

**GULF BREEZE CITY COUNCIL
EXECUTIVE SESSION AGENDA
SPECIAL MEETING**

**APRIL 29, 2015
WEDNESDAY, 6:30 P.M.
COUNCIL CHAMBERS**

SPECIAL MEETING ITEMS:

- A. Discussion and Action Regarding Resolution 11-15 Approving Loan to Fairpoint Regional Utility System from Hancock Bank
- B. Discussion and Action Regarding Acceptance of Fiscal Year 2014 Comprehensive Annual Financial Report

ACTION AGENDA ITEMS:

- A. Discussion and Action Regarding Ordinance 03-15 Amending Sections of the Land Use and Zoning Code and Land Development Code.
- B. Discussion and Action Regarding Ordinance 04-15 Amending Section 3-4(b) of the Code of Ordinances – Distance Requirement from Churches and Schools for Restaurants.
- C. Discussion and Action Regarding South Santa Rosa Utility System Recommendations:
 - 1) Redwood Lane 12" Gravity Sewer Slip Lining
 - 2) Wastewater Treatment Facility Fencing
- D. Discussion and Action Regarding Drainage Easement from Santa Rosa County School District
- E. Discussion and Action Regarding Bid Award for Christmas Decorations on Highway 98
- F. New Items
- G. Information Items
- H. Public Forum
- I. Adjournment

If any person decides to appeal any decisions made with respect to any matter considered at this meeting or public hearing, such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

The public is invited to comment on matters before the City Council upon seeking and receiving recognition from the Chair.



City of Gulf Breeze

Office of City Manager

MEMORANDUM

To : Mayor and City Council

From :  Edwin A. Eddy, City Manager

Date : April 24, 2015

Subject: Resolution Approving Loan to Fairpoint Regional Utility System

At the April 6, 2015, City Council meeting a loan of \$174,890 to Fairpoint Regional Utility System ("FRUS") was discussed. The purpose of this loan was to cover the cash shortfall realized by FRUS during the almost one year FRUS could not get water to its customers. In addition to the \$174,890 loan from each owner utility, it was decided that a \$600,000 loan was also necessary from Hancock Bank.

The documents authorizing the loan as prepared by Hancock Bank are attached. These documents have been reviewed and approved by the City Attorney.

The City Council also decided on April 6 that the loans from each utility and the loan from Hancock Bank should be paid back from FRUS revenue over a period not to exceed ten years.

FRUS has prepared a cash flow analysis which demonstrates that a rate increase of 19% such that potable water will be sold to each member utility for \$1.47 per thousand gallons rather than the current \$1.24 will allow FRUS to pay capital and operating costs and pay back the loans over ten years.

RECOMMENDATION:

THAT THE CITY COUNCIL ADOPT RESOLUTION 11-15 APPROVING THE LOAN DOCUMENTS ASSOCIATED WITH A \$600,000 LOAN FROM HANCOCK BANK TO FRUS AND THAT THE CITY COUNCIL DIRECT STAFF TO ISSUE A LOAN TO FRUS FOR \$174,890 BOTH OF THESE LOANS ARE TO BE PAID BACK IN NOT MORE THAN TEN YEARS.

(850) 934-5100 • FAX (850) 934-5114

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RESOLUTION 11-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA, AUTHORIZING AND APPROVING A LOAN FROM WHITNEY BANK, A MISSISSIPPI STATE CHARTERED BANK, DOING BUSINESS AS HANCOCK BANK, TO FAIRPOINT REGIONAL UTILITY SYSTEM, INC. IN THE FORM OF A NONREVOLVING LINE OF CREDIT UP TO \$600,00.00 AND THE LIMITED GUARANTY BY THE CITY OF GULF BREEZE OF THE OBLIGATIONS OF FAIRPOINT REGIONAL UTILITY SYSTEM, INC. UNDER SUCH LOAN; AUTHORIZING REPRESENTATIVES OF THE CITY OF GULF BREEZE TO EXECUTE DOCUMENTS, INSTRUMENTS AND CONTRACTS IN CONNECTION THEREWITH; TO TAKE ACTIONS IN CONNECTION WITH SUCH GUARANTY AND LOAN.

