instances when drawings are not required.

It should be evident in the drawings any and all alterations being made to historic buildings structures and sites. These final documents must include details of all repair work to historic fabric, including details on repair methodology and material, as well as all replacement materials for historic fabric that cannot be repaired. For development projects, details and product sheets for all exterior finishes (windows, doors, lighting, exterior wall material, etc.) and significant interior finishes (flooring, wall material, lighting, ceiling material and finish, etc.), must also be included.

5. For the construction phase of the Project, in addition to the review submissions indicated above, a copy of the construction contract must be submitted to the Department for review and approval **prior** to final execution. Procurement documentation supporting maximum open competition **must be** submitted to the Division for review and approval prior to execution of project contracts. Department review and approval of said contracts shall not be construed as acceptance by or imposition upon the Department of any financial liability in connection with said contracts.

6. For projects involving ground disturbance (examples include: historic building or structure relocation, grading and site work, installation of sewer and water lines, subgrade foundation repairs or damp proofing, construction of new foundations and installation of landscape materials), the Grantee shall ensure that the following requirements are included in all contracts for architectural and engineering services:

a. Ground disturbance around historic buildings or elsewhere on the site shall be minimized, thus reducing the possibility of damage to or destruction of significant archaeological resources.

b. If an archaeological investigation of the Project site has not been completed, the architect or engineer shall contact the Department for assistance in determining the actions necessary to evaluate the potential for adverse effects of the ground disturbing activities on significant archaeological resources.

c. Significant archaeological resources shall be protected and preserved in place whenever possible. Heavy machinery shall not be allowed in areas where significant archaeological resources may be disturbed or damaged. Significance is evaluated based on an evaluation of identity, age, location, and context in conjunction with their capacity to reveal information through the investigatory research designs, methods, and techniques used by archeologists.

d. When preservation of significant archaeological resources in place is not feasible, a mitigation plan shall be developed in consultation with and approved by the Department's Compliance Review Section (contact information available online at www.flheritage.com). The mitigation plan shall be implemented under the direction of an archaeologist meeting the *Secretary of the Interiors' Professional Qualification Standards for Archaeology*.

e. Documentation of archaeological investigation and required mitigation actions shall be submitted to the Compliance Review Section for review and approval. This documentation shall conform to the *Secretary of the Interior's Standards for Archaeological Documentation*, and the reporting standards of the Compliance Review Section set forth in *Chapter 1A-46, Florida Administrative Code*.

f. Copyright and Royalties: When publications, brochures, films, or similar materials are developed, directly or indirectly, from a program, project or activity supported by grant funds, any copyright resulting therefrom shall be held by the Florida Department of State, Division of Historical Resources. The author may arrange for copyright of such materials only after approval from the Department. Any copyright arranged for by the author shall include acknowledgment of grant assistance. As a condition of grant assistance, the grantee agrees to, and awards to the Department and, if applicable, to the Federal Government, and to its officers, agents, and employees acting within their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for official purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright.

8. Demolition of Historic Property: If a development project includes the demolition of whole structures on a property, historic or not, then the applicant must submit a detailed explanation as to why the structure is being demolished. If it is because the structure is structurally unsound, then an engineer's report may be requested. If the structure to be demolished is historic or contributing resource to the property, then the applicant must also submit a salvage report, detailing what, if any, of the building can be salvaged and how the applicant plans to reuse those materials.

Acquisition Project

The Grantee shall provide the following information to the Division for review and approval:

1. A copy of the complete summary appraisal prepared by a Florida State Certified General Real Estate Appraiser. Two appraisals are required if the first appraisal exceeds \$500,000.
2. A copy of a title policy.
3. A copy of an executed option or purchase agreement.
4. A copy of the certified land survey.
5. A copy of a professional archaeological survey if the property is being proposed for purchase as a significant archaeological site.

Museum Exhibit Projects

The Grantee shall provide the following information to the Division for review and approval:

1. Copyright and Royalties: When publications, brochures, films, or similar materials are developed, directly or indirectly, from a program, project or activity supported by grant funds, any copyright resulting therefrom shall be held by the Florida Department of State, Division of Historical Resources. The Division and the Grantee have agreed that the Department and Grantee will be co-owners of copyright of the product described in the scope of work of this Grant Award Agreement and will each hold irrevocable license throughout the world for official purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright. Any copyright use by the Grantee shall include acknowledgment of grant assistance from the Department.
2. The Grantee shall submit museum exhibit project contracts to the Division for review and approval prior to execution. Procurement documentation supporting maximum open competition must be submitted upon request to the Division for review and approval prior to execution of project contracts.

3. The Grantee shall submit museum exhibit fabrication and design plans, including specifications, to the Division for review and approval prior to installation.

10. Credit Line(s) to Acknowledge Grant Funding. Pursuant to Section 286.25, *Florida Statutes*, in publicizing, advertising, or describing the sponsorship of the program the Grantee shall include the following statement:

- a) "This project is sponsored in part by the Department of State, Division of Historical Resources and the State of Florida." Any variation in this language must receive prior approval in writing by the Division.
- b) All site-specific projects must include a Project identification sign, with the aforementioned language, that must be placed on site. The cost of preparation and erection of the Project identification sign are allowable project costs. Routine maintenance costs of Project signs are not allowable project costs. A photograph of the aforementioned sign must be submitted to the Division as soon as it is erected. Non-site-specific projects that produce report(s) must include the aforementioned language in the report.

11. Encumbrance of Funds. The Grantee shall execute a binding contract for at least a part of the Scope of Work by September 30, except as allowed below.

- a) Extension of Encumbrance Deadline: The encumbrance deadline indicated above may be extended by written approval of the Division. To be eligible for this extension, the Grantee must demonstrate to the Division that encumbrance of grant funding and the required match by binding contract(s) is achievable by the end of the requested extended encumbrance period. The Grantee's written request for extension of the encumbrance deadline must be submitted to the Department no later than fifteen (15) days prior to the encumbrance deadline indicated above.
- b) Encumbrance Deadline Exception: For projects not involving contract services the Grantee and the Department shall consult on a case-by-case basis to develop an acceptable encumbrance schedule.

12. Grant Reporting Requirements. The Grantee must submit the following reports to the Division. All reports shall document the completion of any deliverables/tasks, expenses and activities that occurred during that reporting period. All reports on grant progress will be submitted online via www.dosgrants.com.

- a) **First Project Progress Report** is due by October 31, for the period ending September 30 (first year of the Grant Period).
- b) **Second Project Progress Report** is due by January 31, for the period ending December 31 (first year of the Grant Period).
- c) **Third Project Progress Report** is due by April 30, for the period ending March 31 (first year of the Grant Period).
- d) **Fourth Project Progress Report** is due by July 31, for the period ending June 30 (first year of the Grant Period).
- e) **Fifth Project Progress Report** is due by October 31, for the period ending September 30 (second year of the Grant Period).
- f) **Sixth Project Progress Report** is due by January 31, for the period ending December 31 (second year of the Grant Period).

- g) **Seventh Project Progress Report** is due by April 30, for the period ending March 31 (second year of the Grant Period).
 - h) **Final Report.** The Grantee must submit a Final Report to the Division within one month of the Grant Period End Date set forth in Section 2 above.
13. **Matching Funds.** The Grantee is required to provide a 100% match of the Grant Award Amount unless reduced as provided in this section. Of the required match, a minimum of 25% must be cash on hand. The remaining match may include in-kind services, volunteer labor, donated materials, and additional cash. For projects located in Rural Economic Development Initiative (REDI) counties or communities that have been designated in accordance with Sections 288.0656 and 288.06561, *Florida Statutes*, Grantees may request a reduction of the match amount. The Grantee must submit documentation that the minimum match requirements have been met and provide to the Division documentation evidencing expenses incurred to comply with this requirement.
14. **Grant Completion Deadline.** The grant completion deadline is the end date of this Agreement set forth in Section 2 above. The Grant Completion Deadline is the date when all grant and matching funds have been paid out or incurred in accordance with the work described in the Scope of Work, detailed in the Estimated Project Budget. If the Grantee finds it necessary to request an extension of the Grant Completion Deadline, an Amendment to the Agreement must be executed as per Section 7, and the stipulations in Section 15 must be met.
15. **Extension of the Grant Completion Deadline.** An extension of the completion date must be requested at least thirty (30) days prior to the end of the Grant Period and may not exceed 180 days, unless the Grantee can clearly demonstrate extenuating circumstances. An extenuating circumstance is one that is beyond the control of the Grantee, and one that prevents timely completion of the Project such as a natural disaster, death or serious illness of the individual responsible for the completion of the Project, litigation related to the Project, or failure of the contractor or architect to provide the services for which they were contracted to provide. An extenuating circumstance does not include failure to read or understand the administrative requirements of a grant or failure to raise sufficient matching funds. Changes to the original completion deadline shall be valid only when requested in writing, approved by the Division, and an Amendment to the Agreement has been executed by both parties and attached to the original of this Agreement. The Grantee must provide documentation that a portion of the grant funds and match contributions are encumbered and demonstrate to the satisfaction of the Division that project work is progressing at a rate such that completion is achievable within the extended Grant Period.
16. **Non-allowable Grant Expenditures.** The Grantee agrees to expend all grant funds received under this agreement solely for the purposes for which they were authorized and appropriated. Expenditures shall be in compliance with the state guidelines for allowable Project costs as outlined in the Department of Financial Services' Reference Guide for State Expenditures (revised 10/2022), which are incorporated by reference and are available online at https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf?sfvrsn=b4cc3337_2. The following categories of expenditures are non-allowable for expenditure of grant funds and as contributions to required match:
- a) Expenditures for work not included in the Scope of Work of the executed Grant Award Agreement;
 - b) Costs of goods and services not procured in accordance with procurement procedures set forth in the Grant Award Agreement;
 - c) Costs not consistent with the grant project type, as described in section V.C.2. of the program guidelines and as selected in the application;

- d) Expenses incurred or obligated prior to or after the Grant Period, as indicated in the Grant Award Agreement;
- e) Expenses associated with lobbying or attempting to influence Federal, State, or local legislation, the judicial branch, or any state agency;
- f) Expenditures for work not consistent with the applicable historic preservation standards as outlined in the Secretary of the Interior's Guidelines available at www.nps.gov/tps/standards/treatment-guidelines-2017.pdf, standards available at <http://www.nps.gov/tps/standards.htm> and [nps.gov/history/local-law/arch_stnds_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm) or applicable industry standards;
- g) Costs for projects having as their primary purpose the fulfillment of Federal or State historic preservation regulatory requirements, specifically, costs of consultation and mitigation measures required under Section 106 of the *National Historic Preservation Act of 1966*, as amended, or under Section 267.031, F.S.;
- h) Projects directed at activities or Historic Properties that are restricted to private or exclusive participation or access, which shall include restricting access on the basis of sex, race, color, religion, national origin, disability, age, pregnancy, handicap, or marital status;
- i) Entertainment, food, beverages, plaques, awards, or gifts;
- j) Costs or value of donations or In-kind Contributions not documented in accordance with the provisions of the Grant Award Agreement;
- k) Indirect costs including Grantee overhead, management expenses, general operating costs and other costs that are not readily identifiable as expenditures for the materials and services required to complete the work identified in the Scope of Work in the Grant Award Agreement. Examples of indirect costs include: rent/mortgage, utilities, janitorial services, insurance, accounting, internet service, monthly expenses associated to security systems, non-grant related administrative and clerical staffing, marketing, and fundraising activities;
- l) Administrative and project management expenditures such as expenditures that are directly attributable to management of the grant-assisted Project and meeting the reporting and associated requirements of the Grant Award Agreement, whether grant expenditures or match contributions, which in aggregate exceed 5% of the grant award amount;
- m) Grantee operational support (i.e., organization salaries not directly related to grant activities; travel expenditures; per diem; or supplies);
- n) Insurance costs (Exception: costs for builder's risk, workers' compensation and contractor's liability insurance);
- o) Capital improvements to non-historic properties or non-historic additions to a Historic Property (Exception: pre-approved items of work for Museum Exhibit projects);
- p) Capital improvements to the interior of Religious Properties (Exception: repairs to elements of the structural system. Examples include: foundation repairs, repairs to columns, load bearing wall framing, roof framing, masonry repairs, window and exterior door repairs and restoration practices associated with the building envelope);

- q) Accessibility improvements for Religious Properties;
- r) Vehicular circulation (drives/driveways) within the property or from the property to surrounding streets and parking (Exception: provision of code-required handicapped parking pad(s));
- s) Sidewalks, paths, walkways, landscape features and accessories, planting, irrigation systems and site lighting (Exceptions: historic walkways; sidewalk required to link the code-required handicapped parking pad(s) to the accessible entry; historic retaining walls/planting/sodding required to halt documented erosion; pruning, removal or relocation of trees posing an immediate threat to the historic or archaeological resource; and limited site lighting required for security, all if approved by the Division);
- t) Fences and gates (Exception: restoration or in-kind replacement of damaged or missing historic fences, gates or sections of these);
- u) Furniture, including but not limited to: desks, tables, seating, rugs and mats, artwork and decorations, window treatments, case goods (including cabinets, countertops, or bookshelves) with no historic precedent, systems' furniture, movable partitions and acoustical treatments and components, unless specific prior approval has been granted by the Division (Exception: museum display units necessary for approved Museum Exhibit projects)
- v) Equipment (a) including but not limited to portable sound systems, specialty fixtures and equipment, visual display units, appliances, computers, cameras, printers, scanners, projection systems, portable light fixtures, and total stations unless specific prior approval has been granted by the Division (b) If special equipment is required for completion of the Project, it shall be rented for the grant term unless it can be shown that acquiring the equipment is cheaper than renting the equipment and approval has been provided by the Division as part of the documentation presented at the time of application. If the value of special equipment is to be used as a match contribution, the value of the match contribution shall be limited to the cost of rental for the Grant Period at the market rate for such rental in the region;
- w) Supplies that will not be consumed in use during the duration of this project;
- x) Costs associated with attending or hosting conferences, summits, workshops or presentation including facility rental fees including facility rental fees (Exception: municipal or county required public meetings necessary for completion of the grant-assisted project);
- y) Travel expenditures, including those of personnel responsible for items of work approved by the Division, administrative personnel, contracted or subcontracted employees, either for purposes of work on-site or research off-site; and
- z) Tuition waivers, fees, and other non-grant related costs associated with employing students for grant projects.

17. Unobligated and Unearned Funds and Allowable Costs. In accordance with Section 215.971, *Florida Statutes*, the Grantee shall refund to the State of Florida any balance of unobligated funds which has been advanced or paid to the Grantee. In addition, funds paid in excess of the amount to which the recipient is entitled under the terms and conditions of the agreement must be refunded to the state agency. Further, the recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period. Expenditures of state financial assistance must be in compliance with the laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the *Reference Guide for State Expenditures*.

18. **Repayment.** All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of the "Department of State" and mailed directly to the following address: Florida Department of State, Attention: Grants Program Supervisor, Division of Historical Resources, 500 South Bronough Street Tallahassee, FL 32399. In accordance with Section 215.34(2), *Florida Statutes*, if a check or other draft is returned to the Department for collection, Grantee shall pay to the Department a service fee of \$15.00 or five percent (5%) of the face amount of the returned check or draft, whichever is greater.
19. **Single Audit Act.** Each Grantee, other than a Grantee that is a State agency, shall submit to an audit pursuant to Section 215.97, *Florida Statutes*. See Attachment B for additional information regarding this requirement.
20. **Retention of Accounting Records.** Financial records, supporting documents, statistical records, and all other records including electronic storage media pertinent to the Project shall be retained for a period of five (5) years after the close out of the grant. If any litigation or audit is initiated, or claim made, before the expiration of the five-year period, the records shall be retained until the litigation, audit, or claim has been resolved.
21. **Obligation to Provide State Access to Grant Records.** The Grantee must make all grant records of expenditures, copies of reports, books, and related documentation available to the Division or a duly authorized representative of the State of Florida for inspection at reasonable times for the purpose of making audits, examinations, excerpts, and transcripts.
22. **Obligation to Provide Public Access to Grant Records.** The Division reserves the right to unilaterally cancel this Agreement in the event that the Grantee refuses public access to all documents or other materials made or received by the Grantee that are subject to the provisions of Chapter 119, *Florida Statutes*, known as the *Florida Public Records Act*. The Grantee must immediately contact the Division's Contract Manager for assistance if it receives a public records request related to this Agreement.
23. **Investment of Funds Received But Not Paid Out.** The Grantee may temporarily invest any or all grant funds received but not expended, in an interest bearing account pursuant to Section 216.181(16)(b), *Florida Statutes*. Interest earned on such investments should be returned to the Division quarterly, except that interest accrued less than \$100 within any quarter may be held until the next quarter when the accrued interest totals more than \$100. All interest accrued and not paid to the Division, regardless of amount, must be submitted with the Grantee's final Progress Report at the end of the Grant Period.
24. **Noncompliance with Grant Requirements.** Any Grantee that has not submitted required reports or satisfied other administrative requirements for this grant or other Division of Historical Resources grants or grants from any other Florida Department of State (DOS) Division will be in noncompliance status and subject to the DOS Grants Compliance Procedure. Grant compliance issues must be resolved before a grant award agreement may be executed, and before grant payments for any DOS grant may be released.
25. **Accounting Requirements.** The Grantee must maintain an accounting system that provides a complete record of the use of all grant funds as follows:
 - a) The accounting system must be able to specifically identify and provide audit trails that trace the receipt, maintenance, and expenditure of state funds;
 - b) Accounting records must adequately identify the sources and application of funds for all grant activities

and must classify and identify grant funds by using the same budget categories that were approved in the grant application. If Grantee's accounting system accumulates data in a different format than the one in the grant application, subsidiary records must document and reconcile the amounts shown in the Grantee's accounting records to those amounts reported to the Division.

- c) An interest-bearing checking account or accounts in a state or federally chartered institution may be used for revenues and expenses described in the Scope of Work and detailed in the Estimated Project Budget.
- d) The name of the account(s) must include the grant award number;
- e) The Grantee's accounting records must have effective control over and accountability for all funds, property, and other assets; and
- f) Accounting records must be supported by source documentation and be in sufficient detail to allow for a proper pre-audit and post-audit (such as invoices, bills, and canceled checks).

26. Availability of State Funds. The State of Florida's performance and obligation to pay under this Agreement are contingent upon an annual appropriation by the Florida Legislature, or the United States Congress in the case of a federally funded grant. In the event that the state or federal funds upon which this Agreement is dependent are withdrawn, this Agreement will be automatically terminated and the Division shall have no further liability to the Grantee, beyond those amounts already released prior to the termination date. Such termination will not affect the responsibility of the Grantee under this Agreement as to those funds previously distributed. In the event of a state revenue shortfall, the total grant may be reduced accordingly.

27. Independent Contractor Status of Grantee. The Grantee, if not a state agency, agrees that its officers, agents and employees, in performance of this Agreement, shall act in the capacity of independent contractors and not as officers, agents, or employees of the state. The Grantee is not entitled to accrue any benefits of state employment, including retirement benefits and any other rights or privileges connected with employment by the State of Florida.

28. Grantee's Subcontractors. The Grantee shall be responsible for all work performed and all expenses incurred in connection with this Agreement. The Grantee may subcontract, as necessary, to perform the services and to provide commodities required by this Agreement. The Division shall not be liable to any subcontractor(s) for any expenses or liabilities incurred under the Grantee's subcontract(s), and the Grantee shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under its subcontract(s). The Grantee must take the necessary steps to ensure that each of its subcontractors will be deemed to be "independent contractors" and will not be considered or permitted to be agents, servants, joint ventures, or partners of the Division.

29. Liability. The Division will not assume any liability for the acts, omissions to act, or negligence of, the Grantee, its agents, servants, or employees; nor may the Grantee exclude liability for its own acts, omissions to act, or negligence, to the Division.

- a) The Grantee shall be responsible for claims of any nature, including but not limited to injury, death, and property damage arising out of activities related to this Agreement by the Grantee, its agents, servants, employees, and subcontractors. The Grantee, other than a Grantee which is the State or the State's agencies or subdivisions, as defined in Section 768.28, *Florida Statutes*, shall indemnify and hold the Division harmless from any and all claims of any nature and shall investigate all such claims at its own

expense. If the Grantee is governed by Section 768.28, *Florida Statutes*, it shall only be obligated in accordance with that Section.

- b) Neither the state nor any agency or subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, by entering into this Agreement.
- c) The Division shall not be liable for attorney fees, interest, late charges or service fees, or cost of collection related to this Agreement.
- d) The Grantee shall be responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to perform the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities; and provided that it is understood by the Grantee that the Division shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

30. Strict Compliance with Laws. The Grantee shall perform all acts required by this Agreement in strict conformity with all applicable laws and regulations of the local, state and federal law.

31. No Discrimination. The Grantee and their subcontractors may not discriminate against any employee employed under this Agreement, or against any applicant for employment because of race, color, religion, gender, national origin, age, pregnancy, handicap or marital status. The following or a similar provision must be inserted into all of the subcontracts for services executed under this Agreement:

- a) No employee or applicant for employment engaged under this Agreement may be discriminated against because of race, color, religion, gender, national origin, age, pregnancy, handicap or marital status.

32. Breach of Agreement. The Division will demand the return of grant funds already received, will withhold subsequent payments, and/or will terminate this agreement if the Grantee improperly expends and manages grant funds, fails to prepare, preserve or surrender records required by this Agreement, or otherwise violates this Agreement.

33. Termination of Agreement.

- a) Termination by the Division. The Division will terminate or end this Agreement if the Grantee fails to fulfill its obligations herein. In such event, the Division will provide the Grantee a notice of its violation by letter, and shall give the Grantee fifteen (15) calendar days from the date of receipt to cure its violation. If the violation is not cured within the stated period, the Division will terminate this Agreement. The notice of violation letter shall be delivered to the Grantee's Contract Manager, personally, or mailed to his/her specified address by a method that provides proof of receipt. In the event that the Division terminates this Agreement, the Grantee will be compensated for any work completed in accordance with this Agreement, prior to the notification of termination, if the Division deems this reasonable under the circumstances. Grant funds previously advanced and not expended on work completed in accordance with this Agreement shall be returned to the Division, with interest, within thirty (30) days after termination of this Agreement. The Division does not waive any of its rights to additional damages, if grant funds are returned under this Section.
- b) Termination for convenience. The Division or the Grantee may terminate the grant in whole or in part when

both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated.

- c) Termination by Grantee. The Grantee may unilaterally cancel the grant at any time prior to the first payment on the grant although the Department must be notified in writing prior to cancellation. After the initial payment, the Project may be terminated, modified, or amended by the Grantee only by mutual agreement of the Grantee and the Division. Request for termination prior to completion must fully detail the reasons for the action and the proposed disposition of the uncompleted work.

34. Preservation of Remedies. No delay or omission to exercise any right, power, or remedy accruing to either party upon breach or violation by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default.