WHEREAS, the City of Gulf Breeze ("City") is an owner agency of the Fairpoint Regional Utility System, Inc., a Florida not for profit corporation ("FRUS") along with Holley-Navarre Water System, Inc. and Midway Water System, Inc.; and,

WHEREAS, the City Council approved the By-Laws for the operation and management of FRUS; and,

WHEREAS, the FRUS By-Laws require each owner agency to approve any long-term financing in excess of \$25,000 and having a term longer than one year; and

WHEREAS, FRUS desires to obtain a loan up to \$600,000.00 (the "Loan") from Whitney Bank, a Mississippi state chartered bank, doing business as Hancock Bank (the "Bank"); and

WHEREAS, the City Council, at a duly authorized meeting, have hereby reviewed and approved the Loan Agreement and Guaranty and authorize the Mayor to execute said documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA AS FOLLOWS:

RESOLVED, that subject to the terms and conditions of this Resolution, the City is hereby authorized to enter into one or more transactions whereby it will guaranty and effect the Loan, but in no event shall City's liability under the guaranty exceed an amount equal to 33.33% of the principal amount of the obligations outstanding at the time that Bank first gives written notice of default to Borrower on any of the obligations, plus interest on this limited percentage of the principal, and attorneys' fees, collection costs and expenses, and other fees and charges (i) owed by Borrower to Bank on the obligations or (ii) incurred by the Bank in enforcing City's guaranty.

RESOLVED, the City Council hereby approves the Loan Agreement and Guaranty;

RESOLVED, that the City Council authorizes the Mayor to execute such documents, instruments and contracts as he may determine, in his discretion, to be necessary or desirable in connection with the Loan;

RESOLVED, that any other provision of this Resolution to the contrary notwithstanding, the terms of the transactions effecting the Loan shall comply with the following:

(a) the principal amount of the Loan stated in a promissory note and loan agreement or any other instrument shall not exceed \$600,000.00;

(b) the interest shall accrue at the rate of One Month ICE LIBOR + 300 basis points;

(c) the term of the Loan shall be two (2) years.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
GULF BREEZE, SANTA ROSA COUNTY, FLORIDA ON THIS 24TH DAY OF APRIL,
2015.**

CITY OF GULF BREEZE

By: _____
Matt E. Dannheisser, Mayor

ATTEST

By: _____
Stephanie Lucas, City Clerk

_____, 2015

Whitney Bank
a Mississippi state chartered bank,
doing business as Hancock Bank
101 West Garden Street
Pensacola, Florida 32502

**Re: \$600,000.00 Nonrevolving Line of Credit loan from Whitney Bank, a
Mississippi state chartered bank, doing business as Hancock Bank to
Fairpoint Regional Utility System, Inc.**

Ladies and Gentlemen:

This opinion is furnished to you pursuant to the request of our client, City of Gulf Breeze, a Florida municipal corporation. We have acted as special counsel to City of Gulf Breeze ("Guarantor"), one of the guarantors in connection with the negotiation, execution and delivery of that certain Loan Agreement (the "Loan Agreement") dated as of _____, 2015, between Fairpoint Regional Utility System, Inc., ("Borrower") and Whitney Bank, a Mississippi state chartered bank, doing business as Hancock Bank ("Bank") and the transactions contemplated thereby prepared, executed and delivered under Florida law and, as applicable, recorded or filed and pertaining to property located in the State of Florida ("State"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement.

In connection with this opinion, we have reviewed executed originals of the following (all of which are collectively referred to herein as the "Loan Documents") for the purposes of expressing the opinions set forth herein:

- (a) Commercial Note;
- (b) Guaranty executed by City of Gulf Breeze;
- (c) Loan Agreement; and
- (d) Resolution of City Council of Gulf Breeze.

In stating our opinion, we have assumed that:

- (a) each party to the Loan Documents, with the exception of City of Gulf

Breeze, has full power and authority to execute, deliver and perform such Loan Documents, and each party to the Loan Documents has duly authorized the execution, delivery and performance of such Loan Documents by all necessary actions;

(b) the Loan Documents have been duly executed and delivered by each party thereto;

(c) each Subject Document has been executed and delivered in all material respects, in the respective form submitted to us as the execution form thereof; and

(d) all documents submitted to us as copies of the originals are authentic, and all documents submitted to us as certified, conformed or photo-static copies conform to authentic original documents.

Based upon the foregoing and an examination of such other information, papers, and documents as I believe necessary or advisable to enable me to render this opinion, subject to qualifications and limitations set forth herein, I am of the opinion, as of the date hereof, that:

1. The execution, delivery, and performance of the Loan Agreement and Guaranty by Guarantor constitutes the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms by the Bank, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditor's rights and subject to equitable principles.

My opinions contained herein, if any, concerning the validity, binding effect and enforceability of the Loan Agreement and Guaranty, and any other action, document or instrument in which an opinion is herein given concerning its validity, binding effect, and/or enforceability, means that (a) such documents, instruments and actions, where appropriate, constitute valid and effective contracts under applicable law, (b) such documents, instruments and actions are not invalid in their entirety because of a specific statutory prohibition or public policy and are not subject in their entirety to a contractual defense, and (c) subject to the last sentence of this paragraph, some remedy is available in the event of a material default under such documents, instruments and/or actions. The opinions set forth herein do not mean that (a) any particular remedy is available upon a material default, or (b) every provision of such documents or instruments will be upheld or enforced in any or each circumstance by a court.

Furthermore, the validity, binding effect and enforceability of such documents, instruments, and actions may be limited or otherwise affected by (a) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar statutes, rules, regulations or other law affecting the enforcement of creditors' rights and remedies generally, (b) the unavailability of, or limitation on the availability of, a particular right or remedy (whether proceeding in equity or at law) because of an equitable principle or a requirement as to commercial reasonableness, conscionability or good faith, and (c) the valid exercise of sovereign police powers of the State of Florida, and the constitutional powers of the United States of America.

This opinion is furnished to you by this firm as counsel for the Guarantor (and not as counsel for any other person or entity), is solely for your benefit and is rendered solely in connection with the transaction to which this opinion relates. This opinion may be relied upon only in connection with this transaction and may not be relied upon by any other persons without my prior written consent.

I am admitted to practice law only in the State of Florida. Nothing herein shall be construed to be an opinion as to (a) the applicability or the effect of laws of the United States or of any jurisdiction other than the State of Florida; (b) the tax treatment and tax exemptions, if any, of the transactions contemplated by the Loan Agreement and Guaranty, and the compliance of or by the Loan Agreement and Guaranty, or the Guarantor, and any other person, entity or aspect of the transaction contemplated by the Loan Agreement and Guaranty with any laws or requirements of any jurisdiction relating to the tax treatment and tax exemption of and/or for the said transactions; (c) the requirements of federal or state securities matters, including federal or state registration or blue sky laws; (d) any financial and statistical data; (e) the perfecting or priority of any liens or security interests; and (f) the state of title of any property or collateral.

The opinions set forth herein are limited to the matters expressly stated herein, and no opinion is implied or may be inferred beyond the matters expressly stated herein or omitted herefrom. The opinions expressed herein are current as of the date hereof, and I assume no obligation and disclaim any undertaking to advise on any subsequent changes which may be brought to my attention or to update or supplement any such opinions to reflect any facts or circumstances that may hereafter come to my attention or any changes in law that may hereafter occur.

Very truly yours,



Commercial Business Loan Agreement for Term Loans and Lines of Credit

This Agreement is dated _____, 2015 and is made and entered into by and among WHITNEY BANK, a Mississippi state chartered bank ("Bank") doing business as HANCOCK BANK, and FAIRPOINT REGIONAL UTILITY SYSTEM, INC., a Florida not for profit corporation (hereinafter referred to as "Borrower," which term means individually, collectively, and interchangeably any, each and/or all of them) and MIDWAY WATER SYSTEM, INC., a Florida non-profit corporation, CITY OF GULF BREEZE, a Florida municipal corporation, and HOLLEY-NAVARRE WATER SYSTEM, INC., a Florida non-profit corporation (hereinafter referred to as "Guarantor," which term means individually, collectively, and interchangeably any, each and/or all of them). Borrower and Guarantor, if any, and any other person who may be liable now or in the future for any portion of any Loan are referred to as "Obligor," which term means individually, collectively, and interchangeably any, each and/or all of them.