35. Non-Assignment of Agreement. The Grantee may not assign, sublicense nor otherwise transfer its rights, duties or obligations under this Agreement without the prior written consent of the Division, which consent shall not unreasonably be withheld. The agreement transferee must demonstrate compliance with the requirements of the Project. If the Division approves a transfer of the Grantee's obligations, the Grantee shall remain liable for all work performed and all expenses incurred in connection with this Agreement. In the event the Legislature transfers the rights, duties, and obligations of the Division to another governmental entity pursuant to Section 20.06, *Florida Statutes*, or otherwise, the rights, duties, and obligations under this Agreement shall be transferred to the successor governmental agency as if it was the original party to this Agreement.

36. Required Procurement Procedures for Obtaining Goods and Services. The Grantee shall provide maximum open competition when procuring goods and services related to the grant-assisted project. Procurement documentation supporting maximum open competition may be requested by the Division for review and approval prior to execution of these subcontracts.

- a) The Grantee must procure all professional services (architects, conservators, historic preservation consultants, structural engineers, landscape architects) using at least a request for qualifications, and the grantee must solicit at least three (3) responses to their request for the service.
- b) All contracts for procurement of goods and services (construction, exhibit fabrication, etc.) not included in Section 36.a. as described above must be procured in the manner described below:
 - 1. Procurement of Goods and Services Not Exceeding \$35,000. The Grantee must use the applicable procurement method described below:
 - i. Purchases Up to \$2,500: Procurement of goods and services where individual purchases do not exceed \$2,500 may be conducted at the Grantee's discretion using good purchasing practices.
 - ii. Purchases or Contract Amounts Between \$2,500 and \$35,000: Goods and services costing between \$2,500 and \$35,000 require informal competition such as written quotations and informal bids, and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.
 - 2. Procurement of Goods and Services Exceeding \$35,000. Goods and services costing over \$35,000 may be procured by either formal invitation to bid or request for proposals, and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.
 - i. Any formal competitive solicitation shall be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies and of the public opening,

and must include all contractual terms and conditions applicable to the procurement, and the criteria to be used in determining acceptability and relative merit of the bid, proposal, or reply.

- c) State entities should follow required procedures set forth in Chapter 287, Florida Statutes and Rule 60A 1.0 of Florida Administrative Code. If the grantee is a non-state entity (local government or non-profit organization) and has existing procurement requirements and procedures, follow the more restrictive, as long as state requirements are still met.

- 37. **Conflicts of Interest.** The Grantee hereby certifies that it is cognizant of the prohibition of conflicts of interest described in Sections 112.311 through 112.326, *Florida Statutes*, and affirms that it will not enter into or maintain a business or other relationship with any employee of the Department of State that would violate those provisions. The Grantee further agrees to seek authorization from the General Counsel for the Department of State prior to entering into any business or other relationship with a Department of State Employee to avoid a potential violation of those statutes.
- 38. **Binding of Successors.** This Agreement shall bind the successors, assigns and legal representatives of the Grantee and of any legal entity that succeeds to the obligations of the Division of Historical Resources.
- 39. **No Employment of Unauthorized Aliens.** The employment of unauthorized aliens by the Grantee is considered a violation of Section 274A (a) of the Immigration and Nationality Act. If the Grantee knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.
- 40. **Severability.** If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder will remain in full force and effect, and such term or provision shall be deemed stricken.
- 41. **Americans with Disabilities Act.** All programs and facilities related to this Agreement must meet the standards of Sections 553.501-553.513, *Florida Statutes*, and the Americans with Disabilities Act of 1990 as amended (42 U.S.C. 12101, *et seq.*), which is incorporated herein by reference.
- 42. **Governing Law.** This Agreement shall be construed, performed, and enforced in all respects in accordance with the laws and rules of Florida. Venue or location for any legal action arising under this Agreement will be in Leon County, Florida.
- 43. **Restrictive Covenants.** For Acquisition and Development projects directed at Real Property, if funded, the Grantee (and the Property Owner, if not the Grantee) must file a Restrictive Covenant on the property with the Clerk of Court for ten (10) years for Development and twenty (20) for Acquisition prior to final release of grant funds and close-out of the project.
- 44. **Entire Agreement.** The entire Agreement of the parties consists of the following documents:
 - a) This Agreement
 - b) Estimated Project Budget (Attachment A)
 - c) Single Audit Act Requirements and Exhibit I (Attachment B)

In acknowledgment of this grant, provided from funds appropriated in the FY2024 General Appropriation Act, I hereby certify that I have read this entire Agreement, and will comply with all of its requirements.

Department of State:

Grantee:

By:

By: _____

Authorizing Official for the Grantee

Alissa Lotane, Division Director

Typed name and title

Date

Date

ATTACHMENT A

Estimated Project Budget

Description	Grant Funds	Cash Match	In Kind Match
Replace one-hundred and twenty-nine (129) non-historic windows in the Alcazar Hotel with historically appropriate materials	\$1,562,500	\$0	\$0
Apply a waterproof sealant to the Alcazar Hotel	\$1,300,000	\$0	\$0
Repair/replace the roof on the Pena-Peck House	\$570,000	\$0	\$0
Repaint the Pena-Peck House	\$60,000	\$0	\$0
Repair/replace the floors of the Visitor's Information Center	\$90,000	\$0	\$0
Architectural/engineering services	\$37,500	\$0	\$0
Totals	\$3,620,000	\$0	\$0

ATTACHMENT B

FLORIDA SINGLE AUDIT ACT REQUIREMENTS

AUDIT REQUIREMENTS

The administration of resources awarded by the Department of State to the Grantee may be subject to audits and/or monitoring by the Department of State as described in this Addendum to the Grant Award Agreement.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department of State staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department of State. In the event the Department of State determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by Department of State 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 nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A recipient that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this agreement lists the federal resources awarded through the Department of State by this agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of State. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If 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 CFR 200, Subpart F - Audit Requirements, 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).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

U.S. Government Printing Office www.ecfr.gov

Part II: State Funded

This part is applicable if the recipient is a nonstate 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 (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement lists the state financial assistance awarded through the Department of State by this agreement. 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 the Department of State, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
2. For 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) and 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 (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the recipient expends less than \$750,000 in state financial assistance in its fiscal 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 nonstate 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).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

State of Florida Department Financial Services (Chief Financial Officer)

<http://www.myfloridacfo.com/>

State of Florida Legislature (Statutes, Legislation relating to the Florida Single Audit Act)

<http://www.leg.state.fl.us/>

Part III: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this agreement shall be submitted, when required by 2 CFR §200.512, by or on behalf of the recipient directly to each of the following:

A. The Department of State through the <https://dosgrants.com/> grants management system.

B. The Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

2. 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. The Department of State through the <https://dosgrants.com/> grants management system.

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, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Recipients, when submitting financial reporting packages to the Department of State for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 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 in correspondence accompanying the reporting package.

4. Recipients, when submitting financial reporting packages to the Department of State for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 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 in correspondence accompanying the reporting package.

Part IV: Record Retention

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five years from the date the audit report is issued, and shall allow the Department of State, or its designee, the CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of State, or its designee, the CFO, or Auditor General upon request for a period of at least three years from the date the audit report is issued, unless extended in writing by the Department of State.

EXHIBIT 1

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Not Applicable

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Not Applicable

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

MATCHING RESOURCES FOR FEDERAL PROGRAMS:

Not applicable.

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Florida Department of State, Acquisition, Restoration of Historic Properties Grants, CSFA Number 45.032. Award Amount: \$3,620,000

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

The compliance requirements of this state project may be found in Part Four (State Project Compliance Requirements) of the State Projects Compliance Supplement located at <https://apps.fldfs.com/fsaa/>.



CITY OF
ST. AUGUSTINE
EST. 1565

HISTORIC BUILDING REHABILITATION FUNDING REQUEST

The City of St. Augustine is responsible for maintaining several historic properties recognized by the National Register of Historic Places. The cost to maintain these historic buildings is challenging for a small city. In order to fund the critical building rehabilitation projects, they must be achieved in multi-year phases. This results in a never-ending cycle of construction that negatively impacts the quality of life for residents and the tourism experience for millions of annual visitors. The City is requesting your assistance to fund essential historic property rehabilitation projects.



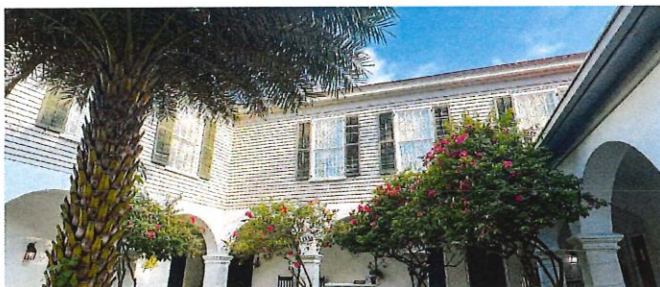
ALCAZAR HOTEL BUILDING (CITY HALL)

- 75 King Street
- Replacement of old windows
- (cir. 1980) - **\$1,600,000**
- Pressure wash, repair cracks, waterproof coquina concrete structure - **\$1,300,000**



PENA-PECK HOUSE (THE WOMEN'S EXCHANGE)

- 143 St. George Street
- Replace roof - **\$570,000**
- Painting exterior and interior - **\$60,000**



VISITOR INFORMATION CENTER (VIC)

- 10 S. Castillo Drive
- Replace floor - **\$90,000**





LIGHTNER MUSEUM

REHABILITATION FUNDING REQUEST

The historic Alcazar Hotel houses St. Augustine City Hall, the world famous Lightner Museum, as well as other offices and shops.

The Lightner Museum building has on-going maintenance and rehabilitation needs.

Please support efforts to find funding for the necessary rehabilitation projects that will allow this property to thrive.



ALCAZAR HOTEL BUILDING (LIGHTNER MUSEUM)

- 75 King Street
- Repair of historic terra cotta columns, building trim and ornamentation - **\$400,000**
- Preserve original features, surfaces, and materials of the historic Hotel Alcazar Baths - **\$5,000,000 to \$7,000,000**

For more information, contact David Birchim, AICP Assistant City Manager
at 904.209.4323 or DBirchim@CityStAug.com

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim

Date: September 21, 2023

RE: Consideration and Approval of Resolution 2023-36

St. Johns County has advised that it is requesting a federal grant to construct the St. Johns Safe Rail Project. This project will eliminate a high-risk railroad crossing by rerouting traffic by constructing a west bound bridge over US1 and access ramps from County Road 210 to US1. The project is expected to cost \$28 million dollars and will take approximately three years to be completed.

This project will ease congestion, save lives and reduce accidents and the City has been asked to offer its support to the County.

Accordingly, if you concur, please add Resolution 2023-36 to the October 9, 2023 agenda.

Reuben C. Franklin, Jr., P.E.
Assistant City Manager

Attachments: Resolution 2023-36
Project Information Flyer

RESOLUTION 2023-36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA EXPRESSING SUPPORT FOR THE ST. JOHNS COUNTY SAFE RAIL PROJECT.

WHEREAS, in the last four years, more than 12 incidents, including several collisions and two fatalities, have occurred in St. Johns County as a result of pedestrians and vehicles trespassing on railroads; and

WHEREAS, the St. Johns Safe Rail Project will protect a strategic railway and reroute alternate county Road 210; and

WHEREAS, the St. Johns Safe Rail Project will eliminate a high-risk railroad crossing with average daily trips exceeding 178% capacity; will construct a new overpass and access ramps to US 1; and

WHEREAS, the project will permanently close the intersection of Alternate County Road 210 and US1 and eliminate the existing at-grade crossing of the Florida East Coast railway; and

WHEREAS, the project will ease congestion, save lives and reduce accidents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE AS FOLLOWS:

Section 1. The City of St. Augustine fully supports the St. Johns Safe rail Project.

Section 2. Authorizes the City Manager and staff to support St. Johns County in their efforts to fund and construct this project.

PASSED AND ADOPTED by the City Commission for the City of St. Augustine, Florida this 9th day of October 2023.

Nancy Sikes-Kline, Mayor

ATTEST:

Darlene Galambos, City Clerk

(SEAL)

CITY OF ST. AUGUSTINE

M E M O R A N D U M

TO: David Birchim, AICP
City Manager

DATE: September 28, 2023

RE: **Memorandum of Understanding between the City of St. Augustine and West Augustine Gateway, LLC to develop a public parking garage at 198-212 W. King Street**

This item was presented at the September 11, 2023, City Commission meeting. During Commission discussion input was provided regarding the Memorandum of Understanding (MOU.) The attached revised MOU between the City of St. Augustine and West Augustine Gateway, LLC reflects input received from the Commission with the intent to enter a long-term lease for a public parking garage located at 198-212 W. King Street. The attached MOU contains strikethrough for items deleted and redline for items that were added. City staff has also provided the proposed parking garage financial forecast model that was performed independently of the Broudy development team. Finally, a leased area map is included depicting the garage and shared areas.

The Owner intends to construct a parking garage with approximately 752 spaces. Programming and design of the project will be done jointly by the City and the Owner. The Owner will fund, design, permit, construct and deliver the completed garage. The City shall operate, maintain, repair and insure the garage. A conceptual rent statement is included in the MOU which includes a 30-year principal and interest payment for the garage based on final construction cost. It also includes a lease of the land underneath the constructed garage that is based on the fair market value of rent and escalating at 3% per year for the same 30-year term. The MOU includes language that allows the City to extend this lease of the land for an additional 40 years once the initial 30-year term is complete. Finally, there is language in the MOU that includes options for the City to decline to proceed at various Project Delivery Milestones.

This item will be placed on the October 9, 2023, City Commission agenda for your consideration and city staff will be available to facilitate the discussion at that time.

Feel free to contact me if you have any questions.

Sincerely,



Reuben Franklin, P.E.
Assistant City Manager

Attachments: Revised MOU
Parking Garage Financial Forecast Model
Leased Area Map

Memorandum of Understanding

From: West Augustine Gateway, LLC

To: City of St. Augustine

Date: ~~August 4, 2023~~ September 27, 2023

Re: **St. Augustine Gateway Parking Garage**

This "Memorandum of Understanding" (this "MOU") outlines the general terms and conditions under which the City of St. Augustine (the "City") would enter into a long-term lease agreement for the below-referenced project. City and Owner (as defined below) acknowledge this MOU is qualified and contemplates the execution of a more detailed lease agreement and related documents (the "Definitive Agreements", as further defined below) to be agreed upon by City and Owner. Therefore, City and Owner intend to be bound only by the execution of such Definitive Agreements and not by this MOU, except with respect to Sections 5 and 9 below, which Sections shall be binding on City and Owner upon the mutual execution of this MOU by City and Owner.

1. **Project**. The Project shall consist of a to-be-constructed Class A Parking Garage consisting of a minimum of 500 parking spaces and a maximum of 800 parking spaces (the "Project"). A trolley pick up / drop off area shall be provided as well as associated infrastructure to provide suitable access to the Project. A Conceptual Site Plan of the Project is attached as Exhibit A.
2. **Location**. The Project shall be located at approximately 194 West King Street, Saint Augustine, Florida 32084.
3. **Owner**. The Project shall be developed and owned by West Augustine Gateway, LLC, a Florida limited liability company (or another entity owned by or under the control of Barry Broudy) (collectively, "Owner"). Owner shall also act as Landlord and own the Project.
4. **Tenant**. City, without assignment rights, shall lease the Project pursuant to the terms of a mutually agreed upon long-term, absolute net lease agreement, development agreement and associated documents (collectively, the "Definitive Agreements"). Following the execution of this MOU and until ninety (90) days following the execution of the Definitive Agreements, City shall maintain an investment-grade credit rating.
5. **Credit Tenant Lease Financing**. The Definitive Agreements shall conform to commercially standard provisions necessary and appropriate for Credit Tenant Lease ("CTL") financing transactions with Investment-Grade tenants. This Section 5 shall be binding upon City and Owner unless both parties otherwise agree in writing.

6. **Owner's Obligations in order to Proceed**. Before executing the Definitive Agreements:
- a. Owner and City shall work collaboratively together in good faith regarding the Project design and specifications. Owner shall provide City with design drawings and associated permits necessary to commence construction of the Project.
 - b. Owner shall provide City with Definitive Agreements for review, approval and execution by City.
7. **Programming and Design Collaboration**. Owner and City will jointly program the Project to provide a parking facility which meets the City's needs from a functional, aesthetic, and cost standpoint.
- a. To do so, Owner will design the Project and provide updated plans together with cost and rent estimates at each of the following stages of the design process: 100% Schematic Design, 100% Design Development, 50% Construction Documents, 100% Construction Documents, and Interest Rate Lock ("Project Deliverable Milestones"). At each Project Deliverable Milestone, Owner will provide City its cumulative out-of-pocket costs applicable to City's obligations noted in Section 9; provided however that City's reimbursement obligations pursuant to Section 9 shall be staged as follows: reimbursement will be capped at \$150,000 until achievement of 100% Schematic Design, at which point reimbursement will be capped at \$300,000 until achievement of 100% Design Development, at which point reimbursement will be capped at \$450,000 until achievement of 50% Construction Documents, at which point reimbursement will be capped at \$650,000 until achievement of 100% Construction Documents, at which point reimbursement will be capped at \$750,000 until Owner locks the interest rate on the financing of the Project (the "Interest Rate Lock", which follows final lease agreement negotiation and begins the closing process), at which point reimbursement will be capped at \$1,250,000.
 - b. At each Project Delivery Milestone, Owner will submit the plans and associated costs and rent estimates to City for City's reasonable review, comment and approval to be completed within 30 days of submission. City and Owner will work in good faith to address and incorporate City's reasonable comments into the plans. If City fails to provide reasonably specific, actionable comments to Owner within 30 days of submission at any stage, then the plans and rent estimates will be deemed approved by City and Owner will proceed to the next step in the process. The City Manager is authorized to decide not to proceed with the Project, subject to Section 9 below.

- c. Owner will make commercially reasonable efforts to design the Project to a level which, subject to changes in market conditions, provides City with annual rents at or below the conceptual rent payment schedule attached as Exhibit B.

8. **Definitive Agreements.** The terms of the Definitive Agreements shall provide, among other items:

- a. Owner shall fund, design, permit, construct and deliver the completed Project to City on or prior to the agreed upon Lease Commencement Date.
- b. City shall lease the Project on an absolute net lease structure consistent with CTL financing requirements, requiring City to appropriate, budget, and fund rent and professionally operate, maintain, repair, and insure the Project and its facilities in a first-class manner such that Owner is not required to conduct or fund any activities after the Lease Commencement Date.
- c. City shall operate the Project as a Class A public parking garage.
- d. A conceptual rent payment schedule for the initial term of the lease agreement is attached as Exhibit B. Owner and City agree the Land component of rent will be calculated based upon a first year rent of \$3.56 (growing 3.0% per year thereafter) per square foot multiplied by the land area allocated to the Project, which will equal the sum of the Premises (to be defined in the Lease Agreement) plus a commercially reasonable allocation of common areas necessary and appropriate to service the Project. As of the date hereof, the Land component of rent for the first lease year is estimated to be approximately \$300,000 based upon approximately 2.0 acres, set at \$300,000 per year, increasing 3.0% annually, for the Initial Term.
- e. Initial lease term of thirty (30) years commencing upon substantial completion of the Project. Upon the expiration of the Initial lease term, City shall have the option but not the obligation to purchase the Project (but not the underlying land) for a price of \$1.00 and simultaneously enter into a Ground Lease with Owner for a term of ten (10) years at a rental rate equivalent to annualized Fair Market Value of the land's highest and best use at that point in time as determined by the average of three (3) appraisals with Owner and City each selecting one (1) appraiser and those appraisers agreeing upon the third appraiser ("Fair Market Value Rent"). City shall have the option but not the obligation to extend such Ground Lease on equivalent Fair Market Value Rent terms ~~two-three~~ (23) additional times for 10 years each, at Fair Market Value Rent each time. Any subsequent extension of the Ground Lease term (beyond the first 30 years of Ground Lease Term and thus ~~60-70~~ years of total lease term) may be made on terms mutually agreed by City and Owner.
- e.f. Owner shall grant City a Right of First Offer concurrent and co-terminus with the lease term as extended.

f.g. Upon request by Owner, City shall sub-lease up to 100 non-reserved garage parking spaces and 15 reserved garage parking spaces (located as close as practicable to the contemplated future Broudy's Liquors store) on a monthly basis at commercially reasonable terms to Owner in order to serve any future multifamily and/or commercial project on adjacent land.

9. **City's Option to Decline to Proceed.** Until such time as the Definitive Agreements are duly executed, City retains the option to decline to proceed with the Project. In the event City is unable or unwilling to proceed with the Project and duly execute the Definitive Agreements, and Owner has complied with Owner's obligations as noted in Sections 6 and 7 above, then City shall reimburse Owner for its actual out-of-pocket expenses incurred pursuing the Project, subject to the limitations of Section 7.a above. City shall be deemed unable or unwilling to proceed with the Project if: (i) City provides Owner with a written determination that City will not proceed with the Project or (ii) City declines to duly execute the Definitive Agreements within 60 days of written request by Owner, which written request may only be made by Owner upon the conclusion of good faith negotiation of the Definitive Agreements. Within 15 days of City's declination to proceed with the Project, Owner will provide evidence reasonably sufficient to verify Owner's requested reimbursement amount. Within 15 days after Owner's submittal of information, City may request additional information to verify claimed amounts. Within 60 days of City's declination to proceed, City will reimburse owner all amounts which are not disputed by City with specific, commercially reasonable objections. This Section 9 shall be binding upon City and Owner unless both parties otherwise agree in writing.

10. **Source of Security.** Notwithstanding anything herein to the contrary, any financial obligations of the City associated with this MOU and the Project shall be solely secured in the manner and to the extent described in Exhibit C attached hereto.

Please understand that this MOU is only a proposal to enter into the Definitive Agreements. Any agreement reached as to any or all of the provisions of this MOU shall not be binding upon City or Owner, except as otherwise provided explicitly herein. Any portions of the Definitive Agreements may contain additional or different terms than outlined above. A breach of any binding obligations on the part of City or Owner shall entitle the non-breaching party to any and all remedies in law or equity as against the other party.

Sincerely,

Barry Broudy
Authorized Person

West Augustine Gateway, LLC

AGREED AND ACCEPTED:

Name:

Title:

City of St. Augustine

Date:

Exhibit A - Conceptual Site Plan

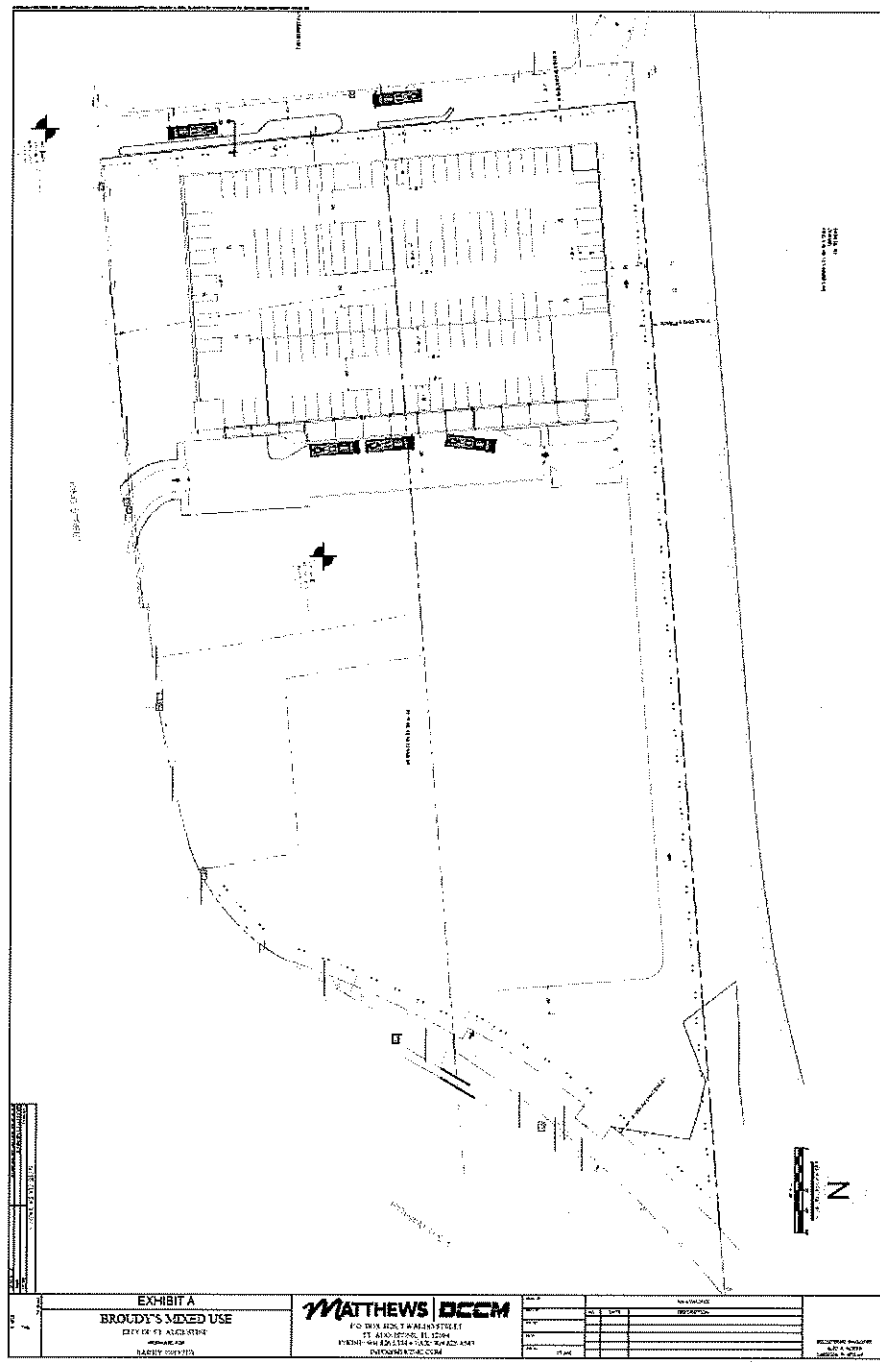


Exhibit B - Conceptual Rent Payment Schedule

Conceptual Rent Schedule based upon 752 parking spaces and 6.2% interest rate

Conceptual Rent Schedule			
Year	Debt Service	+ Land	= Total Rent
1	\$2,716,553	\$300,000	\$3,016,553
2	\$2,707,553	\$309,000	\$3,016,553
3	\$2,698,283	\$318,270	\$3,016,553
4	\$2,688,735	\$327,818	\$3,016,553
5	\$2,678,900	\$337,653	\$3,016,553
6	\$2,668,771	\$347,782	\$3,016,553
7	\$2,658,337	\$358,216	\$3,016,553
8	\$2,647,591	\$368,962	\$3,016,553
9	\$2,636,522	\$380,031	\$3,016,553
10	\$2,625,121	\$391,432	\$3,016,553
11	\$2,613,378	\$403,175	\$3,016,553
12	\$2,601,283	\$415,270	\$3,016,553
13	\$2,588,824	\$427,728	\$3,016,553
14	\$2,575,993	\$440,560	\$3,016,553
15	\$2,562,776	\$453,777	\$3,016,553
16	\$2,549,163	\$467,390	\$3,016,553
17	\$2,535,141	\$481,412	\$3,016,553
18	\$2,520,698	\$495,854	\$3,016,553
19	\$2,505,823	\$510,730	\$3,016,553
20	\$2,490,501	\$526,052	\$3,016,553
21	\$2,474,719	\$541,833	\$3,016,553
22	\$2,458,464	\$558,088	\$3,016,553
23	\$2,441,722	\$574,831	\$3,016,553
24	\$2,424,477	\$592,076	\$3,016,553
25	\$2,406,715	\$609,838	\$3,016,553
26	\$2,388,419	\$628,133	\$3,016,553
27	\$2,369,575	\$646,977	\$3,016,553
28	\$2,350,166	\$666,387	\$3,016,553
29	\$2,330,174	\$686,378	\$3,016,553
30	\$2,309,583	\$706,970	\$3,016,553

Exhibit C - Securing City Financial Obligations

The City covenants and agrees to appropriate in its annual budget, by amendment if necessary, for each Fiscal Year (defined to mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law) in which the City has financial obligations hereunder, sufficient amounts of Non-Ad Valorem Revenues (means all revenues of the City not derived from ad valorem taxation, and which are lawfully available to be used to make payments hereunder) to make required payments hereunder in each such Fiscal Year. Such covenant and agreement on the part of the City shall be cumulative and shall continue until all such required payments shall have been budgeted, appropriated, and actually paid. The City agrees that this covenant and agreement shall be deemed to be entered into for the benefit of the Owner and that this obligation may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted and appropriated as provided herein. Notwithstanding the foregoing or any provision of this [Agreement] to the contrary, the City does not covenant to maintain or continue any activities, services or programs now maintained or provided by the City, including those programs and services which generate user fees, regulatory fees or Non-Ad Valorem Revenues. This covenant and agreement shall not be construed as a limitation on the ability of the City to pledge all or a portion of such Non-Ad Valorem Revenues or to covenant to budget and appropriate Non-Ad Valorem Revenues for other legally permissible purposes. Nothing herein shall be deemed to pledge ad valorem tax revenues or to permit or constitute a mortgage or lien upon any assets owned by the City and the Owner may not compel the levy of ad valorem taxes on real or personal property within the boundaries of the City for the payment of the City's obligations hereunder or to maintain or continue any activities, services or programs now maintained or provided by the City, including those programs and services which generate user fees, regulatory fees or Non-Ad Valorem Revenues.

However, this covenant to budget and appropriate in its annual budget for the purposes and in the manner stated herein has the effect of making available for such required payments the Non-Ad Valorem Revenues of the City in the manner provided herein and placing on the City a positive duty to appropriate and budget, by amendment if necessary, and deposit amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the restrictions of Section 166.241, Florida Statutes, which make it unlawful for any municipality to expend moneys not appropriated and in excess of such municipality's current budgeted revenues. The obligation of the City to make such payments from its Non-Ad Valorem Revenues is subject in all respects to the payment of obligations secured by a pledge of such Non-Ad Valorem Revenues or a covenant to budget and appropriate Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments), and funding requirements for essential public

purposes affecting health, welfare and safety of the inhabitants of the City; however, such obligation is cumulative and would carry over from Fiscal Year to Fiscal Year.

Such covenant to budget and appropriate does not preclude the City from pledging in the future or covenanting to budget and appropriate in the future its Non-Ad Valorem Revenues, nor does it require the City to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Owner a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City.

THE FINANCIAL OBLIGATIONS HEREUNDER SHALL NOT BE OR CONSTITUTE GENERAL OBLIGATIONS OR INDEBTEDNESS OF THE CITY AS "BONDS" WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE OWNER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF ANY AD VALOREM TAXING POWER TO PAY MAKE REQUIRED PAYMENTS HEREUNDER, FOR THE PAYMENT OF ANY AMOUNTS PAYABLE HEREUNDER, OR IN ORDER TO MAINTAIN ANY SERVICES OR PROGRAMS THAT GENERATE NON-AD VALOREM REVENUES, OR BE ENTITLED TO PAYMENT OF AMOUNTS FROM ANY MONEYS OF THE ISSUER EXCEPT IN THE MANNER AND TO THE EXTENT PROVIDED HEREIN.

Broudy Brothers Parking Garage Forecast Model

Summary

The City of St. Augustine (City) seeks to develop a partnership opportunity with a local developer (Broudy Brothers, LLC) for the design and construction of a multi-modal parking facility located on the northwest corner of West King Street and North Ponce De Leon Boulevard. Upon completion of this facility, the City intends to lease the control of the public parking spaces from the developer on an annual basis under the format of an operation agreement that provides for the operation and management of the parking facility by the City.

Walker Consultants has been engaged to assist the City to conduct a financial feasibility review from which to understand the effect of parking fees, lease payments, and operational considerations to help evaluate the viability of this partnership in order to increase the City's parking inventory.

Several scenarios were considered:

- Size of garage by number of spaces: 752 spaces
- Term of lease: 30 years
- Rate structures:
 - Fixed Rates of \$10, \$15, \$20, and \$25
 - Fixed Rate of \$10 with a \$5 rate increase every 10 yrs.
 - Fixed Rates of \$10 and \$20, with a \$5 rate increase every 5 yrs.
 - Hourly Rates of \$1.50 - \$7.00, in \$0.50 increments

The anticipated Net Operating Income for each of these scenarios is summarized in the following chart.



WALKER
CONSULTANTS

4904 Eisenhower Boulevard, Suite 150
Tampa, FL 33634
813.888.5800

Broudy Development Parking Facility Analysis – Net Operating Income (NOI) Summary

30 yr lease 752 spaces		Flat Rates																			
		Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15					
\$10		\$ (1,878,096)	\$ (1,863,930)	\$ (1,849,768)	\$ (1,835,619)	\$ (1,821,494)	\$ (1,807,404)	\$ (1,793,362)	\$ (1,779,379)	\$ (1,765,469)	\$ (1,751,646)	\$ (1,737,924)	\$ (1,724,319)	\$ (1,710,846)	\$ (1,697,524)	\$ (1,684,370)					
\$15		\$ (837,695)	\$ (802,722)	\$ (767,335)	\$ (731,537)	\$ (695,331)	\$ (658,718)	\$ (621,701)	\$ (584,285)	\$ (546,473)	\$ (508,270)	\$ (469,681)	\$ (430,711)	\$ (391,367)	\$ (351,655)	\$ (311,583)					
\$20		\$ 202,706	\$ 258,487	\$ 315,098	\$ 372,544	\$ 430,835	\$ 489,959	\$ 549,959	\$ 610,808	\$ 672,522	\$ 735,105	\$ 798,562	\$ 862,897	\$ 928,113	\$ 994,215	\$ 1,061,204					
\$25		\$ 1,243,106	\$ 1,319,696	\$ 1,397,531	\$ 1,476,626	\$ 1,556,996	\$ 1,638,655	\$ 1,721,619	\$ 1,805,902	\$ 1,891,517	\$ 1,978,480	\$ 2,066,805	\$ 2,156,504	\$ 2,247,593	\$ 2,340,084	\$ 2,433,990					
\$10	Increase \$5 every 10 yrs.	\$ (1,878,096)	\$ (1,863,930)	\$ (1,849,768)	\$ (1,835,619)	\$ (1,821,494)	\$ (1,807,404)	\$ (1,793,362)	\$ (1,779,379)	\$ (1,765,469)	\$ (1,751,646)	\$ (1,737,924)	\$ (1,724,319)	\$ (1,710,846)	\$ (1,697,524)	\$ (1,684,370)					
\$10	Increase \$5 every 5 yrs.	\$ (1,878,096)	\$ (1,863,930)	\$ (1,849,768)	\$ (1,835,619)	\$ (1,821,494)	\$ (1,807,404)	\$ (1,793,362)	\$ (1,779,379)	\$ (1,765,469)	\$ (1,751,646)	\$ (1,737,924)	\$ (1,724,319)	\$ (1,710,846)	\$ (1,697,524)	\$ (1,684,370)					
\$20	Increase \$5 every 5 yrs.	\$ 202,706	\$ 258,487	\$ 315,098	\$ 372,544	\$ 430,835	\$ 489,959	\$ 549,959	\$ 610,808	\$ 672,522	\$ 735,105	\$ 798,562	\$ 862,897	\$ 928,113	\$ 994,215	\$ 1,061,204					
Hourly Rate		Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15					
\$1.50		\$ (3,022,537)	\$ (3,031,260)	\$ (3,040,444)	\$ (3,050,109)	\$ (3,060,274)	\$ (3,070,959)	\$ (3,082,188)	\$ (3,093,982)	\$ (3,106,364)	\$ (3,119,358)	\$ (3,132,991)	\$ (3,147,287)	\$ (3,162,274)	\$ (3,177,981)	\$ (3,194,435)					
\$2.00		\$ (2,710,417)	\$ (2,712,897)	\$ (2,715,714)	\$ (2,718,884)	\$ (2,722,425)	\$ (2,726,353)	\$ (2,730,690)	\$ (2,735,454)	\$ (2,740,665)	\$ (2,746,346)	\$ (2,752,518)	\$ (2,759,205)	\$ (2,766,430)	\$ (2,774,220)	\$ (2,782,599)					
\$2.50		\$ (2,398,296)	\$ (2,394,535)	\$ (2,390,984)	\$ (2,387,660)	\$ (2,384,576)	\$ (2,381,747)	\$ (2,379,192)	\$ (2,376,926)	\$ (2,374,966)	\$ (2,373,333)	\$ (2,372,045)	\$ (2,371,122)	\$ (2,370,586)	\$ (2,370,459)	\$ (2,370,763)					
\$3.00		\$ (2,086,176)	\$ (2,076,172)	\$ (2,066,255)	\$ (2,056,435)	\$ (2,046,727)	\$ (2,037,142)	\$ (2,027,694)	\$ (2,018,398)	\$ (2,009,268)	\$ (2,000,321)	\$ (1,991,572)	\$ (1,983,040)	\$ (1,974,742)	\$ (1,966,698)	\$ (1,958,927)					
\$3.50		\$ (1,774,056)	\$ (1,757,809)	\$ (1,741,525)	\$ (1,725,211)	\$ (1,708,878)	\$ (1,692,536)	\$ (1,676,196)	\$ (1,659,869)	\$ (1,643,569)	\$ (1,627,308)	\$ (1,611,099)	\$ (1,594,958)	\$ (1,578,898)	\$ (1,562,937)	\$ (1,547,091)					
\$4.00		\$ (1,461,936)	\$ (1,439,447)	\$ (1,416,795)	\$ (1,393,986)	\$ (1,371,029)	\$ (1,347,930)	\$ (1,324,698)	\$ (1,301,341)	\$ (1,277,871)	\$ (1,254,295)	\$ (1,230,627)	\$ (1,206,876)	\$ (1,183,055)	\$ (1,159,177)	\$ (1,135,255)					
\$4.50		\$ (1,149,815)	\$ (1,121,084)	\$ (1,092,065)	\$ (1,062,762)	\$ (1,033,180)	\$ (1,003,324)	\$ (973,199)	\$ (942,813)	\$ (912,172)	\$ (881,283)	\$ (850,154)	\$ (818,793)	\$ (787,211)	\$ (755,416)	\$ (723,419)					
\$5.00		\$ (837,695)	\$ (802,722)	\$ (767,335)	\$ (731,537)	\$ (695,331)	\$ (658,718)	\$ (621,701)	\$ (584,285)	\$ (546,473)	\$ (508,270)	\$ (469,681)	\$ (430,711)	\$ (391,367)	\$ (351,655)	\$ (311,583)					
\$5.50		\$ (525,575)	\$ (484,359)	\$ (442,605)	\$ (400,313)	\$ (357,482)	\$ (314,112)	\$ (270,203)	\$ (225,757)	\$ (180,775)	\$ (135,258)	\$ (89,208)	\$ (42,629)	\$ 4,477	\$ 52,106	\$ 100,253					
\$6.00		\$ (213,455)	\$ (165,996)	\$ (117,875)	\$ (69,088)	\$ (19,633)	\$ 30,484	\$ 81,295	\$ 132,771	\$ 184,924	\$ 237,755	\$ 291,265	\$ 345,454	\$ 400,321	\$ 455,867	\$ 512,089					
\$6.50		\$ 98,665	\$ 152,366	\$ 206,855	\$ 262,136	\$ 318,216	\$ 375,100	\$ 432,793	\$ 491,299	\$ 550,622	\$ 610,767	\$ 671,738	\$ 733,536	\$ 796,165	\$ 859,628	\$ 923,925					
\$7.00		\$ 410,786	\$ 470,729	\$ 531,585	\$ 593,361	\$ 656,065	\$ 719,706	\$ 784,291	\$ 849,827	\$ 916,321	\$ 983,780	\$ 1,052,210	\$ 1,121,618	\$ 1,192,009	\$ 1,263,388	\$ 1,335,761					

30 yr lease 752 spaces		Flat Rates																			
		Y16	Y17	Y18	Y19	Y20	Y21	Y22	Y23	Y24	Y25	Y26	Y27	Y28	Y29	Y30					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$15		\$ (671,160)	\$ (630,394)	\$ (589,295)	\$ (547,951)	\$ (506,342)	\$ (464,469)	\$ (422,333)	\$ (380,043)	\$ (337,597)	\$ (294,905)	\$ (252,068)	\$ (209,090)	\$ (166,072)	\$ (123,004)	\$ (80,000)					
\$20		\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680					
\$25		\$ 2,529,325	\$ 2,626,101	\$ 2,724,330	\$ 2,824,024	\$ 2,925,195	\$ 3,027,852	\$ 3,132,008	\$ 3,237,673	\$ 3,344,854	\$ 3,453,563	\$ 3,563,806	\$ 3,675,592	\$ 3,788,927	\$ 3,903,818	\$ 4,020,270					
\$10	Increase \$5 every 10 yrs.	\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$10	Increase \$5 every 5 yrs.	\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$20	Increase \$5 every 5 yrs.	\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680					
\$25	Increase \$5 every 5 yrs.	\$ 2,529,325	\$ 2,626,101	\$ 2,724,330	\$ 2,824,024	\$ 2,925,195	\$ 3,027,852	\$ 3,132,008	\$ 3,237,673	\$ 3,344,854	\$ 3,453,563	\$ 3,563,806	\$ 3,675,592	\$ 3,788,927	\$ 3,903,818	\$ 4,020,270					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$20		\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680					
\$25		\$ 2,529,325	\$ 2,626,101	\$ 2,724,330	\$ 2,824,024	\$ 2,925,195	\$ 3,027,852	\$ 3,132,008	\$ 3,237,673	\$ 3,344,854	\$ 3,453,563	\$ 3,563,806	\$ 3,675,592	\$ 3,788,927	\$ 3,903,818	\$ 4,020,270					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$20		\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680					
\$25		\$ 2,529,325	\$ 2,626,101	\$ 2,724,330	\$ 2,824,024	\$ 2,925,195	\$ 3,027,852	\$ 3,132,008	\$ 3,237,673	\$ 3,344,854	\$ 3,453,563	\$ 3,563,806	\$ 3,675,592	\$ 3,788,927	\$ 3,903,818	\$ 4,020,270					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$20		\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680					
\$25		\$ 2,529,325	\$ 2,626,101	\$ 2,724,330	\$ 2,824,024	\$ 2,925,195	\$ 3,027,852	\$ 3,132,008	\$ 3,237,673	\$ 3,344,854	\$ 3,453,563	\$ 3,563,806	\$ 3,675,592	\$ 3,788,927	\$ 3,903,818	\$ 4,020,270					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)					
\$10		\$ (1,671,402)	\$ (1,658,641)	\$ (1,646,107)	\$ (1,633,822)	\$ (1,621,808)	\$ (1,610,090)	\$ (1,598,693)	\$ (1,587,643)	\$ (1,576,967)	\$ (1,566,696)	\$ (1,556,858)	\$ (1,547,485)	\$ (1,538,611)	\$ (1,530,271)	\$ (1,522,501)			</		

The following provides a categorization of our proforma assumptions for this project based on the scenario of:

- 752 space parking garage
- 30-year lease term
- Transient Parking at a \$20 flat rate.

Parking revenues have been forecasted to include anticipated activity based on current city operations, incorporating data from existing city parking facilities and trends.

Revenue Assumptions

For this model, the following rates are assumed:

Permits : \$33 per month

Transient Parking (Flat Rate): \$20 per vehicle entry, valid for one day.

Event Parking is embedded in the transient flat rate and has been accounted for within the analysis of current city revenue ratios.

Revenue growth is assumed to be 2% per year.

Revenue Factors

Revenues for this garage were forecasted using actual revenue collections of the City's Historic Downtown Parking Facility. A monthly factor, applied to the base month of October 2022 actual revenues, was used to project transient revenues to account for seasonal changes and events.

Transient Revenues

The monthly factor was calculated by first taking the average of each month's actual revenues from FY 2018-19, FY 2020-21, and FY 2021-22. FY 2019-20 was omitted so as to minimize the COVID-19 Pandemic effects on parking revenues.

A factor was then calculated for each of the months based on that month's average of actual revenues as it relates to the average of actual revenues for the month of October. The October factor is **1.00** and the monthly revenue factors are as follows:

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Monthly Adjustment Factor	1.24	1.06	1.75	1.47	1.35	1.39	1.65	0.94	0.82	1.00	1.30	2.20

The number daily transactions were calculated from October 2022 actual transaction data for the City's Historic Downtown Parking Facility. The number of transactions were calculated by day for both transient and ParkNow transactions and calculated as a daily percentage of the total garage parking inventory for the month. This daily

percentage was reapplied to the proposed facility, using the projected parking space inventory and a base month of October 2022. The forecasted number of transactions is applied to the proposed rate (\$20 flat rate) to determine the base month transient revenues. The monthly adjustment factor is applied to the base month transient revenue to determine each month's forecasted revenues.

ParkNow transaction forecasts are calculated in the same manner as transient forecast, with the rate assumed to be 20% of the transient parking rate (\$4 flat rate).

Permit Revenues

Permit sales are forecasted by calculating:

- 1) Average permit sales - the monthly average permit sales of the City's Historic Downtown Parking Facility,
- 2) Percentage of Inventory Permit Sales - calculating the average permit sales as a percentage of available inventory of the City's Historic Downtown Parking Facility
- 3) Applying the percentage of inventory permits sales to the projected parking space inventory of the proposed parking facility.

Expense Assumptions

Expense growth is assumed to be 4% per year for payroll and 2.5% per year for non-payroll expenses.

Labor

The following table provides a summary detail of the proposed labor requirement for this garage.

Category	Role	# of Positions	Hours/Week	Rate (Including Taxes & Benefits)
Management	FT Manager (Garage Sup)	1	20	\$ 43.38
	FT Assistant Manager (Lead Coord.)	1	20	\$ 37.60
Attendants	FT Ambassador (Lead)	1	40	\$ 30
	PT Ambassador (Asst. Lead)	1	20	\$ 29
Maintenance	FT Porter/Tech	1	40	\$ 29



The Management team will share coverage with other City parking assets, and thus may not be 100% allocated to this facility. On-site coverage may vary; however, this team should be available during peak times to assist with any escalated issues.

Attendants will provide general monitoring of the entry/exit lanes to assist customers with any issues with ingress/egress of the facility. Attendants will also serve as ambassadors to assist customers with general wayfinding and direction to/from the shuttle services. This role should be filled during peak operating hours.