A. THE LOAN OR LOANS. Subject to the terms and conditions of this Agreement and provided Obligor timely and completely performs all obligations in favor of Bank contained in this Agreement and in any other agreement, whether now existing or hereafter arising, Bank will make or has made:

a **LINE OF CREDIT LOAN** (the "Line of Credit," which term shall include all renewals, extensions or modifications thereof) to Borrower in the maximum principal amount of SIX HUNDRED THOUSAND And no/100 (\$600,000.00) DOLLARS, payable in consecutive monthly payments of principal in the amount of TWENTY FIVE THOUSAND and no/100 (\$25,000.00) DOLLARS plus accrued interest to date commencing on _____, 2015 and continuing on the same day of each month thereafter with a final installment of all outstanding principal and accrued interest due and payable on March 31, 2017, which Line of Credit shall be represented by Bank's standard form of installment note. The interest rate on the Line of Credit is subject to change from time to time based on changes in an independent index which is the One Month ICE LIBOR (the "Index") plus 300 basis points per annum from date of advance until paid. As used in this Agreement, the term "One Month ICE LIBOR" shall mean the One Month London InterBank Offered Rate ("LIBOR") in U.S. Dollars equal to the Intercontinental Exchange Benchmark Administration Ltd. ("ICE," or the successor thereto if ICE is no longer making a London Interbank Offered Rate available) ("ICE LIBOR") as set and in effect on the first day of each calendar month, as obtained by Bank from an intermediary source such as Bloomberg, L.P., who may not necessarily be the rate reporting intermediary Bank selects, which rate is based on an average of interbank offered rates for U.S. Dollar deposits in the London market based on quotes from designated banks in the London market and which rate shall be rounded up to the nearest one-eighth (1/8th) of one percent by Bank. Interest on the unpaid balance of this Note shall accrue at a variable rate equal to the Index plus a margin of 3% per annum. The initial Index based on the One Month ICE LIBOR (rounded up to the nearest 1/8th of one percent) as obtained by Bank from an intermediary source on _____, 2015 is .17 % per annum resulting in an initial interest rate on the Loan of 3.17 % per annum. The Index shall be adjusted on the first day of each calendar month. The Index is not necessarily the lowest rate charged by Bank for any particular class of borrowers or credit extensions. Borrower understands that Bank may make loans based on other rates as well. If the Index becomes unavailable during the term of this Note, Bank may designate a substitute index by notice to Borrower. Borrower may obtain the current Index from Bank upon Borrower's request. Bank's determination of the Index shall be conclusive absent demonstrable error. The Line of Credit shall be represented by Bank's standard form of commercial note containing additional terms and conditions. This Line of Credit is a non-revolving loan, and the principal amount available under this Line of Credit shall be reduced by the amount of each advance and shall not be increased after payments have reduced the amount outstanding. Bank will fund the Line of Credit Loan in its entirety on the date of this Agreement.

B. EFFECT OF AGREEMENT AND DEFINITIONS. The promissory note or notes referenced in Section A and any renewals, modifications or replacements for such note(s) and any other notes that may from time to time be delivered by Borrower to Bank are subject to the terms of this Agreement without further reference. "Loan" shall collectively mean any and all loans made available to Borrower under Section A of this Agreement and all renewals, extensions or modifications therefor as well as any other loans made available to Borrower by Bank from time to time. "Loan Documents" shall mean this Agreement, any other loan agreement(s), the promissory note(s) evidencing the Loan, any continuing guaranty(ies) by Obligor, any security document(s) provided for in this Agreement and any and all other documents by Borrower or any Obligor evidencing or securing the obligations of Borrower to Bank, direct or contingent, due or to become due, now existing or hereafter arising and any and all other documents evidencing or securing the obligations of Borrower to Bank, including without limitation, all agreements with respect to any swap, forward, future, or derivative transaction or option or similar agreement involving, or settled by reference to, one or more interest rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value. The Loan and all other obligations of Borrower to Bank, direct or contingent, due or to become due, now existing or hereafter arising, shall be secured by any security documents provided for in this Agreement, any collateral set forth in any promissory note executed by Borrower, and any other Loan Documents. "Generally Accepted Accounting Principles" means Generally Accepted Accounting Principles as set forth in the *FASB Accounting Standards Codification* as established and published by the Financial Accounting Standards Board." Accounting principles are applied on a "consistent basis" when the accounting principles applied in a current period are comparable in all material respects to those accounting principles applied in a preceding period.