Maintenance coverage is assumed to be provided Monday through Friday, beginning prior to normal business hours or similar coverage to include weekends.

Other Expenses

Utilities @ \$7.66 per space, per month – based on actual utilities costs allocated to the City's Historic Downtown Parking Facility. Includes electricity and water.

Supplies and Materials @ \$3 per space, per month – Simple sign repairs, lamp replacement, bollard repair, ticket/receipt stock, etc.

Repairs and Maintenance @ \$46.24 per space, per month – Small repairs, trash removal, cleaning, painting, and sweeping.

Contracted Services: Security @ \$22.50 per hour – Coverage to include 12 hours per day, 7 days per week.

Contracted Services: PARCS Service @ \$20,000 per year. Cost to maintain and service parking access and revenue control equipment. May vary based on vendor/technology chosen.

Contracted Services: Elevator Maintenance @ \$8,150 per year. \$4,750/yr. maintenance contract, \$900/yr. inspections, \$2,500/yr. for unanticipated repairs. Assumes two elevators and based on current rates plus estimated COI/inflation increases.

Other Expenses: Insurance @ \$0.50 per space per month – Includes Garage Keeper Legal Liability (GKLL) for protection during storage and General Liability insurance for premise liability, products and advertising liability and completed operations for services rendered.

Other Expenses: Uniform Expense – \$100 per employee, per month.

Other Expenses: Fleet @ \$700 per month – lease, fuel, and service for maintenance gator-type vehicle

Admin Overhead @ \$9,000 per month – Allocated by City Finance Department

Lease Payment @ \$3,016,553 per year – Based on financing estimates provided by the MOU between the City and the developer. Based on cost of construction at \$42,000 per space, financed at 6.2% over 30 years. This payment also includes a \$300,000 land lease payment that increases by 3% annually.



4904 Eisenhower Boulevard, Suite 150
Tampa, FL 33634
813.888.5800

Financial Model – Month: \$20 Flat Fee per entry, no rate increase

752 spaces

	January	February	March	April	May	June	July	August	September	October	November	December
Revenues												
Transient Parking - Flat Rate	\$ 329,695	\$ 281,551	\$ 463,975	\$ 390,543	\$ 357,106	\$ 368,301	\$ 437,895	\$ 249,279	\$ 216,912	\$ 265,346	\$ 344,718	\$ 584,993
Permits	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424
Events												
Sub-Total Parking Revenues	\$ 335,119	\$ 286,975	\$ 469,399	\$ 395,967	\$ 362,530	\$ 373,725	\$ 443,319	\$ 254,703	\$ 222,335	\$ 270,770	\$ 350,142	\$ 590,417
Less: Revenue Collection & Loss	\$ (10,054)	\$ (8,609)	\$ (14,082)	\$ (11,879)	\$ (10,876)	\$ (11,212)	\$ (13,300)	\$ (7,641)	\$ (6,670)	\$ (8,123)	\$ (10,504)	\$ (17,713)
Total - Net Revenues	\$ 325,066	\$ 278,366	\$ 455,317	\$ 384,088	\$ 351,654	\$ 362,513	\$ 430,019	\$ 247,062	\$ 215,665	\$ 262,647	\$ 339,637	\$ 572,705
	\$ 432	\$ 370	\$ 605	\$ 511	\$ 468	\$ 482	\$ 572	\$ 329	\$ 287	\$ 349	\$ 452	\$ 762
Operating Expenses												
Payroll	\$ 35,524	\$ 33,232	\$ 35,524	\$ 34,378	\$ 35,524	\$ 34,378	\$ 35,524	\$ 35,524	\$ 34,378	\$ 35,524	\$ 34,378	\$ 35,524
Utilities	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760
Supplies and Materials	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256
Contract Services	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238	\$ 11,238
Repairs & Maintenance	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772
Other Expenses	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926	\$ 1,926
Admin. Overhead	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
Lease Payment	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379
Total - Operating Expenses	\$ 352,856	\$ 350,564	\$ 352,856	\$ 351,710	\$ 352,856	\$ 351,710	\$ 352,856	\$ 352,856	\$ 351,710	\$ 352,856	\$ 351,710	\$ 352,856
	\$ 469	\$ 466	\$ 469	\$ 468	\$ 469	\$ 468	\$ 469	\$ 469	\$ 468	\$ 469	\$ 468	\$ 469
NET OPERATING INCOME	\$ (27,790)	\$ (72,198)	\$ 102,461	\$ 32,378	\$ (1,202)	\$ 10,803	\$ 77,163	\$ (105,794)	\$ (136,045)	\$ (90,209)	\$ (12,073)	\$ 219,849
	\$ (37)	\$ (96)	\$ 136	\$ 43	\$ (2)	\$ 14	\$ 103	\$ (141)	\$ (181)	\$ (120)	\$ (16)	\$ 282



4904 Eisenhower Boulevard, Suite 150
Tampa, FL 33634
813.888.5800

Financial Model – Annual: \$20 Flat Fee per entry, no rate increase

752 spaces

	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15
Revenues															
Transient Parking – Flat Rate	\$ 4,290,313	\$ 4,376,119	\$ 4,463,641	\$ 4,552,914	\$ 4,643,972	\$ 4,736,852	\$ 4,831,589	\$ 4,928,221	\$ 5,026,785	\$ 5,127,321	\$ 5,229,867	\$ 5,334,464	\$ 5,441,154	\$ 5,549,977	\$ 5,660,976
Permits	\$ 65,087	\$ 66,389	\$ 67,717	\$ 69,071	\$ 70,453	\$ 71,862	\$ 73,299	\$ 74,765	\$ 76,260	\$ 77,786	\$ 79,341	\$ 80,928	\$ 82,547	\$ 84,198	\$ 85,882
Events	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub-Total Parking Revenues	\$ 4,355,400	\$ 4,442,508	\$ 4,531,358	\$ 4,621,985	\$ 4,714,425	\$ 4,808,714	\$ 4,904,888	\$ 5,002,986	\$ 5,103,045	\$ 5,205,106	\$ 5,309,208	\$ 5,415,393	\$ 5,523,700	\$ 5,634,174	\$ 5,746,858
Less: Revenue Collection & Loss	\$ (130,662)	\$ (133,275)	\$ (135,941)	\$ (138,660)	\$ (141,433)	\$ (144,261)	\$ (147,147)	\$ (150,090)	\$ (153,091)	\$ (156,133)	\$ (159,276)	\$ (162,462)	\$ (165,711)	\$ (169,025)	\$ (172,406)
Total - Net Revenues	\$ 4,224,738	\$ 4,309,233	\$ 4,395,418	\$ 4,483,326	\$ 4,572,992	\$ 4,664,452	\$ 4,757,741	\$ 4,852,896	\$ 4,949,954	\$ 5,048,953	\$ 5,149,932	\$ 5,252,931	\$ 5,357,989	\$ 5,465,149	\$ 5,574,452
Operating Expenses															
Payroll	\$ 238,402	\$ 247,938	\$ 257,856	\$ 268,170	\$ 278,897	\$ 290,052	\$ 301,655	\$ 313,721	\$ 326,270	\$ 339,320	\$ 352,893	\$ 367,009	\$ 381,689	\$ 396,957	\$ 412,835
Utilities	\$ 69,124	\$ 70,852	\$ 72,623	\$ 74,439	\$ 76,300	\$ 78,207	\$ 80,162	\$ 82,167	\$ 84,221	\$ 86,326	\$ 88,484	\$ 90,696	\$ 92,964	\$ 95,288	\$ 97,670
Supplies and Materials	\$ 27,072	\$ 27,749	\$ 28,443	\$ 29,154	\$ 29,882	\$ 30,629	\$ 31,395	\$ 32,180	\$ 32,985	\$ 33,809	\$ 34,654	\$ 35,521	\$ 36,409	\$ 37,319	\$ 38,252
Contract Services	\$ 126,700	\$ 129,868	\$ 133,114	\$ 136,442	\$ 139,853	\$ 143,349	\$ 146,933	\$ 150,606	\$ 154,372	\$ 158,231	\$ 162,187	\$ 166,241	\$ 170,397	\$ 174,657	\$ 179,024
Repairs & Maintenance	\$ 417,270	\$ 427,702	\$ 438,394	\$ 449,354	\$ 460,588	\$ 472,102	\$ 483,905	\$ 496,003	\$ 508,403	\$ 521,113	\$ 534,141	\$ 547,494	\$ 561,181	\$ 575,211	\$ 589,591
Other Expenses	\$ 18,912	\$ 19,385	\$ 19,869	\$ 20,366	\$ 20,875	\$ 21,397	\$ 21,932	\$ 22,480	\$ 23,042	\$ 23,618	\$ 24,209	\$ 24,814	\$ 25,435	\$ 26,070	\$ 26,722
Admin. Overhead	\$ 108,000	\$ 110,700	\$ 113,468	\$ 116,304	\$ 119,212	\$ 122,192	\$ 125,247	\$ 128,378	\$ 131,588	\$ 134,877	\$ 138,249	\$ 141,705	\$ 145,248	\$ 148,879	\$ 152,601
Lease Payment	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553
Total - Operating Expenses	\$ 4,022,033	\$ 4,050,746	\$ 4,080,319	\$ 4,110,781	\$ 4,142,160	\$ 4,174,483	\$ 4,207,782	\$ 4,242,088	\$ 4,277,432	\$ 4,313,848	\$ 4,351,370	\$ 4,390,034	\$ 4,429,876	\$ 4,470,935	\$ 4,513,249
NET OPERATING INCOME	\$ 202,706	\$ 258,487	\$ 315,098	\$ 372,544	\$ 430,833	\$ 489,969	\$ 549,959	\$ 610,808	\$ 672,522	\$ 735,105	\$ 798,562	\$ 862,897	\$ 928,113	\$ 994,215	\$ 1,061,204
(per-Space)	\$ 270	\$ 344	\$ 419	\$ 495	\$ 573	\$ 652	\$ 731	\$ 812	\$ 894	\$ 978	\$ 1,062	\$ 1,147	\$ 1,234	\$ 1,322	\$ 1,411

752 spaces

	Y16	Y17	Y18	Y19	Y20	Y21	Y22	Y23	Y24	Y25	Y26	Y27	Y28	Y29	Y30
Revenues															
Transient Parking – Flat Rate	\$ 5,774,196	\$ 5,889,680	\$ 6,007,473	\$ 6,127,623	\$ 6,250,175	\$ 6,375,179	\$ 6,502,682	\$ 6,632,736	\$ 6,765,391	\$ 6,900,699	\$ 7,038,713	\$ 7,179,487	\$ 7,323,077	\$ 7,469,538	\$ 7,618,929
Permits	\$ 87,599	\$ 89,351	\$ 91,138	\$ 92,961	\$ 94,820	\$ 96,717	\$ 98,651	\$ 100,624	\$ 102,636	\$ 104,689	\$ 106,783	\$ 108,919	\$ 111,097	\$ 113,319	\$ 115,585
Events	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub-Total Parking Revenues	\$ 5,861,795	\$ 5,979,031	\$ 6,098,612	\$ 6,220,584	\$ 6,344,996	\$ 6,471,895	\$ 6,601,333	\$ 6,733,360	\$ 6,868,027	\$ 7,005,388	\$ 7,145,496	\$ 7,288,405	\$ 7,434,174	\$ 7,582,857	\$ 7,734,514
Less: Revenue Collection & Loss	\$ (175,854)	\$ (179,371)	\$ (182,958)	\$ (186,618)	\$ (190,350)	\$ (194,157)	\$ (198,040)	\$ (202,001)	\$ (206,041)	\$ (210,162)	\$ (214,365)	\$ (218,652)	\$ (223,025)	\$ (227,486)	\$ (232,035)
Total - Net Revenues	\$ 5,685,941	\$ 5,799,660	\$ 5,915,653	\$ 6,033,966	\$ 6,154,646	\$ 6,277,739	\$ 6,403,293	\$ 6,531,359	\$ 6,661,986	\$ 6,795,226	\$ 6,931,131	\$ 7,068,753	\$ 7,211,148	\$ 7,355,371	\$ 7,502,479
Operating Expenses															
Payroll	\$ 429,348	\$ 446,522	\$ 464,383	\$ 482,959	\$ 502,277	\$ 522,368	\$ 543,263	\$ 564,993	\$ 587,593	\$ 611,097	\$ 635,541	\$ 660,962	\$ 687,401	\$ 714,897	\$ 743,493
Utilities	\$ 100,112	\$ 102,615	\$ 105,180	\$ 107,810	\$ 110,505	\$ 113,267	\$ 116,099	\$ 119,002	\$ 121,977	\$ 125,026	\$ 128,152	\$ 131,356	\$ 134,639	\$ 138,005	\$ 141,456
Supplies and Materials	\$ 39,208	\$ 40,189	\$ 41,193	\$ 42,223	\$ 43,279	\$ 44,361	\$ 45,470	\$ 46,606	\$ 47,772	\$ 48,966	\$ 50,190	\$ 51,445	\$ 52,731	\$ 54,049	\$ 55,400
Contract Services	\$ 183,499	\$ 188,087	\$ 192,789	\$ 197,609	\$ 202,549	\$ 207,613	\$ 212,803	\$ 218,123	\$ 223,576	\$ 229,166	\$ 234,895	\$ 240,767	\$ 246,786	\$ 252,956	\$ 259,280
Repairs & Maintenance	\$ 604,331	\$ 619,439	\$ 634,925	\$ 650,798	\$ 667,068	\$ 683,745	\$ 700,839	\$ 718,319	\$ 736,219	\$ 754,527	\$ 773,259	\$ 792,395	\$ 812,758	\$ 833,077	\$ 853,904
Other Expenses	\$ 27,390	\$ 28,075	\$ 28,777	\$ 29,496	\$ 30,234	\$ 30,990	\$ 31,764	\$ 32,558	\$ 33,372	\$ 34,207	\$ 35,062	\$ 35,938	\$ 36,837	\$ 37,758	\$ 38,702
Admin. Overhead	\$ 156,416	\$ 160,327	\$ 164,335	\$ 168,443	\$ 172,654	\$ 176,971	\$ 181,395	\$ 185,930	\$ 190,578	\$ 195,342	\$ 200,226	\$ 205,232	\$ 210,362	\$ 215,621	\$ 221,012
Lease Payment	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553	\$ 3,016,553
Total - Operating Expenses	\$ 4,556,859	\$ 4,601,806	\$ 4,648,136	\$ 4,695,891	\$ 4,745,119	\$ 4,795,867	\$ 4,848,185	\$ 4,902,125	\$ 4,957,739	\$ 5,015,083	\$ 5,074,213	\$ 5,135,187	\$ 5,198,067	\$ 5,262,916	\$ 5,329,799
NET OPERATING INCOME	\$ 1,129,083	\$ 1,197,854	\$ 1,267,518	\$ 1,338,075	\$ 1,409,527	\$ 1,481,872	\$ 1,555,108	\$ 1,629,234	\$ 1,704,247	\$ 1,780,143	\$ 1,856,918	\$ 1,934,566	\$ 2,013,081	\$ 2,092,455	\$ 2,172,680
(per-Space)	\$ 1,501	\$ 1,593	\$ 1,686	\$ 1,779	\$ 1,874	\$ 1,971	\$ 2,068	\$ 2,167	\$ 2,266	\$ 2,367	\$ 2,469	\$ 2,573	\$ 2,677	\$ 2,783	\$ 2,889



4904 Eisenhower Boulevard, Suite 150
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Financial Model – Month: \$10 Flat Fee per entry, \$5 rate increase every 10 years

752 spaces

	January	February	March	April	May	June	July	August	September	October	November	December
Revenues												
Transient Parking - Flat Rate	\$ 164,848	\$ 140,776	\$ 231,987	\$ 195,272	\$ 178,553	\$ 184,150	\$ 218,947	\$ 124,640	\$ 108,456	\$ 132,673	\$ 172,359	\$ 292,497
Permits	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424	\$ 5,424
Events												
Sub-Total Parking Revenues	\$ 170,272	\$ 146,200	\$ 237,411	\$ 200,696	\$ 183,977	\$ 189,574	\$ 224,371	\$ 130,064	\$ 113,880	\$ 138,097	\$ 177,783	\$ 297,921
Less: Revenue Collection & Loss	\$ (5,108)	\$ (4,386)	\$ (7,122)	\$ (6,021)	\$ (5,519)	\$ (5,687)	\$ (6,731)	\$ (3,902)	\$ (3,416)	\$ (4,143)	\$ (5,333)	\$ (8,938)
Total - Net Revenues	\$ 165,163	\$ 141,814	\$ 230,289	\$ 194,675	\$ 178,458	\$ 183,887	\$ 217,640	\$ 126,162	\$ 110,463	\$ 133,954	\$ 172,449	\$ 288,983
	\$ 220	\$ 189	\$ 306	\$ 259	\$ 237	\$ 245	\$ 289	\$ 168	\$ 147	\$ 178	\$ 229	\$ 384
Operating Expenses												
Payroll	\$ 20,193	\$ 18,890	\$ 20,193	\$ 19,541	\$ 20,193	\$ 19,541	\$ 20,193	\$ 20,193	\$ 19,541	\$ 20,193	\$ 19,541	\$ 20,193
Utilities	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760	\$ 5,760
Supplies and Materials	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256	\$ 2,256
Contract Services	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558	\$ 10,558
Repairs & Maintenance	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772	\$ 34,772
Other Expenses	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576	\$ 1,576
Admin. Overhead	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 9,000
Lease Payment	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379	\$ 251,379
Total - Operating Expenses	\$ 335,495	\$ 334,192	\$ 335,495	\$ 334,844	\$ 335,495	\$ 334,844	\$ 335,495	\$ 335,495	\$ 334,844	\$ 335,495	\$ 334,844	\$ 335,495
	\$ 446	\$ 444	\$ 446	\$ 445	\$ 446	\$ 445	\$ 446	\$ 446	\$ 445	\$ 446	\$ 445	\$ 446
NET OPERATING INCOME	\$ (170,332)	\$ (192,379)	\$ (105,206)	\$ (140,169)	\$ (157,038)	\$ (150,957)	\$ (117,855)	\$ (209,333)	\$ (224,380)	\$ (201,541)	\$ (162,394)	\$ (46,512)
	\$ (227)	\$ (256)	\$ (140)	\$ (186)	\$ (209)	\$ (201)	\$ (157)	\$ (278)	\$ (258)	\$ (268)	\$ (216)	\$ (62)



4904 Eisenhower Boulevard, Suite 150
Tampa, FL 33634
813.888.5800

Financial Model – Annual: \$10 Flat Fee per entry, \$5 rate increase every 10 years

752 spaces

Revenues

Transient Parking - Flat Rate

Permits

Events

Sub-Total Parking Revenues

Less: Revenue Collection & Loss

(per Space)

Total - Net Revenues

Operating Expenses

Payroll

Utilities

Supplies and Materials

Contract Services

Repairs & Maintenance

Other Expenses

Admin. Overhead

Lease Payment

Total - Operating Expenses

(per Space)

NET OPERATING INCOME

(per Space)

752

Revenues

Transient Parking - Flat Rate

Permits

Events

Sub-Total Parking Revenues

Less: Revenue Collection & Loss

(per Space)

Total - Net Revenues

Operating Expenses

Payroll

Utilities

Supplies and Materials

Contract Services

Repairs & Maintenance

Other Expenses

Admin. Overhead

Lease Payment

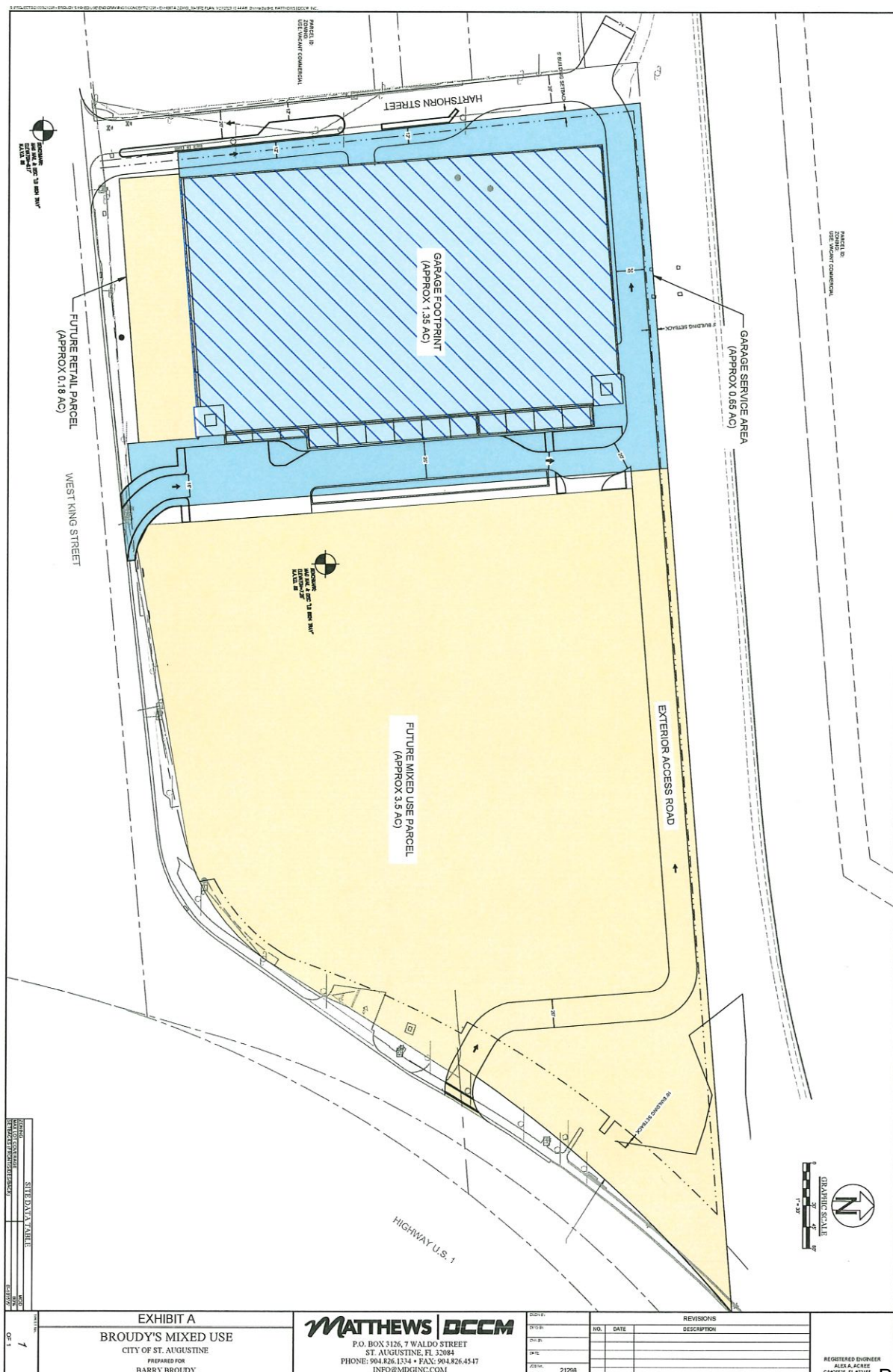
Total - Operating Expenses

(per Space)

NET OPERATING INCOME

(per Space)

752



CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, AICP
City Manager

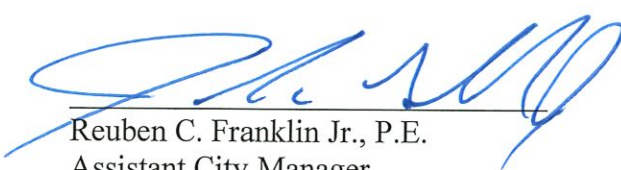
DATE: September 27, 2023

RE: Staff Report: Anastasia Island Mobility Improvements & Fire Station No. 2
Proposed Site Presentation

The city is requesting the State to allow a parcel that is part of Anastasia State Park to be developed as the new island fire station. The existing island fire station located at Anastasia Blvd and Red Cox Rd has outlived its useful life and a new station is needed. The existing site is too small to build a new modern fire station. This is the main reason the city is proposing the new site location. The second reason is that by relocating the fire station this allows FDOT additional land to design and build a roundabout at the Anastasia Blvd, Red Cox Rd and Old Quarry Rd intersection. The intersection improvements will address long-standing safety concerns held by the community.

A public open house is planned to be held on October 5, 2023, to allow the community to hear and provide feedback on this initiative. Attached is a presentation covering the same material for the City Commission. The next steps are to provide feedback to the State so that the Acquisition and Restoration Council (ARC) can decide whether to allow the development or not at their meeting in December 2023. Staff has heard concerns over impacting conservation lands and are proposing purchasing property that borders Fish Island Preserve to mitigate the impacts of the fire station development. Staff also recognize that there is a residential neighborhood surrounding the new fire station location that are concerned about the proposal. If approved, staff will work with the neighborhood to mitigate the impacts of the development as much as possible.

Please let me know if you have any questions.



Reuben C. Franklin Jr., P.E.
Assistant City Manager

cc: City Attorney & Department Heads

Attachment: Anastasia Island Mobility Improvements & Fire Station No. 2 Presentation

Anastasia Island Mobility Improvements & Fire Station No. 2 Proposed Site Presentation

City Commission Meeting
October 9, 2023



Agenda

- Introduction & Background
- Red Cox Rd, Old Quarry Rd & Anastasia Blvd Intersection Improvements
- Proposed Fire Station No. 2 Conceptual Site Design
 - ✓ Proposed Sites Considered
 - ✓ Selected Site Conceptual Design
 - ✓ Proposed Mitigation for Conservation Land Impacts
- Next Steps / Q & A



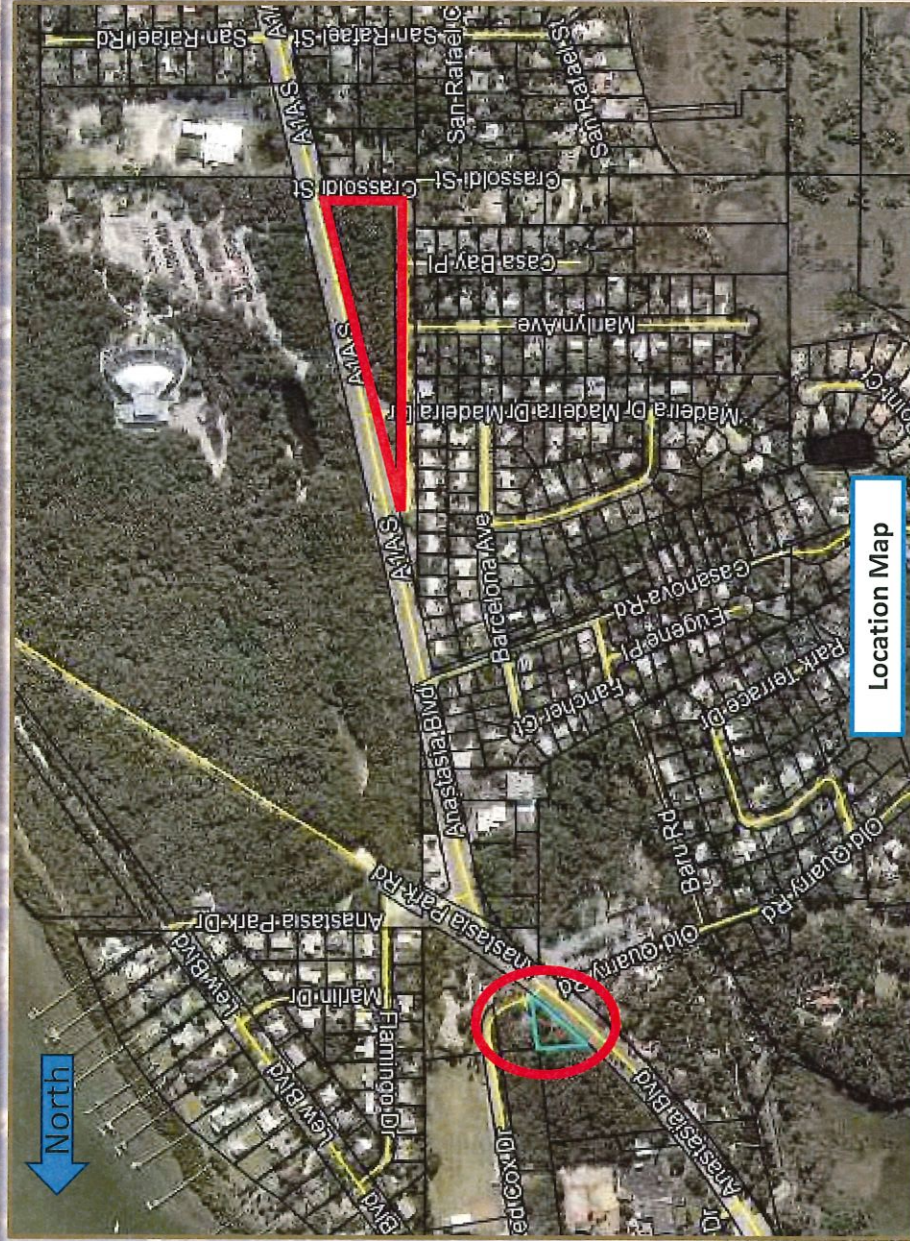


CITY OF
ST. AUGUSTINE.
—EST. 1565—

Introduction & Background

The City has two problems it is trying to solve for the community:

- ☐ Build a modern fire station on the island that meets the needs of the community regarding growth and response time.
- ☐ Design and construct a safe intersection for all users at Anastasia Blvd, Old Quarry Rd and Red Cox Rd.



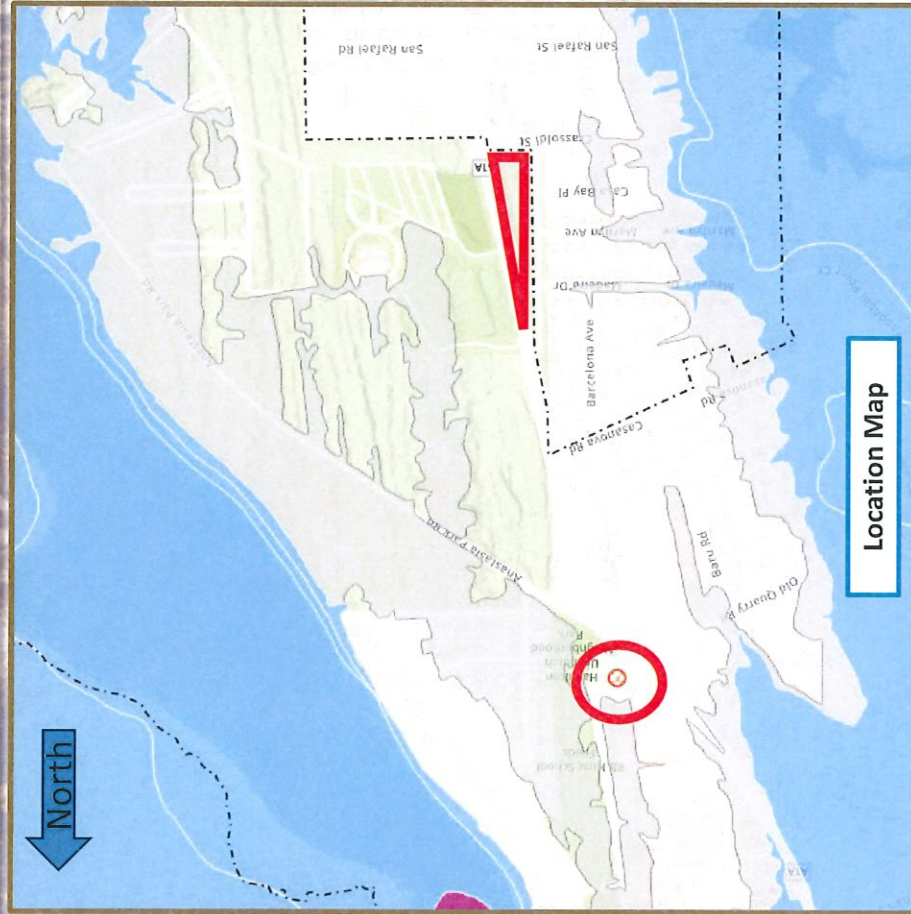


CITY OF
ST AUGUSTINE
— EST. 1565 —

Introduction & Background

The City has two problems it is trying to solve for the community:

- ☐ Build a modern fire station on the island that meets the needs of the community regarding growth and response time.
- ☐ Design and construct a safe intersection for all users at Anastasia Blvd, Old Quarry Rd and Red Cox Rd.



Map Layers

- ☒ Municipal Boundary
- ☒ Special Flood Hazard Areas

- A - 1% ANNUAL NO BFE
- AE - 1% ANNUAL BFE
- AE - COASTAL FLOODPLAIN
- AE - COMBINED RIVERINE AND COASTAL FLOODPLAIN
- AE - FLOODWAY
- AE - RIVERINE FLOODWAY IN COMBINED RIVERINE AND COASTAL ZONE
- AO - 1% ANNUAL SHALLOW DEPTH BFE
- VE - COASTAL FLOODPLAIN
- X - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- X - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD IN COASTAL ZONE
- X - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD IN COMBINED RIVERINE AND COASTAL ZONE
- X - AREA OF MINIMAL FLOOD HAZARD



CITY OF
ST AUGUSTINE
—EST. 1565—

Red Cox Rd, Old Quarry Rd & Anastasia Blvd Intersection Improvements

Why does the intersection need to be improved?

There have been multiple fatalities along this curve, it is difficult to turn left onto Anastasia Blvd from the side streets and there are no crosswalks for people to cross safely.

Why not install a traffic light?

A traffic light is not permitted because of the intersection's geometry. The intersection is located on a curve and the side streets are not perpendicular to Anastasia Blvd.

Why is the solution a proposed roundabout?

A roundabout slows traffic and reduces the ability for deadly accidents. It also provides safe pedestrian crossings and access for vehicles on the side streets. For the roundabout to work, the FDOT needs additional land and that is where the existing fire station is located.

5

Proposed Roundabout



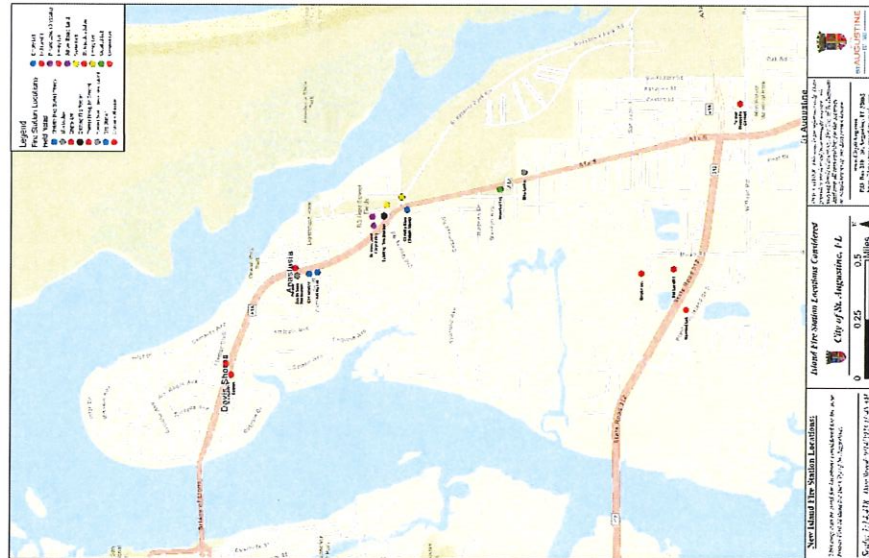


CITY OF
ST. AUGUSTINE
—EST. 1565—

Proposed Fire Station No. 2 Conceptual Site Design

Site Location Analysis Summary

Site Name	Parcel Size (ac)	Response Time Differential (Avista Cir vs Isla Apts.)	Parcel Size is 2 Acres or Larger (Y or N)	Response Time is within 1 minute of Existing Station (Y or N)
Existing Station	.5 acres	NFPA 1710 performance objective of <= 426 seconds for first unit arrival. (7.1 minutes)	N	--
Gas station @ Carver St.	.49 acres	-1 minute / +2 minutes	N	Y
Empty lot @ Carver St.	.65 acres	-1 minute / +2 minutes	N	Y
Former South Seas	.39 acres	-1 minute / +2 minutes	N	Y
Empty lot @ Busam St.	.64 acres	-1 minute / +2 minutes	N	Y
Grower's Alliance	.36 acres	-2 minutes / +3 minutes	N	N
Stampede's	.30 acres	-2 minutes / +3 minutes	N	N
Private Land (Drysdale)	1.70 acres	Negligible differential	N	Y
School Board land	1.22 acres	Negligible differential	N	Y
Empty lot @ ASP	.34 acres	Negligible differential	N	Y
Christie Blue retail store	.54 acres	Negligible differential	N	Y
Wooded lot @ AMP	2.89 acres	+1 minute / -1 minute	Y	Y
Former Mosquito Ctrl.	3.2 acres	+4 minutes / -1 minute	Y	N
Wooded Lot @ P.I.D.	2.88 acres	+6 minutes / -3 minutes	Y	N
Old landfill	3.46 acres	+6 minutes / -2 minutes	Y	N
Lot behind landfill	4.24 acres	+6 minutes / -2 minutes	Y	N
Skate Park	.94 acres	Negligible differential	N	Y





CITY OF
STAUGUSTINE
—EST. 1565—

Proposed Fire Station No. 2 Conceptual Site Design

Proposed Fire Station No. 2



Selected Site Analysis

- Total Site Area: 2.89 acres
- Conservation Area: 1.35 acres
- Fire Station Area: 1.45 acres
- Existing Road Area: 0.09 acres

Note: The proposed fire station footprint is half the site. The City will manage and keep the remainder of the site in conservation.



CITY OF
ST AUGUSTINE
—EST. 1565—

Proposed Fire Station No. 2 Conceptual Site Design

Anastasia State Park Approved Unit Management Plan

Anastasia State Park

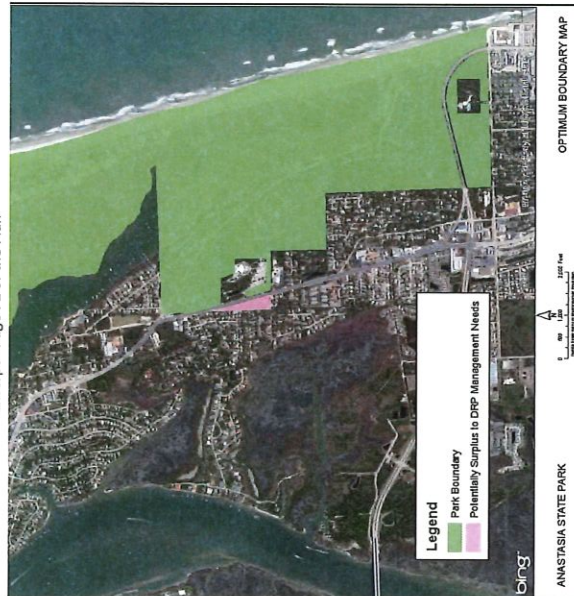
APPROVED Unit Management Plan

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Recreation and Parks
June 17, 2016



A small parcel located across State Road A1A from the park office driveway has been identified for surplus (see Optimum Boundary Map). This 5-acre property is not connected to the main body of the park and offers little in the way of resource, recreational, or operational value.

Excerpt - Page 71 of the Plan



Why is the City asking the State to consider this site for the proposed fire station?

The site is identified in the state's approved management plan for surplus (see pg. 71 of the plan). The property is not connected to the main body of the park and offers little in the way of resource, recreational, or operational value per the plan.

A modern fire station will provide better service to the state park and surrounding area improving public safety for everyone.



CITY OF
ST AUGUSTINE
—EST. 1565—

Proposed Fire Station No. 2 Conceptual Site Design

Proposed Fire Station No. 2

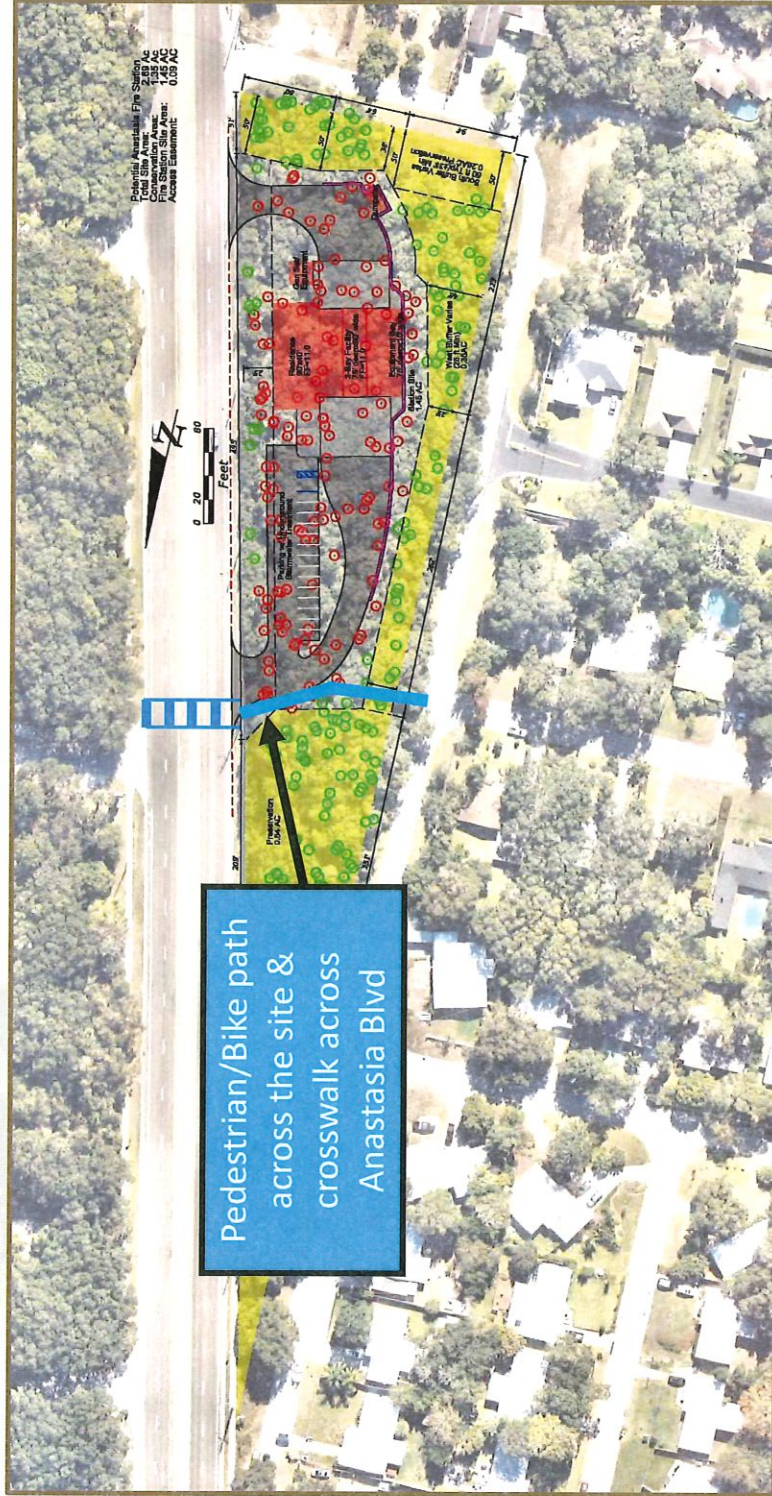


Design Elements to Mitigate Impacts to the Surrounding Residential Neighborhood

- Driveway accesses located on Anastasia Blvd
- Underground stormwater retention (all stormwater will be detained onsite and discharged to the Anastasia Blvd stormwater collection system)
- Retaining wall along the backside of the station to reduce noise and keep the existing dune and trees intact so a natural buffer can remain in place
- What else would the neighborhood like to incorporate?

Proposed Fire Station No. 2 Conceptual Site Design

Proposed Fire Station No. 2



Potential Design Elements to include for the Residential Neighborhood

- Include a sidewalk for pedestrian/bike access across the site to Anastasia Blvd
- Work with FDOT to design and construct a pedestrian crosswalk across Anastasia Blvd in conjunction with the fire station development
- What other elements does the neighborhood want?

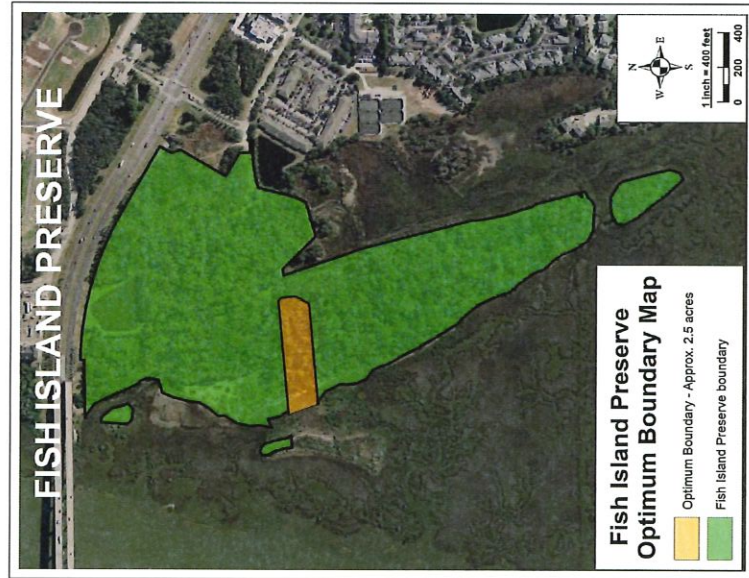


CITY OF
ST AUGUSTINE
—EST. 1565—

Proposed Fire Station No. 2 Conceptual Site Design

Fish Island Preserve Approved Land Management Plan

Map 8 - Optimum Boundary Map



Proposed Mitigation for Conservation Land Impacts

The City proposes to buy a 2.5-acre parcel that is located on the western boundary of Fish Island Preserve and donate it to the State so that it can be incorporated into Fish Island Preserve and managed by the City.

This parcel is identified as an optimum boundary to acquire and contains significant cultural resources that will enhance the resource value of Fish Island Preserve.