C. USE OF PROCEEDS. The proceeds from the Loan will be used for the following purpose(s): fund capital expenditures and replenish operating capital.

D. REPRESENTATIONS, WARRANTIES AND COVENANTS. Notwithstanding any term or provision herein to the contrary, all representations, warranties and covenants of a Guarantor made in this Paragraph D, or otherwise made in any other portions of this Agreement, are expressly limited to that individual Guarantor and have no application whatsoever to any other Obligor. Subject thereto, Borrower and/or Guarantor represents, warrants and covenants to Bank that:

- (1) **Organization and Authorization.** Each Obligor (other than an individual) is an entity which is duly organized, validly existing and, if a corporation, in good standing under applicable laws. Each Obligor's execution, delivery and performance of this Agreement and all other documents delivered to Bank has been duly authorized and does not violate Obligor's articles of incorporation (or other governing documents), material contracts or any applicable law or regulations. All documents delivered to Bank are legal and binding obligations of Obligor who executed same. Obligor shall not change Obligor's jurisdiction of organization, domicile, name, legal form, taxpayer identification number or state organization or identification number or Obligor's type or form of organizational structure without providing Bank 30 days advance written notice thereof.
- (2) **Compliance with Tax and other Laws.** Borrower shall comply, and cause each other Obligor to comply, with all laws that are applicable to Borrower's or Obligor's business activities, including, without limitation, all laws regarding (i) the collection, payment and deposit of employees' income, unemployment, Social Security, sales and excise taxes; (ii) the filing of returns and payment of taxes; (iii) pension liabilities including ERISA requirements; (iv) environmental protection; and (v) occupational safety and health.
- (3) **Financial Information.**
 - (a) Borrower shall furnish to Bank:
 - (i) **Annual Statements:** as soon as available, but in no event later than **one hundred twenty (120)** days after the close of Borrower's fiscal year, a copy of the annual financial statements of Borrower, prepared in conformity with Generally Accepted Accounting Principles applied on a basis consistent with

that of the preceding fiscal year, and audited by a public accountant acceptable to the Bank consisting of a balance sheet, a statement of earnings and surplus, and a statement of cash flow; and

- (ii) **Interim Statements:** as soon as available, but in no event later than within **forty-five (45)** days after the close of each quarter of the fiscal year of Borrower an unaudited financial statements as of the end of such quarter, prepared in conformity with Generally Accepted Accounting Principles applied on a basis consistent with that of the preceding fiscal period, consisting of a balance sheet as of the end of such quarter, a statement of earnings and surplus for such quarter and for the year to date and a statement of cash flow for such quarter, and for the year to date all certified by an appropriate executive officer of Borrower.

- (b) Borrower shall furnish to Bank, such additional information concerning the Borrower that Bank may reasonably require.

All financial statements and financial information submitted to Bank in accordance with this Agreement shall include, among other things, detailed information regarding (i) any entities, such as corporations, partnerships, or limited liability companies of which the Obligor is the majority owner and (ii) any entities of which the Obligor is not the majority owner, but for which Obligor is directly or contingently liable on debts or obligations of any kind incurred by those entities. All financial statements or records submitted to Bank via electronic means, including, without limitation by facsimile, open internet communications or other telephonic or electronic methods, including, without limitation, documents in Tagged Image Format Files ("TIFF") or Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect and the parties waive any rights they may have to object to such treatment. The Bank may rely on all such records in good faith as complete and accurate records produced or maintained by or on behalf of the party submitting such records.