The City plans to impact 1.5 acres of conservation land with the fire station and this proposal would mitigate that impact and add an additional 1-acre of conservation land on the island.

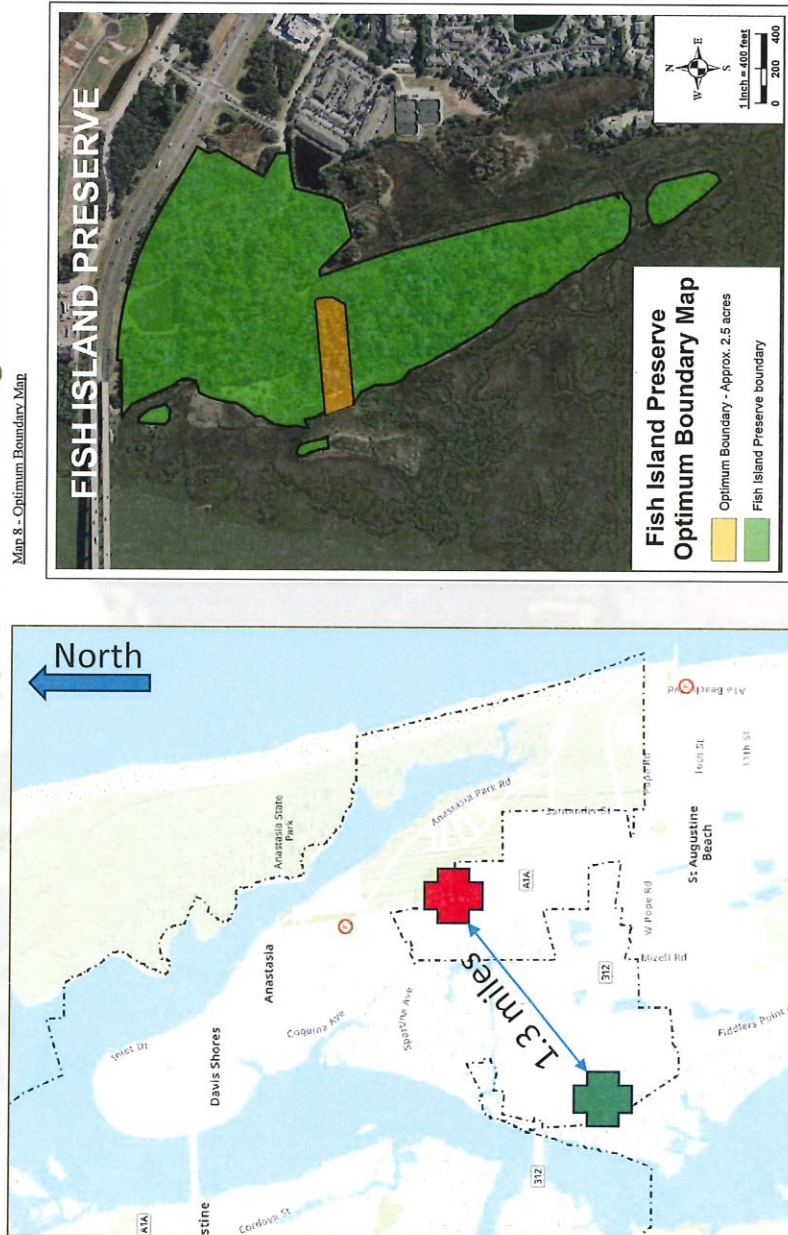


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CITY OF
ST AUGUSTINE
— EST. 1565 —

Next Steps....

1. Provide feedback from public meetings to FDEP by October 13, 2023.
2. FDEP submits agenda item by October 27, 2023, for the Acquisition and Restoration Council (ARC) meeting on December 7, 2023.
3. ARC decides whether the property will be redesignated as non conservation land allowing the City to enter a lease agreement with the State to develop the fire station on the site.

Q & A

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor and Commissioners
DATE: September 20, 2023
RE: Notification of one (1) vacancy – Civil Service Board

Notification is being made to the Commission regarding a vacancy on the Civil Service Board. The vacancy is due to the resignation of Les Stern. The term currently expires January 1, 2024.

An advertisement requesting applications will be placed in the St. Augustine Record and posted on the City's website.

Attached is the current Civil Service roster, Board profile, and responsibilities.

Sincerely,

A handwritten signature in blue ink that reads "Darlene Salambos". The signature is fluid and cursive, with the first name "Darlene" and last name "Salambos" clearly distinguishable.

City Clerk

xc: CSB Clerk's File

CIVIL SERVICE BOARD

Authorization:	City Charter, Article X.5
Number of Members:	Five 5; with two 2 ex-officio members police and fire chiefs with voice in proceeding but no vote.
Terms of Office:	Commission appointed members – four 4 years; elected members – three (3) years. <i>(Ord. 2019-19: Referendum question regarding the extension of term limits for police and fire representatives to 3 years passed at the March 17th, 2020 Presidential Preference Primary election)</i>
Appointment:	Three 3 appointed by City Commission; one 1 elected from within Police Dept; one 1 elected from within Fire Dept.
Re-appointments:	Normal terms expire in January.
Qualifications:	Must be of different vocations; not employed by the City in any capacity, official or otherwise.
Duties:	Adopt, enact, and amend a code of rules and regulations. The code covers the regulations for the conduct and direction of the members of the police and fire departments and prescribes discipline and control; provides for examinations and lists of those eligible for employment and promotion; hears appeals of discharged and suspended employees.
Attendance:	Ordinance 2018-11 amended Sec. 2-191 to remove the language regarding meeting attendance and instead states <u>"Members of Boards may be removed by majority vote of the Commission, upon notice of the intent to remove the Board member mailed to the address on record at the office of the city clerk by certified U.S. mail, return receipt requested, and a hearing before the City Commission providing the member an opportunity to be heard"</u> .
Meetings:	Meets third Wednesday each January and June for annual reorganization; thereafter meets on call.

CIVIL SERVICE BOARD

Meets 3rd Wednesday in January and June at 10:00 A.M. and on call
Alcazar Conference Room, City Hall

Board Member	Contact information	Appointment	4-Year Appointed Terms Expire
Steve Moranda CHAIR Retired	4220 Wicks Branch Road 32086 794-2780 794-0296 sssmoranda@gmail.com	12/12/04 12/08/08 12/10/12 12/12/16 12/14/20	01/01/2025
Loran Lueders Retired	dleleven@aol.com	12/12/16 filled vacancy 12/14/20	01/01/2025
Leslie "Les" Stern VICE-CHAIR Retired	1100 Kilmarin Court 32084 824-2638 fcsi1924@gmail.com	02/24/14 filled vacancy 12/14/15 09/28/20	01/01/2024
Elected Board Members	Contact Information	Election Date	3-Year Term Expiration
Sean Canning Police Representative	209-3422 315-1756 scanning@staugpd.com	8/13/2021 12/2021	01/01/25
Brandon Seymour Fire Representative	825-1098 bseymour88@ymail.com	2//2018 3/17/20 12/2022	01/01/26
EX-OFFICIO MEMBERS			
Jennifer Michaux Chief of Police	825-1075 jmichaux@staugpd.com		
Carlos Aviles Fire Chief	825-1099 caviles@citystaug.com		

CITY OF ST. AUGUSTINE

City Commission Special Meeting
Thursday, August 24, 2023

The City Commission met in formal session Thursday, August 24, 2023, at 10:00 A.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Nancy Sikes-Kline, and the following were present:

1. Roll Call: Nancy Sikes-Kline, Mayor/City Commissioner
Roxanne Horvath, Vice Mayor/City Commissioner (left at 11:06 a.m.)
Barbara Blonder, City Commissioner
Cynthia Garris, City Commissioner
Jim Springfield, City Commissioner

Also Present: Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Meredith Breidenstein, Assistant City Manager
Reuben Franklin, Assistant City Manager
Todd Grant, Director, Public Works
Stephen Slaughter, Director, Utilities
Amy Skinner, Director, Planning and Building
Donna Hayes, Director, Human Resources
Jennifer Michaux, Police Chief
Carlos Aviles, Fire Chief
Elyse Wiemann, Recording Secretary
Michele Fudo, Recording Secretary

2. General Public Comments

The Commissioners heard from the following members of the public:

- BJ Kalaidi

3. Presentation of Fiscal Year 2024 Proposed Budget.

3.A. Discussion of Budget (M. Simpson, Director Finance)

Mr. Simpson reviewed the proposed budget with the Commission and noted this could be amended as needed. He said the final budget would be adopted in September 2023. He highlighted the following items:

- Millage rate stayed at 7.5 mills. Resulting in \$3 million net additional ad valorem revenue
- Visitor Information Center (VIC) Fund increases transfer for Mobility & Historic Preservation (HP)
- Fire assessment fee added \$360,000 in revenue to help offset Fire Department expenses
- VIC parking fee increase adds \$1.5 million in revenue to assist with HP, Mobility, and potentially the homeless drop-in center.
- Utility rates and rental charges increase by 4.4% Consumer Price Index (CPI)
- Vacation rental fee increases helps offset cost of the program
- No increase in park now card rates
- Legislature to help with City Hall and Lightner building windows

- Paving increased by \$200,000 over prior year budget for total of \$800,000
- Twenty new personnel were added totaling \$1.25 million
- Personnel compensation includes CPI increase of \$1 per hour plus 2%. Also included a merit increase based on annual evaluations
- A transfer of \$1,000,000 from General Fund reserves could provide seed money for a Conservation Land Acquisition program

Mayor Sikes-Kline asked for clarification regarding what percentage of properties were off the tax roll.

Mr. Simpson said at this time he did not have that information; however, could obtain it from the Property Appraisers office. He said he wanted to collect data regarding how much was collected from businesses and would try to provide that information before the first budget hearing.

Mr. Simpson reviewed the total budget revenues and the total budget expenditures. He pointed out that the debt service was 5%, which was down last year at 9%.

Commissioner Garris asked for more explanation regarding Culture and Recreation.

Mr. Simpson replied, it included the grounds budget as well as Melissa Wissel Communication Directors budget.

Ms. Breidenstein commented that the Marina was a large part of that budget.

Mr. Simpson reviewed the Personnel Summary for FY2024 and discussed the need for the personnel requests.

Ms. Breidenstein commented that the two police officers were hired in FY23 as over strength positions, she said the request was to make those permanent positions. She said there would be one addition of a

Corporal for the contracts with the school board, Flagler College, the addition of St. Joes, and to assist with special events when needed.

At the request of Commissioner Blonder, Ms. Breidenstein clarified there was a position added last year in Building & Code Enforcement, and at this point that position had not been filled. She said the new request was for one additional personnel in that department.

Mayor Sikes-Kline asked if the assumptions were correct and if the Commission agreed with them particularly on the revenue side with the parking fee increases. She suggested considering an additional code enforcement officer in case there was a need for nighttime enforcement if the proposed nightlife ordinance passed.

Commissioner Springfield felt even if the nighttime ordinance passed or not, there was a need for code enforcement at night. He said most of the positions were paid for by fees. He said there were only six positions being added to the general fund. He asked how the building and code enforcement were funded. He noted that not all twenty positions were paid for by the Ad Valorem taxpayers.

Mr. Simpson stated the police and IT personnel were funded through Ad Valorem tax; however, the customer service representative was paid through fees. He said they were offset by building permit fees but not completely.

Commissioner Garris questioned why there was not additional personnel added to the facilities department.

Ms. Breidenstein replied every position was being replaced that had either retired or had been promoted. She said no positions were being eliminated.

At the request of Commissioner Blonder, Mr. Grant advised the Sustainability Officer Technician job description was being refined. He said it would focus on the "Race to Zero" campaign, city structures regarding carbon footprint, finding grant monies to help with solar installations, work within City departments with the sustainability program, and do outreach in the community to create programs or provide education for a more sustainable City.

Mr. Simpson continued to review the budget with the Commission as listed:

- General Fund Expenditures by Category and Budget Summary
- Utility Fund by Function and Expenses by Detail
- Stormwater Revenue by Function and by Detail
- Solid Waster Budget Summary
- Marina Revenue by Function and Budget Summary
- Visitor Information Center (VIC) Revenue and Budget Summary
- Historic Preservation Transfers from VIC
- Strategic Action Plan

Commissioner Blonder questioned the Fire Assessment fee and asked for clarification as she felt it was lower than it should be.

Ms. Breidenstein advised the \$360,000 was an increase. She said the total fire assessment fee was in the millions. She said this was a rate increase.

Mayor Sikes-Kline questioned the larger decreases in the various Operating Expenditures. She understood it all balanced but questioned why Historic Preservation was decreased by 37%.

Ms. Breidenstein said it was due to grants that were for Historic Preservation and one-time expenses. She noted she could provide specific information on those particular projects.

Commissioner Springfield suggested continuing to operate the City with a lean amount of personnel but an appropriate amount, as there could be a down year.

Commissioner Blonder expressed her excitement regarding the monies that were moved to the land acquisition fund, and thanked Commissioner Garris for the monetary suggestion.

Mr. Simpson noted the Utility Fund revenues were increasing by 4.4% to maintain the CPI; however, lowering the surcharge for outside the City from 19% to 18%.

Mayor Sikes-Kline understood the utilities collected outside the City were vast but did not know it was almost \$9 million, which was almost 50% of the revenue.

Ms. Breidenstein stated that was the reason for the extra utility crew to assist with the maintenance.

Mr. Simpson noted those clients helped offset the general fund with the administrative transfer.

Mayor Sikes-Kline questioned why the operating revenue at the Marine budget was down.

Mr. Simpson replied that the fuel cost last year was more expensive, but the cost was less this year, and that saving was passed on. He said the mooring field and docks were full most of the time.

Commissioner Blonder felt an additional Code Enforcement officer would be beneficial. She noted she received many emails regarding response time and felt this was a way to help with that request.

Mr. Simpson advised he could add an additional Code Enforcement Officer to the budget if that was the request of the Commission.

Commissioner Springfield, Commissioner Blonder and Commissioner Garris agreed to add the additional officer.

Mayor Sikes-Kline asked for Mr. Simpson to review it to find out what would work best as the police department had trained officers and equipment to help with the noise complaints.

Commissioner Garris said she spoke with the Police department, and it was costly for the training; however, Code Enforcement had the equipment and felt they were able to do it. She said the key was to train someone in Code Enforcement and have them work the hours that were conducive to the noise.

Commissioner Springfield said adding a Code Enforcement officer would free up a police officer for another task.

Mayor Sikes-Kline agreed; however, felt it should be left up to staff as there was equipment and training needed. She asked for a recommendation from staff that would work for everyone and accomplish the goals.

Mr. Simpson said this would not be a huge burden on any budget as there were monies in the City Managers budget to help with strategic items.

Commissioner Springfield stated there was a good amount of income from franchise fees or tour trains, which spoke about the history of the City. He suggested moving some of the franchise fees to help with Historic Preservation fund. He felt this was an appropriate use of franchise funds. He continued the CPI was 4.4% and suggested explaining exactly what the CPI was and how it was associated with inflation and cost.

Mr. Simpson pointed out page 41 which was how the budget was tied to the strategic plan and vision plan. He said a financial plan should achieve the goals.

Commissioner Blonder thanked Mr. Simpson for providing that information as she felt it was essential.

Mr. Simpson provided the dates for the next budget meetings:

- September 14, 2023, 5:05p.m.
- September 14, 2023, CRA 4:30 p.m.
- September 28, 2023, at 5:05 p.m.

4. Adjournment

There being no further business, the meeting was adjourned at 11:23 A.M.¹

Nancy Sikes-Kline, MAYOR

Darlene Galambos, CITY CLERK

¹ Transcribed by Elyse Wiemann

CITY OF ST. AUGUSTINE

City Commission Shade Meeting
Monday, August 28, 2023

The City Commission met in formal session Monday, August 28, 2023, at 4:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Nancy Sikes-Kline, and the following were present:

1. Roll Call: Nancy Sikes-Kline, Mayor/City Commissioner
Roxanne Horvath, Vice Mayor/City Commissioner
Cynthia Garris, City Commissioner

Absent: Barbara Blonder, City Commissioner
Jim Springfield, City Commissioner

David Birchim, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Jennifer Michaux, Police Chief
Elyse Wiemann, Recording Secretary
Michele Fudo, Recording Secretary

2. Public Comment

(None)

3. City Attorney requests the advice of the City Commission regarding the Court's Order issued in litigation for:

☐ **Case No.: AP22-0005 – Jessica Blair Shafer v. City of St. Augustine, Florida.**

☐ **Participants shall be limited to: City Commission - Mayor Nancy Sikes-Kline, Vice-Mayor Roxanne Horvath, Commissioner Barbara Blonder, Commissioner Cynthia Garris, and Commissioner Jim Springfield; City Manager David Birchim, City Attorney Isabelle Lopez, and a Certified Court Reporter Melissa Schroder**

4. Recess to the Alcazar Conference Room for Shade Meeting.

The Board recessed at 4:02 p.m.

5. Re-open Special Meeting.

The Board reconvened at 4:18 p.m.

6. Any matters to be decided in the public meeting, followed by adjournment.

Ms. Lopez confirmed that direction provided during the shade was to not appeal to the fifth district court the ruling in Shaffer versus City of St. Augustine, and to place on a future agenda the after-the-fact permit for the Shaffer's wall.

There was Board consensus confirming the discussion that took place.

There being no further business, the meeting was adjourned at 4:19 P.M.¹

Nancy Sikes-Kline, MAYOR

Darlene Galambos, CITY CLERK

¹ Transcribed by Elyse Wiemann

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

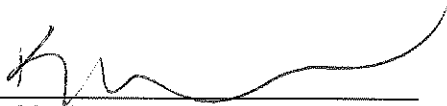
DATE: September 25, 2023

RE: **SATISFACTION AND RELEASE OF UTILITY MORTGAGE – 2848 N. EIGHTH STREET**

Enclosed is a Satisfaction and Release of Mortgage for 2848 N. Eighth Street, regarding the Unit Connection Fee Mortgage and Promissory Note executed between the City of St. Augustine, Timothy M. Davis, and Jasmine Davis. The mortgage was recorded in the Public Records of St. Johns County on February 19, 2020. Copies of the Unit Connection Fee Mortgage and Promissory Note are enclosed as well for reference.

Please place this Release and Satisfaction of Mortgage on the consent agenda for consideration and execution at the October 9, 2023 City Commission meeting.

Please contact me if you have any questions or comments. Thank you.

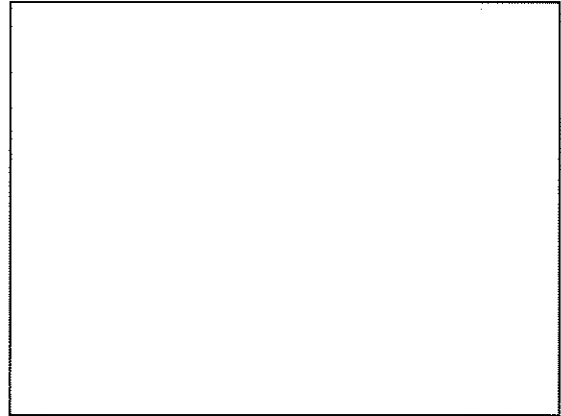


Kelly M. Traynor
Assistant City Attorney

/sl
Attachment

xc: Darlene Galambos, City Clerk (with original)

This instrument was prepared under the supervision
and direction of Isabelle C. Lopez, City Attorney,
P.O. Box 210, St. Augustine, Florida 32085



**SATISFACTION AND
RELEASE OF MORTGAGE**

KNOW ALL MEN BY THESE PRESENTS:

THE CITY OF ST. AUGUSTINE, a municipal corporation organized and existing under the laws of the State of Florida, whose mailing address is P.O. Box 210, St. Augustine, Florida, 32085-0210 (hereinafter referred to as "Mortgagee"), in consideration of the covenants and agreements set forth hereinafter, hereby releases **TIMOTHY M. DAVIS and JASMINE DAVIS**, whose address is 2848 N. Eighth Street, St. Augustine, Florida 32084, their heirs, assigns or successors in title (hereinafter referred to as "Mortgagors"), from the Mortgage entitled, "Unit Connection Fee Mortgage," executed between the parties and dated January 15, 2020, recorded at Official Records Book 4885, Page 1006, of the Public Records of St. Johns County, Florida, and relating to that certain lot, parcel or piece of land situated in the City of St. Augustine, St. Johns County, Florida, described in **Exhibit "A"** attached hereto and incorporated herein.

Mortgagee hereby releases said Mortgagors from any obligations created by or existing by virtue of said Mortgage and the Promissory Note relating thereto recorded at Official Record Book 4885, Page 1006, of the Public Records of St. Johns County, Florida, and such obligations related to said documents have been fully performed and are therefore satisfied.

IN WITNESS WHEREOF, this Satisfaction and Release of Mortgage has been duly signed and executed by the Mortgagee, this ____ day of _____, 2023.

ATTEST:

CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation

Darlene Galambos, City Clerk
(S E A L)

By: _____
Nancy Sikes-Kline, Mayor-Commissioner

I **HEREBY CERTIFY** that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, by means of ☐ physical presence or ☐ online notarization, **Nancy Sikes-Kline**, who is personally known to me, who is the person who executed the foregoing instrument and who acknowledged before me that she executed the same for the uses and purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 2023.

Notary Public, State of Florida

(S E A L)

EXHIBIT "A"

LEGAL DESCRIPTION: LOT TWENTY (20) AND THE NORTH ONE-HALF (N1/2} OF LOT EIGHTEEN (18) OF BLOCK SEVEN (7) OF PONCE DE LEON HEIGHTS, UNIT No. 1, AS PER MAP OR PLAT THEREOF RECORDED IN MAP BOOK 3, PAGE 73 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

PARCEL ID NUMBER: 085440-0180

LOCATION ADDRESS: 2848 N. EIGHTH STREET, ST. AUGUSTINE, FLORIDA 32084

**UNIT CONNECTION FEE
MORTGAGE**

THIS MORTGAGE, by and between **Timothy M. Davis and Jasmine Davis** whose address is 2848 N Eighth Street, Saint Augustine, FL 32084 (hereinafter called "Mortgagor") and **CITY OF ST. AUGUSTINE, FLORIDA**, a municipal corporation organized under the laws of the State of Florida, whose address is P.O. Box 210, Attention Financial Services Dept., St. Augustine, Florida, 32085 (hereinafter called "Mortgagee").

WITNESSETH that for good and valuable consideration, and also in consideration of the Mortgagee's deferment of certain water and/or sewer unit connection fees owed by the Mortgagor to the Mortgagee as evidenced by the Unit Connection Fee Promissory Note hereinafter described, the said Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the said Mortgagee all that certain piece, parcel or tract of land of which the said Mortgagor is now seized and possessed and in actual possession, situate in the county of St. Johns and state of Florida, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Together with all structures and improvements now and hereafter on said land, and the fixtures attached thereto.

To have and to hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and also all the estate, right, title, interest, homestead, separate estate, possession, claim and demand whatsoever, as well in law as in equity, of the said Mortgagor in and to the same, and every part thereof, unto the said Mortgagee, in fee simple.

And the Mortgagor hereby covenants with the Mortgagee that it is indefeasibly seized of said land in fee simple; that it has full power and lawful right to convey the same in fee simple as aforesaid; and that said Mortgagor will make such further assurances to prove the fee simple title to said land to said Mortgagee as may be reasonably required.

Provided always, and these presents are executed and delivered upon the following conditions, to-wit:

The Mortgagor agrees to timely pay the Mortgagee, or order, the payments described in the copy of the Unit Connection Fee Promissory Note attached hereto as Exhibit "B" in the manner and at the times described therein.

And shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions, and covenants of said Promissory Note and of this mortgage, then this mortgage and the estate hereby created shall cease and be null and void.

And the Mortgagor further covenants as follows:

1. That it will pay all and singular the costs, charges and expenses, including reasonable attorney's fees, and costs of abstracts of title, incurred or paid at any time by the Mortgagee because of the failure on the part of the Mortgagor promptly and fully to perform the agreements and covenants of said Promissory Note and this mortgage, and said costs, charges and expenses shall be immediately due and payable and shall be secured by the lien of this mortgage.

2. That (a) in the event of any breach of this mortgage or any mortgage superior or junior hereto or default on the part of the Mortgagor under this or any other mortgage encumbering the property mortgaged hereby, or (b) in the event that any of said sums of money herein referred to be not promptly and fully paid without demand or notice, or (c) in the event that each and every of the stipulations, agreements, conditions and covenants of said note and this mortgage are not promptly and fully performed, then in either or any such event, the said aggregate sum mentioned in said note then remaining unpaid, with interest accrued to that time, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said note or in this mortgage to the contrary notwithstanding; and thereupon or thereafter, at the option of said Mortgagee, without notice or demand, suit at law or in equity May be prosecuted as if all moneys secured hereby had matured prior to its institution. The Mortgagee May foreclose this mortgage, as to the amount so declared due and payable, and the said premises shall be sold to satisfy and pay the same, together with costs, expenses and allowances.

3. That the Mortgagee will make monthly payments in the amount of \$64.01 for 60 months, with the first payment due February 15, 2020.

IN WITNESS WHEREOF, the Mortgagor has hereunto set its hand and seal, this
January 15th, 2020

Signed, sealed and delivered in the presence of:

Amanda Anderson
Witness
Printed Name: Amanda Anderson

Sonja Augustus
Witness
Printed Name: Sonja Augustus

Amanda Anderson
Witness
Printed Name: Amanda Anderson

Sonja Augustus
Witness
Printed Name: Sonja Augustus

BY: Timothy Davis
(Name) Timothy Davis
(Address) 2848 N Eighth Street
St. Augustine, FL 32084
(Telephone) (904) 667-3122

BY: Jasmine Davis
(Name) Jasmine Davis
(Address) 2848 N Eighth Street
St. Augustine, FL 32084
(Telephone) (904) 667-3122

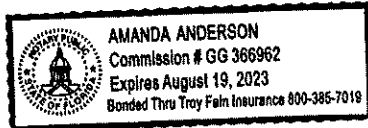
*** NOTARY CERTIFICATION APPEARS ON THE FOLLOWING PAGE ***

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

STATE OF Florida
COUNTY OF St. Johns

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, **Timothy M. Davis**, by means of ☒ physical presence or ☐ online notarization, who is personally known to me or who has produced Drivers License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this January 15, 2020.



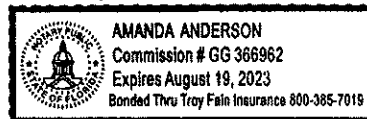
Amanda Anderson
Notary Public, State of Florida

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

STATE OF Florida
COUNTY OF St. Johns

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, **Jasmine Davis**, by means of ☒ physical presence or ☐ online notarization who is personally known to me or who has produced Drivers License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this January 15, 2020.



Amanda Anderson
Notary Public, State of Florida

Exhibit "A"

LEGAL DESCRIPTION

Lot Twenty (20) and the North One-Half (N1/2) of Lot Eighteen (18) of Block Seven (7) of PONCE DE LEON HEIGHTS, Unit No. 1, as per map or plat thereof recorded in Map Book 3, Page 73 of the public records of St. Johns County, Florida.

Parcel ID Number: 0854400180

**UNIT CONNECTION FEE
PROMISSORY NOTE**

APPLICANT(S) NAME: Timothy M Davis and Jasmine Davis
ADDRESS: 2848 N Eighth Street
St. Augustine, FL. 32084

\$3,406.00

St. Augustine, Florida

FOR VALUE RECEIVED, and as payment for certain unit connection fees on premises located at 2848 N Eighth Street, Saint Augustine, Florida 32084 the undersigned, jointly and severally, promises to pay to the order of **CITY OF ST. AUGUSTINE, P.O. Box 210, St. Augustine, Florida, 32085**, or elsewhere as the holder hereof may from time to time require, the principal sum of **\$3,406.00 Dollars**, together with interest on so much of said principal sum as remains from time to time outstanding and unpaid, at the rate of **4.83 percent** per annum from the date hereof until paid. Said principal and interest shall be paid in equal consecutive monthly installments of **64.01 Dollars**, commencing on February 15, 2020 and continuing on the same date each and every month thereafter until paid in full, said installments to be applied first to interest and the balance to principal.

The maker(s) hereof waives presentment for payment and demand. Time is of the essence hereof. It is expressly agreed that if this Note or any part or installment thereof be not paid within ten (10) days after the same becomes due and payable, anything herein to the contrary notwithstanding, the maker(s) hereof understands that all unpaid sums shall immediately be due and payable at once, without notice or demand, together with all costs of collection, including reasonable attorney's fees, whether suit be filed or not.

The maker(s) hereof may prepay any part of the principal sum hereof in any amount at any time, but any such prepayment shall not relieve the maker(s) hereof from making payment of the installment then due nor any subsequent installment provided hereby, unless at the time of such prepayment the maker(s) hereof pays all sums hereon.

Any waiver of the right to exercise any option by the holder hereof shall not constitute a waiver of the right to exercise said option at any future time.

All notices, demand, presentment, dishonor and requirements under any law of Florida are hereby expressly waived.

Note: Fl. Stat. 159.17 – Lien of services charges – any municipality issuing revenue bonds hereunder shall have a lien on all lands or premises served by any water system, sewer system or gas system for all service charges for such facilities until paid, which liens shall be prior to all other liens on such lands or premises except the lien of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such liens, when delinquent for more than 30 days, may be foreclosed by such municipality in the manner provided by the laws of Florida for the foreclosure of mortgages on real property.

Exhibit "B"

This Note is secured by and subject to the terms of a mortgage (or a letter of credit) of even date herewith.

Signed, sealed and delivered dated as of January 15th, 2020, in the presence of:

Amanda Anderson

Witness

Printed Name: Amanda Anderson

John Augustus

Witness

Printed Name: John Augustus

BY:

Timothy M. Davis

(Name) Timothy M. Davis

(Address) 2848 North Eighth Street
Saint Augustine, FL 32084

(Telephone) (904) 667-3122

This Note is secured by and subject to the terms of a mortgage (or a letter of credit) of even date herewith.

Signed, sealed and delivered dated as of January 15th, 2020, in the presence of:

Amanda Anderson

Witness

Printed Name: Amanda Anderson

John Augustus

Witness

Printed Name: John Augustus

BY:

Jasmine Davis

(Name) Jasmine Davis

(Address) 2848 North Eighth Street
Saint Augustine, FL 32084

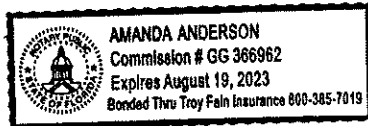
(Telephone) (904) 667-3122

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

STATE OF Florida
COUNTY OF St. Johns

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Timothy M. Davis, by means of [x] physical presence or [] online notarization, who is personally known to me or who has produced Driver's License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 15th, January 2020



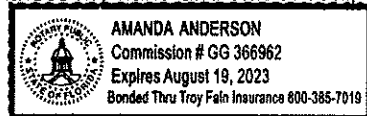
Amanda Anderson
Notary Public, State of Florida

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

STATE OF Florida
COUNTY OF St. Johns

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Jasmine Davis, by means of [x] physical presence or [] online notarization who is personally known to me or who has produced Driver's License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 15th, January 2020



Amanda Anderson
Notary Public, State of Florida

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim. AICP
City Manager

DATE: September 27, 2023

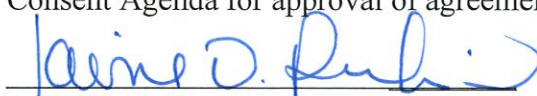
RE: Municipal Subrecipient Subaward Funding Agreement
Authorization to sign the agreement, accept the award, and proceed with project.

The Neighborhood Services and Community Redevelopment Agency (CRA) Manager is asking that the attached subrecipient agreement: American Rescue Plan Act (ARPA) of 2021 Municipal Subrecipient Subaward Funding Agreement by and between St. Johns County and the City of St. Augustine be placed on the Consent Agenda for the October 9, 2023, Regular Commission Meeting.

Attached please find the subrecipient agreement. St. Johns County has agreed to remit a portion of the County's Coronavirus Relief Fund allocation in the amount of \$211,438, to be used to fund the improvement of basketball/sports courts located at Eddie Vickers Park, as it is outlined in the attached scope of work. To proceed with the execution of this agreement, authorization must be granted from the City Commission approving the City Manager to sign on behalf of the municipality. The execution of this agreement allows the CRA to move forward with a long awaited capital improvement project and commence the rehabilitation of a valued recreational space.

Recommendation | Action Item:

Place the subrecipient agreement on the Monday, October 9, 2023 Regular Commission Meeting Consent Agenda for approval of agreement execution.


Jaime D. Perkins
Neighborhood Services and CRA Manager

cc: Reuben C. Franklin, Assistant City Manager

Attachments:

American Rescue Plan Act (ARPA) of 2021 Municipal Subrecipient Subaward Funding Agreement by and Between St. Johns County and the City of St. Augustine, Exhibit A-Scope of Work

AMERICAN RESCUE PLAN ACT OF 2021 (ARPA)
MUNICIPAL SUBRECIPIENT SUBAWARD FUNDING AGREEMENT
BY AND BETWEEN
ST. JOHNS COUNTY
AND
THE CITY OF ST. AUGUSTINE

This Agreement is made and entered into by and between St. Johns County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY", and the City of St. Augustine, a Florida Municipal entity, hereinafter referred to as "SUBRECIPIENT" for the purpose of sub-awarding to the SUBRECIPIENT a portion of the COUNTY'S Coronavirus Relief Fund allocation provided by the American Rescue Plan Act of 2021("ARPA"), Public Law Number 117-2, to be used by the SUBRECIPIENT as reimbursement for the SUBRECIPIENT's eligible, necessary expenditures incurred due to the public health emergency with respect to COVID-19.

NOW, THEREFORE, in consideration of the mutual understanding and covenants set forth herein, the COUNTY and SUBRECIPIENT agree and stipulate as follows:

1. Duration of Agreement

This Agreement shall be effective beginning on September 1, 2023, and shall expire on December 31, 2024, unless terminated earlier in accordance with Section 15 of this Agreement, extended by a mutually agreed-upon, written amendment to this Agreement, or otherwise extended through enactment of applicable state or federal legislation. This Agreement shall survive and remain in effect after expiration or early termination for the herein referenced State and Federal audit requirements and the referenced required records retention periods.

ARPA is a Federal Grant with timelines for performance. Subrecipient acknowledges that they understand those grant requirements and will perform within those timelines or the County may recoup all funds determines are ineligible under the Coronavirus Relief Fund provided by the ARPA, see Section 7 regarding RECOUPMENT for further information.

2. ARPA Funding: Restrictions and Use

- a. ***Restrictions.*** The Subrecipient understands and agrees that it must comply with the eligible use criteria and corresponding reporting responsibilities applicable to the Services the Subrecipient will provide, as established in the ARPA and associated regulations, including the Final Rule, and as set forth in the *Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds* published February 28,

2022 by the U.S. Department of the Treasury (“Treasury”), in addition to any amendments that may subsequently be made to these regulations, guidance or other associated rules. The same shall be true for any third-party Service provider(s) the Subrecipient may retain. No funds shall be authorized to assist with ineligible activities, including, but not limited to, fundraising activities or gratuitous expenses or bonuses. The Subrecipient may use the ARPA funds to cover eligible costs incurred during the period from the effective date of the agreement and ends on December 31, 2024.

- b. The Subrecipient requested ARPA funds for the purpose of repairing and replacing basketball courts as set forth in ***Exhibit “A”*** (hereinafter, the “Project”). The Subrecipient shall ensure that all funds provided by the County pursuant to this Agreement are used solely to support this project. The Subrecipient affirms in good faith that the proposed Project is an eligible use under the “Negative Economic Impacts” expenditure classification identified in the ARPA, specifically, Expenditure Category 3.5 Public Sector Capacity: Administrative Needs

3. Funding

The amount of the County’s ARPA Fund award that has been legally committed to the Subrecipient by the County for this project is \$211,438. The ARPA funds will be distributed on a cost reimbursement basis.

The SUBRECIPIENT agrees to be responsible for the repayment of funds to the COUNTY for expenditures that the COUNTY, the Inspector General of the United States Treasury, or other Federal government official determines are ineligible under the Coronavirus Relief Fund provided by the ARPA, see Section 7 regarding RECOUPMENT for further information.

4. Invoicing and Progress Reporting

- a. In order to obtain reimbursement for allowable expenditures, the SUBRECIPIENT must file with the COUNTY its request for reimbursement and any other information required to justify and support the Reimbursement Request.
- b. Each Reimbursement Request made under this Agreement must include a certification, signed by an official delegated by the SUBRECIPIENT (as described below), which reads as follows:

"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the American Rescue Plan Act of 2021-- Municipal Subrecipient Subaward Funding Agreement. I further certify that the expenditures included on

this report have not been reimbursed by other local, state, federal or insurance funds. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

- c. The governing body of the SUBRECIPIENT delegates authority to the following individual(s) to submit and execute any Reimbursement Requests, certifications, or other necessary documentation on behalf of the SUBRECIPIENT:

Mark Simpson, Financial Services Director

P.O. Box 210

City of St. Augustine, FL 32085

- d. The COUNTY will review all Reimbursement Requests by comparing required backup documentation provided by the SUBRECIPIENT against the approved Scope of Work (as amended), as well as the requirements of the Coronavirus Relief Fund, as provided in the ARPA.
- e. The COUNTY will not reimburse the SUBRECIPIENT for any payments determined to be an "improper payment". Any "improper payment" is considered to be an ineligible expenditure under this Agreement. The term "improper payment" means or includes:
 - i. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and,
 - ii. Any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit or applicable discounts, and any payment where insufficient or lack of documentation prevents the COUNTY from discerning whether a payment was proper.
- f. **Reimbursements will only be made for expenditures that the COUNTY provisionally determines are eligible under the Coronavirus Relief Fund provided by the ARPA. However, the COUNTY's provisional determination that an expenditure is eligible does not relieve the SUBRECIPIENT of its duty to repay the COUNTY for any expenditures that are later determined by the COUNTY, Inspector General of United States Treasury, or other Federal government official to be ineligible.**

- g. Reimbursement Requests shall be submitted to:

Ryan Kane, Director of Parks and Recreation

St. Johns County Board of County Commissioners

500 San Sebastian View

St. Augustine, FL 32084

- h. Upon request, the SUBRECIPIENT shall provide additional program updates or information that may be required by the COUNTY.

5. Duplication of Benefits

The SUBRECIPIENT certifies that it has not received, nor will it receive other local, state, federal or insurance funds that will be used for the expenses being requested under this agreement. The SUBRECIPIENT acknowledges and understands that it may not receive duplication of benefits to reimburse any of SUBRECIPIENT's COVID-19 related expenses that are reimbursed by this Agreement.

6. Recoupment / Subsequent Determination of Ineligibility

- a. The SUBRECIPIENT agrees that, **NOTWITHSTANDING ANY OPINION (INCLUDING DETERMINATIONS PROVIDED IN WRITING) OF ELIGIBILITY THAT MAY BE PROVIDED TO SUBRECIPIENT BY ANY COUNTY EMPLOYEE, CONTRACTOR, OR ELECTED OFFICIAL**, if any funds provided to the SUBRECIPIENT in accordance with this Agreement are determined by the Inspector General of the United States Treasury, COUNTY, or other authorized federal official or agency, to have been used by the SUBRECIPIENT in a manner inconsistent with this Agreement or any provision of the ARPA regulations and are recouped by the federal government from the COUNTY, the SUBRECIPIENT will reimburse the COUNTY for all amounts recouped by the federal government that were provided to the SUBRECIPIENT.
- b. All refunds, return of improper payments, or repayments due to the COUNTY under this Agreement are to be made payable to the order of "St. Johns County," and mailed directly to the following address:

Lon Stafford, CPA, Chief Financial Clerk

St. Johns County Clerk of the Circuit Court and Comptroller

Richard Watson Judicial Center

Attention: Coronavirus Relief Fund Refunds

4010 Lewis Speedway

St. Augustine, FL 32084

- c. Any recoupment reimbursement request made in accordance with the above shall be repaid by the SUBRECIPIENT to the COUNTY within thirty (30) days of the COUNTY making such request. If the SUBRECIPIENT does not repay the COUNTY within the thirty (30) days, the SUBRECIPIENT shall be subject to withholding of other funds due the SUBRECIPIENT from the COUNTY as described below.
- d. As a condition of funding under this Agreement, the SUBRECIPIENT agrees that the COUNTY may withhold funds otherwise payable to the SUBRECIPIENT from any disbursement to the COUNTY, by the federal or state government, upon a determination by the COUNTY or authorized representative of the federal government that funds exceeding the eligible costs have been disbursed to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT also agrees that the COUNTY may withhold funds otherwise payable to the SUBRECIPIENT from any other funding administered by the COUNTY.

The SUBRECIPIENT understands and agrees that the COUNTY may offset any funds due and payable to the SUBRECIPIENT until the debt to the COUNTY is satisfied. In the event funds are withheld, the COUNTY will notify the SUBRECIPIENT of the reclassification of the funds originally provided under this Agreement (subsequently determined ineligible, but not repaid by the SUBRECIPIENT) that shall now be classified as funding provided under the program from which the funds were withheld, so that the proper accounting can be made by the SUBRECIPIENT.

7. Compliance with Laws, Rules and Regulations

The SUBRECIPIENT certifies compliance and agrees to comply with all applicable federal, state and local laws, rules, regulations and Executive Orders applicable to the funds granted in accordance herewith. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

8. Contact

- a. The COUNTY'S designated contact(s) shall be responsible for enforcing performance of this Agreement's terms and conditions and shall serve as the COUNTY's liaison(s) with the SUBRECIPIENT. As part of his/her duties, the designated contact(s) for the COUNTY shall:
 - i. Monitor and document SUBRECIPIENT performance; and,
 - ii. Review and document all deliverables for which the SUBRECIPIENT is responsible for providing to COUNTY.

- b. The COUNTY'S designated contact(s) for this Agreement is:

Ryan Kane, Director of Parks and Recreation
St. Johns County Board of County Commissioners
500 San Sebastian View

St. Augustine, FL 32084

- c. The name and address of the representative of the SUBRECIPIENT responsible for the administration of this Agreement is:

Mark Simpson, Financial Service Director
City of St. Augustine
P.O. Box 210
St. Augustine, FL 32085
Telephone: (904) 825-1030
Email: MSimpson@citystaug.com

- d. In the event that 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 promptly provided to the other party in writing via letter or email.

9. Monitoring

- a. The SUBRECIPIENT shall monitor its performance under this Agreement, to ensure that time schedules are being met; program reporting and Scope of Work are being accomplished within the specified time periods; and, other performance goals are being achieved. A review shall be done for each function or activity in this Agreement, and reported in each Request for Funds.
- b. The SUBRECIPIENT shall provide the COUNTY and auditors, as well as any federal auditor or inspector general, right to access to the SUBRECIPIENT's records and financial statements as necessary for the COUNTY to meet the requirements of 2 C.F.R. Part 200. The right of access also includes timely and reasonable access to the SUBRECIPIENT's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "SUBRECIPIENT" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.
- c. The SUBRECIPIENT agrees to submit to monitoring of its activities by the COUNTY as necessary to ensure that the subaward is used for authorized purposes, in compliance with applicable Federal statutes, regulations, and the terms and conditions of this Agreement.

10. Federal Award Identification pursuant to 2 C.F.R. Section 200.331(a)(11)

The SUBRECIPIENT acknowledges that the funds provided under this Agreement are provided by the U.S. Department of Treasury, Coronavirus Relief Fund established within section 603 of the Social Security Act, as added by section 9901 of the ARPA.

The SUBRECIPIENT acknowledges that the amount described in Section 4 of this Agreement represents the total amount of federal funds obligated and committed by the COUNTY to the SUBRECIPIENT, that this award is not R&D pursuant to 2 C.F.R. 200.331(a)(1)(xii), and that further, no indirect costs may be billed under this Agreement.

11. Applicability of 2 C.F.R. Part 200 and SUBRECIPIENT Status

The SUBRECIPIENT agrees to comply with all applicable requirements set forth in 2 C.F.R. § 200.303 regarding internal controls and 2 C.F.R. § 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F related to audit requirements.

The SUBRECIPIENT understands that while current guidance from the Department of Treasury has indicated only the above sections of 2 C.F.R. Part 200 apply to the Coronavirus Relief Fund, the United States Department of Treasury or the Inspector General of the United States Treasury may later interpret additional parts of 2 C.F.R. Part 200 to apply. In such event, it would be the responsibility of the SUBRECIPIENT to comply with these additional requirements. As such, while not required, the COUNTY recommends that SUBRECIPIENT follow all parts of 2 C.F.R. Part 200.

The SUBRECIPIENT understands the COUNTY considers the SUBRECIPIENT to be a SUBRECIPIENT in accordance the determination prescribed in §200.330, SUBRECIPIENT and contractor determinations, and agrees to such determination.

12. Single Audit

- a. To the extent that any fund payments provided under this Agreement are considered to be federal financial assistance, then the SUBRECIPIENT shall comply with the audit requirements contained in 2 C.F.R. Part 200, Subpart F and Federal Single Audit Act (31 U.S.C. §§ 7501-7507).
- b. In accounting for the receipt and expenditure of funds under this Agreement, the SUBRECIPIENT shall follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. §200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- c. The SUBRECIPIENT shall have all audits completed by an independent auditor, which is defined in section 215.97(2)(h), Florida Statutes, as "an independent

certified public accountant licensed under chapter 473." The independent auditor shall state that the audit complied with the applicable provisions noted above. The audit must be received by the COUNTY no later than nine (9) months from the end of the SUBRECIPIENT's fiscal year.

- d. The SUBRECIPIENT shall send copies of reporting packages for audits conducted in accordance with 2 C.F.R. Part 200 and related management letters issued by the auditor, by or on behalf of the SUBRECIPIENT, to the COUNTY at the following address:

Jesse Dunn, Director for the Office of Management & Budget
St. Johns County Board of County Commissioners
500 San Sebastian View

St. Augustine, FL 32084

- e. The SUBRECIPIENT shall send the Single Audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at:
<http://harvester.census.gov/fac/collect/ddeindex.html>

13. Maintenance and Availability of Records

- a. As a condition of receiving federal financial assistance, the SUBRECIPIENT agrees to maintain all accounting and client records and documents, papers, maps, photographs, other documentary materials, and any evidence pertaining to costs incurred.
- b. Copies of all records generated by the SUBRECIPIENT related to this Agreement shall be available for inspection by authorized representatives of the federal government, the Inspector General of the United States Treasury, and the COUNTY. The right of access described herein also includes timely and reasonable access to the SUBRECIPIENT's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "SUBRECIPIENT" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.
- c. Such records shall be available at the SUBRECIPIENT's office at all reasonable times for the Duration of this Agreement Term and kept for a period of six (6) years after expiration of this Agreement. If a claim, investigation, or litigation is pending after what is assumed to be final payment, such pending action is deemed to have tolled the final payment date until completion of all such claims, investigations, or litigation proceedings, including all applicable appeal periods.

- d. This section 14 shall be in addition to, and not in lieu of, the Florida Public Records law requirements.

14. Suspension and Termination.

The COUNTY may terminate this Agreement and such additional supplemental agreements hereafter executed, in whole or in part, and may recover any funds provided herein, at its discretion, if the SUBRECIPIENT violates any provision of this Agreement; or

- a. Fails to complete performance in a timely manner; or
- b. Files for bankruptcy (voluntary or involuntary); becomes subject through appointment by any court to a receiver taking possession of substantially all of its assets or remaining in receivership in excess of sixty (60) days; has substantially all of its assets attached, subject to execution or other judicial seizure; or does not perform as required under this Agreement.

15. Default.

If any of the following events occur ("Events of Default"), all obligations on the part of the COUNTY to make further payment of funds will, if the COUNTY elects, terminate and the COUNTY has the option to exercise any of its remedies set forth in section 17 of this Agreement. However, the COUNTY 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 SUBRECIPIENT in this Agreement or any previous agreement with the COUNTY is or becomes false or misleading in any respect, or if the SUBRECIPIENT fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with the COUNTY and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;
- b. If material adverse changes occur in the financial condition of the SUBRECIPIENT at any time during the period of agreement, and the SUBRECIPIENT fails to cure this adverse change within thirty (30) days from the date written notice is sent by the COUNTY;
- c. If any reports required by this Agreement have not been submitted to the COUNTY or have been submitted with incorrect, incomplete or insufficient information;

- d. If the SUBRECIPIENT has failed to perform and complete on time any of its obligations under this Agreement.

16. Remedies

If an Event of Default occurs, then the COUNTY may, after thirty (30) calendar days written notice to the SUBRECIPIENT and upon the SUBRECIPIENT's failure to cure within those thirty (30) days, exercise any one or more of the following remedies, either concurrently or consecutively:

- a. Terminate this Agreement, provided that the SUBRECIPIENT is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in section 8 of this Agreement;
- b. Begin an appropriate legal or equitable action to enforce performance of this Agreement;
- c. Withhold or suspend payment of all or any part of a reimbursement request;
- d. Require that the SUBRECIPIENT refund to the COUNTY any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds;
- e. Exercise any corrective or remedial actions, to include but not be limited to:
 - i. request additional information from the SUBRECIPIENT to determine the reasons for or the extent of non-compliance or lack of performance,
 - ii. issue a written warning to advise that more serious measures may be taken if the situation is not corrected,
 - iii. advise the SUBRECIPIENT to suspend, discontinue or refrain from incurring costs for any activities in question,
 - iv. require the SUBRECIPIENT to reimburse the COUNTY for the amount of costs incurred for any items determined to be ineligible, or
 - v. withhold funds in accordance with Section 7d. herein.
- f. Exercise any other rights or remedies which may be available under law. Pursuing any of the above remedies will not stop the COUNTY from pursuing any other remedies in this Agreement or provided at law or in equity. If the COUNTY waives any right or remedy in this Agreement or fails to insist on strict performance by the SUBRECIPIENT, it will not affect, extend or waive any other right or remedy of the COUNTY, or affect the later exercise of the same right or remedy by the COUNTY for any other default by the SUBRECIPIENT.

17. Conflict of Interest.

- a. The SUBRECIPIENT certifies that it maintains a code or standards of conduct that govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Federal funds.
- b. Except for the use of funds to pay for salaries and other related administrative or personnel costs set forth herein, the SUBRECIPIENT certifies that no employee, agent, or officer of the SUBRECIPIENT who exercises decision making responsibility with respect to these funds and activities, is allowed to obtain a financial interest in or benefit from these activities, or have a financial interest in any contract, subcontract or agreement regarding these activities or in the proceeds of the activities. Specifically:
 - i. This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the SUBRECIPIENT and to their immediate family members, and business partner(s).
 - ii. This requirement applies for such persons during their tenure and for a period of one year after leaving the SUBRECIPIENT.
 - iii. It is applicable to the procurement of supplies, equipment, construction, and services; acquisition and disposition of real property; provision of assistance to individuals, businesses and other private entities for all eligible activities; and provision of loans to individuals, businesses and other private entities.

18. Indemnification

The SUBRECIPIENT shall hold harmless, defend and indemnify the COUNTY, including its districts, authorities, separate units of government established by law, ordinance or resolution, elected and non-elected officials, employees, agents, volunteers, and any party with whom the COUNTY has agreed by contract to provide additional insured status, the U.S. Social Security Administration and Treasury Department, and any other governmental agencies or subdivisions, and their officers, agents and employees, from, or on any account of, any and all claims, actions, lawsuits, losses, expenses, injuries, damages, judgments or liabilities of any kind whatsoever that arise from the SUBRECIPIENT or its Agent's, employees', or officers' performance or non-performance of the terms of this Agreement, to the extent permitted by law. The parties understand that pursuant to Section 768.28(19), Florida Statutes, no party is entitled to be indemnified or held harmless by another party for its own negligent or wrongful acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by SUBRECIPIENT and SUBRECIPIENT claims all of the privileges and immunities and other benefits and protections afforded by Section 768.28, Florida Statutes.

19. Liability.

- a. Notwithstanding anything set forth in this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the COUNTY or SUBRECIPIENT beyond any statutory limited waiver of immunity or limits of liability (Section 768.28, Florida Statutes), which may have been or may be adopted by the Florida Legislature for liability in tort, and, unless otherwise further limited by state or federal law, the cap on the amount and liability of the COUNTY or SUBRECIPIENT for damages arising from any claims related to this Agreement, regardless of the number or nature of claims or whether such claim sounds in tort, equity, or contract, shall not exceed the dollar amount set by the Florida legislature for tort damages. Further, nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the COUNTY or SUBRECIPIENT, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of state or federal law, except as may be expressly provided herein.
- b. In no event shall the COUNTY be liable to the SUBRECIPIENT for any incidental, indirect, special, punitive or consequential damages even if the COUNTY knew or should have known about the possibility of such damages for any provision of this Agreement

20. Venue / Jurisdiction / Attorney's Fees.

This Agreement shall be governed by the laws of the State of Florida. Venue for and jurisdiction over any civil lawsuit filed in connection with this Agreement shall, if in state court, be in St Johns County, Florida, or, if in federal court, in the Middle District of Florida, Jacksonville Division. In any civil dispute arising from this Agreement, the parties agree to bear their own attorneys' fees and costs, unless otherwise expressly provided herein.

21. Public Records.

Pursuant to section 119.0701 (2)(a), Florida Statutes, the COUNTY is required to provide the SUBRECIPIENT with this statement and establish the following requirements as contractual obligations pursuant to this Agreement:

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

St. Johns County – Office of the County Attorney

Attention: Public Records Custodian
500 San Sebastian View
St. Augustine, Florida 32084
904-209-0805
publicrecords@sjcfl.us

Under Florida law, a **SUBRECIPIENT WHO FAILS TO PROVIDE THE PUBLIC RECORDS TO THE COUNTY** within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes, and such non-compliance will constitute a breach of the Agreement and may serve as grounds for termination of this Agreement.

By entering into this Agreement, the SUBRECIPIENT acknowledges and agrees that any records maintained, generated, received, or kept in connection with or related to the performance of services provided under this Agreement are public records subject to the public records disclosure requirements of section 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to section 119.0701, Florida Statutes, any entity entering into an Agreement for services with the COUNTY is required to:

- a. Keep and maintain public records required by the COUNTY to perform the services and work provided pursuant to this Agreement.
- b. Upon request from the COUNTY'S custodian of public records, provide the COUNTY 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 Period of Agreement and following completion or termination of the Agreement if the SUBRECIPIENT does not transfer the records to the COUNTY.
- d. Upon completion or termination of the Agreement, transfer, at no cost, to the COUNTY all public records in the possession of the SUBRECIPIENT or keep and maintain public records required by the COUNTY to perform the service. If the SUBRECIPIENT transfers all public records to the COUNTY upon completion or termination of the Agreement, the SUBRECIPIENT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the SUBRECIPIENT keeps and maintains public records upon completion or termination of the Agreement, the SUBRECIPIENT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

Pursuant to current state law, requests to inspect or copy public records relating to the COUNTY'S Agreement for services must be made directly to the COUNTY. If the SUBRECIPIENT receives any such request, the SUBRECIPIENT shall instruct the requestor to contact the COUNTY. If the COUNTY does not possess the records requested, the COUNTY shall immediately notify the SUBRECIPIENT of such request, and the SUBRECIPIENT must provide the records to the COUNTY or otherwise allow the records to be inspected or copied within a reasonable time.

The SUBRECIPIENT acknowledges that failure to provide the public records to the COUNTY within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. The SUBRECIPIENT further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the COUNTY. Unless caused by the negligence of the COUNTY, as determined by a court of competent jurisdiction, the SUBRECIPIENT shall indemnify, defend, and hold the COUNTY harmless for and against any and all claims, damage awards, and causes of action arising from the SUBRECIPIENT's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by the SUBRECIPIENT's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. The SUBRECIPIENT authorizes the COUNTY to seek declaratory, injunctive, or other appropriate relief against the SUBRECIPIENT from a court of competent jurisdiction on an expedited basis to enforce the requirements of this section. Nothing contained herein is intended to, nor shall be construed as, a waiver of any party's rights and immunities under common law or Section 768.28, Florida Statutes, as might be amended from time to time. Nothing contained herein shall be construed as consent to be sued by third parties in any matter arising out of this agreement.

The SUBRECIPIENT acknowledges the COUNTY's obligations under Article 1, Section 24, Florida Constitution and Chapter 286, Florida Statutes (commonly known as the Florida Government in the Sunshine Law (the "Sunshine Law")), the SUBRECIPIENT acknowledges that the COUNTY is required to comply with Article 1, Section 24, Florida Constitution and Chapter 286, Florida Statutes. The SUBRECIPIENT agrees to comply with these laws and any other laws related to complying with the Sunshine Law, to require any subcontractors to comply with all laws, as applicable, and to assist the COUNTY in complying with the same as it relates to all aspects of this Agreement.

The SUBRECIPIENT agrees to maintain such financial records and other records as may be prescribed by the COUNTY or by applicable federal and state laws, rules, and regulations. The COUNTY shall have the right to audit the books, records, and accounts of the SUBRECIPIENT that are directly related to this Agreement. The SUBRECIPIENT shall keep such books, records, and accounts as may be necessary in order to record

complete and correct entries related to this Agreement. The SUBRECIPIENT shall preserve and make available, at reasonable times for examination and audit by the COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of six (6) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or six (6) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the COUNTY to be applicable to the SUBRECIPIENT's records, the SUBRECIPIENT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by the SUBRECIPIENT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the COUNTY's disallowance and recovery of any payment upon such entry.

22. Procurement.

- a. The SUBRECIPIENT shall ensure that any procurement involving funds authorized by this Agreement complies with all applicable federal and state laws and regulations.
- b. The SUBRECIPIENT shall maintain records sufficient to detail the history of procurement. These records include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- c. The SUBRECIPIENT shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- d. The SUBRECIPIENT agrees to include in the subcontract that the subcontractor is bound by all applicable state and federal laws and regulations.
- e. The SUBRECIPIENT shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.
- f. The SUBRECIPIENT shall conduct any procurement under this Agreement in a manner providing full and open competition. Accordingly, the SUBRECIPIENT shall not:
 - i. Place unreasonable requirements on firms in order for them to qualify to do business;
 - ii. Require unnecessary experience or excessive bonding;

- iii. Use noncompetitive pricing practices between firms or between affiliated companies;
 - iv. Execute noncompetitive contracts to consultants that are on retainer contracts;
 - v. Authorize, condone, or ignore organizational conflicts of interest;
 - vi. Specify only a brand name product without allowing vendors to offer an equivalent;
 - vii. Specify a brand name product instead of describing the performance, specifications, or other relevant requirements that pertain to the commodity or service solicited by the procurement;
 - viii. Engage in any arbitrary actions during the procurement process; or,
 - ix. Allow a vendor to bid on a contract if that bidder was involved with developing or drafting the specifications, requirements, statement of work, invitation to bid, or request for proposals.
- g. Except in those cases where applicable federal statutes expressly mandate or encourage otherwise, the SUBRECIPIENT shall not use a geographic preference when procuring commodities or services under this Agreement.
- h. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

23. Interest of Certain Federal Officials.

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

24. Hatch Act.

The SUBRECIPIENT agrees to comply with all provisions of the Hatch Act and that no part of the program will involve political activities, nor shall personnel employed in the administration of the program be engaged in activities in contravention of Title V, Chapter 15, of the United States Code.

25. Suspension and Debarment.

The SUBRECIPIENT agrees to comply with the requirements of 24 C.F.R. parts 5 and 24, which prohibit a person who is debarred or suspended from receiving Federal financial and non-financial assistance and benefits under any Federal Programs.

SUBRECIPIENT certifies, to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
- b. Have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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.
- c. 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 paragraph 25 b. of this certification; and,
- d. 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.

SUBRECIPIENT acknowledges it is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

If the SUBRECIPIENT, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).
- b. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- c. This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. In addition, the SUBRECIPIENT shall send to the COUNTY (by email or by facsimile transmission) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" (Attachment I) for the SUBRECIPIENT agency and each intended subcontractor which SUBRECIPIENT plans to fund under this Agreement. The form must be received by the COUNTY before the SUBRECIPIENT enters into a contract with any subcontractor.

26. Equal Opportunity Employment.

- a. In accordance with 41 C.F.R. §60-1.4(b), the SUBRECIPIENT hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agree as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The SUBRECIPIENT and its contractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

- i. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- ii. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- iii. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- iv. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of the contractors' noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- viii. The contractor will include the portion of the sentence immediately preceding paragraph 26.a.i. and the provisions of paragraphs 26.a.i. through 26.a.viii. in every subcontract or purchase order unless exempted by rules, regulations, or

orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provision, including sanctions for noncompliance: provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- b. The SUBRECIPIENT further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work; provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agenda, instrumentality or subdivision of such government which does not participate in work on or under the contract.
- c. The SUBRECIPIENT agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- d. The SUBRECIPIENT further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of labor pursuant to Part II, Subpart D of the Executive Order. In addition, the SUBRECIPIENT agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the SUBRECIPIENT under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such SUBRECIPIENT; and refer the case to the Department of Justice for appropriate legal proceedings.

- e. In the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

27. Copeland Anti-Kickback Act.

- a. The SUBRECIPIENT hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:
 - i. *Contractor.* The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
 - ii. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clause above, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 - iii. *Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

28. Contract Work Hours and Safety Standards.

If the SUBRECIPIENT, with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provide that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

29. Clean Air Act and the Federal Water Pollution Control Act.

If the SUBRECIPIENT, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:

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

30. Anti-Lobbying.

The SUBRECIPIENT agrees, by executing this Agreement, that to the best of his or her knowledge and belief that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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;
- b. 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 the federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. If the SUBRECIPIENT, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following clause:

Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. §1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient.

31. Contracting with Small and Minority Businesses, Women's Business

Enterprises, and Labor Surplus Area Firms.

- a. If the SUBRECIPIENT, with the funds authorized by this Agreement, seeks to procure goods or services, then, the SUBRECIPIENT shall take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs i. through v. of this subparagraph.
- b. The requirement outlined in subparagraph a. above, sometimes referred to as "socioeconomic contracting," does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms. Rather, the requirement only imposes an obligation to carry out and document the six affirmative steps identified above.
- c. The "socioeconomic contracting" requirement outlines the affirmative steps that the SUBRECIPIENT must take; the requirements do not preclude the SUBRECIPIENT from undertaking additional steps to involve small and minority businesses and women's business enterprises.

32. Employee Protection from Reprisal.

- a. In accordance with 41 U.S.C. Sec. 4712, an employee of SUBRECIPIENT may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph 32(b) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;

- iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
- b. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
- i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal office or employee responsible for oversight of a grant program;
 - v. A court or grand jury;
 - vi. A management office of the COUNTY;
 - vii. A federal or State regulatory enforcement agency.
- c. Submission of Complaint - A person who believes that they have been subjected to a reprisal prohibited by this Section may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Treasury Department.
- d. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this Section more than three years after the date on which the alleged reprisal took place.
- e. Required Actions of the Inspector General - Actions, limitations and exceptions of the Inspector General's office are established under Federal law.
- f. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under Federal law.

33. Americans with Disabilities Act

The SUBRECIPIENT agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

34. Required Documentation and Attachments.

- a. In order to receive reimbursement, the following documentation is required as part of a comprehensive submission:
 - i. Non-Personnel
 - 1. Reports from respective financial system, extracted to Excel, reflecting payment of the project's expenditures.

2. Copies of bank statement information reflecting the clearing of
aforementioned payment transaction.
 3. Invoices
- b. All attachments to this Agreement are incorporated as if set out fully.
 - c. In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.
 - d. This Agreement has the following attachment:
 - i. *Exhibit "A"* – Project (Scope of Work)

35. Assurances.

The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the SUBRECIPIENT in this Agreement, in any later submission or response to a COUNTY request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or any material changes will, at the option of the COUNTY and with thirty (30) days written notice to the SUBRECIPIENT, cause the termination of this Agreement and the release of the COUNTY from all its obligations to the SUBRECIPIENT.

The SUBRECIPIENT is subject to Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) with respect to the meetings of the SUBRECIPIENT's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings must be publicly noticed, open to the public, and the minutes of all the meetings will be public records, available to the public in accordance with Chapter 119, Florida Statutes.

The SUBRECIPIENT assures and certifies it will:

- a. Establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- b. Comply with minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, and Florida Statutes.

- c. Comply with overtime provisions of the Federal Fair Labor Standards Act, requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
- d. Comply with the provisions of the DRUG-FREE WORKPLACE as required by the Drug-Free Workplace Act of 1988.

36. Time is of the Essence.

Time is of the essence regarding each and every obligation of Subrecipient under this Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

37. Good Faith.

Each party will act in good faith in the performance of its respective responsibilities under this Agreement and will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required by the other party in order to perform its responsibilities under this Agreement.

38. Non-assignability.

This Agreement shall not be assigned, transferred, or encumbered by the SUBRECIPIENT unless authorized by the COUNTY in writing as a modification to this Agreement.

39. Waiver of Jury Trial.

By entering into this Agreement, the SUBRECIPIENT and the COUNTY hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation limited solely to the parties of this Agreement.

40. Conflict.

If any provision of this Agreement shall for any reason be held to be invalid, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, such provision shall be construed so as to make it enforceable to the greatest extent permitted, such provision shall remain in effect to the greatest extent permitted and the remaining provisions of this Agreement shall remain in full force and effect unless the COUNTY and the SUBRECIPIENT mutually elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes

final. Prior to terminating this Agreement, the parties may agree to substitute an enforceable provision that, to the maximum extent possible under applicable law, preserves the original intentions and economic positions of the parties.

41. Legal Authorization.

The SUBRECIPIENT certifies that it has the legal authority to receive the funds under this Agreement. The SUBRECIPIENT also certifies that the undersigned person has the authority to legally execute and bind SUBRECIPIENT to the terms of this Agreement.

42. Complete Agreement.

This Agreement and attached exhibits and amendments thereto constitute the full and complete understanding between the parties.

43. Amendments.

Upon mutual consent of both parties, this Agreement may be amended in writing.

44. Execution in Counterparts.

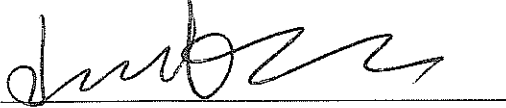
This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

{The remainder of this page was intentionally left blank. Signatures to follow.}

IN WITNESS WHEREOF, the COUNTY and the SUBRECIPIENT have executed this Agreement.

COUNTY

MUNICIPALITY



Signature

Joy Andrews

Interim County Administrator

9/8/2023

Date:

Date:

Attest:

St. Johns County Clerk of Circuit Court & Comptroller



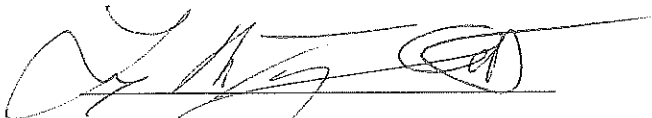
Deputy Clerk

9/8/2023

Date

Legally Sufficient

APPROVED AS TO FORM,
LEGAL SUFFICIENCY AND
EXECUTION



Lex Taylor III

Deputy County Attorney

Date:

Date:

Isabelle C. Lopez, City Attorney

Exhibit A-Project

Scope of Work

Eddie Vicars Park Basketball Courts

- Rebuild four basketball courts back to two basketball courts and six pickleball courts.
- Remove eight existing basketball units, all asphalt the court is made of and properly dispose of offsite.
- Remove and replace 24" of soil under courts per Geo Report.
- Extend the court size from 110' by 180' to 124' by 180'. Add the equivalent of 6" of lime rock base material across the courts' surface, compact and grade to 1" in 10' slope, pave with 1.5" of virgin mix asphalt, saw cut slab to 124' by 180'.
- Install four new Sports Play curved post basketball goal systems, install six sets of pickleball net post bases, anchor posts, six sets of pickleball net posts and six pickleball nets with center straps.

The total cost of the project is estimated at \$390,568. The funding needed to complete the project over \$211,438 will be funded by the City of St. Augustine.

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: City Commission

DATE: October 9, 2023

RE: Permission to use City Crest

In celebration of Hispanic Heritage Month and the City's continuing support of Flagler College, I respectfully request permission for the use of the City crest on promotional and program materials for an artist welcome reception to be held on Friday, October 27, from 6:00pm to 8:00pm at The Waterworks.

The reception is being hosted by the Crip-Ellert Art Museum (CEAM) as part of their Artist Residency program, recognizing Spanish artist, Laia Estruch, and her partnership with the Cultural Office of the Spanish Embassy in Washington, DC.

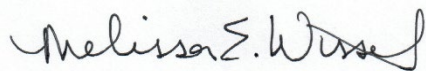
The purpose of this event is to provide an opportunity for the local community to engage with the artist and to celebrate the significant cultural connection to our Spanish history through contemporary Spanish works of art.

The City is currently working with the Cultural Minister of Spain's office in Madrid on a separate project, and this event will support those efforts as well, fostering positive cultural exchanges and relationships among our institutions and between our two countries.

Please place this on the Consent Agenda for Monday, October 9, for review and approval by the City Commission.

Thank you in advance for your consideration.

Sincerely,



Melissa Wissel, Communications Director