- (4) **Mergers, etc.** Without the prior written consent of Bank, Borrower shall not (a) be a party to a merger or consolidation; (b) acquire all or substantially all of the assets of another entity; (c) sell, lease or transfer all, or substantially all, of Borrower's assets; or (d) change Borrower's jurisdiction of organization, domicile, name, legal form or type or organizational structure or state organizational or taxpayer identification number. Borrower shall not permit any material change to be made in the character of Borrower's business as carried on at the original date of this Agreement. Borrower shall not purchase, retire or redeem any shares of its capital stock without the prior written consent of Bank.
- (5) **Indebtedness and Liens.** Other than obligations incurred in the ordinary course of business, Borrower shall not create any additional obligations for borrowed money. Borrower shall not mortgage or encumber any of Borrower's assets or suffer any liens to exist on any of Borrower's assets without the prior written consent of Bank, other than purchase money liens incurred in the ordinary course of business.
- (6) **Other Liabilities.** (a) Obligor shall not lend to or guarantee, endorse or otherwise become contingently liable in connection with the obligations, stock or dividends of any person, firm or corporation, except as currently exists and as reflected in the financial statements of Obligor as previously submitted to Bank; (b) Obligor shall not default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any indenture, agreement or other instrument to which Obligor is a party (the effect of which would materially adversely affect the business or properties of Borrower); and (c) except as disclosed or referred to in the financial statements furnished to Bank, there is no litigation, legal or administrative proceeding, investigation or other action of any nature pending or, to the knowledge of Obligor, threatened against or affecting Obligor which involves the possibility of any judgment or liability

not fully covered by insurance, and which may materially and adversely affect the business or assets of Obligor or Obligor's ability to carry on business as now conducted.

- (7) **Documentation.** The Loan Documents shall be on the Bank's standard forms, with such modifications as may be required or agreed to by Bank, or on such other forms as Bank may accept in its sole discretion. Upon the written request of Bank, Borrower shall promptly and duly execute and deliver, or cause each Obligor to promptly execute and deliver, all such further instruments and documents and take such further action as Bank may deem necessary to obtain the full benefits of the Loan Documents.
- (8) **Financial Covenants and Ratios.** Borrower shall comply with the following covenants and ratios:

Minimum Debt Service Coverage Ratio- Pre-Tax. Borrower will maintain a ratio of not less than 1.00 to 1.00. The Debt Service Coverage ratio shall be defined as net operating income (the sum of net income plus interest, depreciation and amortization expenses and all other non-cash items of expense) divided by Borrower's Debt Service measure using required statements for that period. Debt Service shall mean the total of all interest and principal payments due on subject Loan, and any and all other amounts borrowed from time to time by the Borrower.

Calculation date for covenants and ratios. The effective date for determining compliance with the foregoing financial covenants and ratios shall be as of the end of each fiscal period Borrower is obligated to provide Bank a financial statement commencing with December 31, 2015.

- (9) **Collateral.** As security for payment and performance of Loan and any and all other obligations of Borrower to Bank under the Loan Documents, whether direct or contingent, due or to become due, now existing or hereafter arising, Borrower shall execute and deliver to Bank, or cause others to execute and deliver to Bank, the following described security documents each granting to Bank a valid and enforceable first priority lien and security interest in the collateral described therein, subject to no other lien or encumbrance:

Borrower shall grant to the Bank a first priority security interest in all earnings, revenues, income, receipts or other moneys received by Borrower from or on account of any assets, including, but not limited to, money in any Borrower Revenue Account, Borrower Operating Account, Borrower Construction Account, and the Sinking Fund, and all other funds and accounts including, but not limited to, any and all certificates or other instruments acquired by the investment of such monies, together with all proceeds thereof and replacements therefor, (collectively, the "Collateral"), pursuant to a security agreement.

Guaranties. The Loan and any and all other obligations of Borrower to Bank under the Loan Documents shall be guaranteed as follows:

A Continuing Guaranty by City of Gulf Breeze guaranteeing to Bank the payment and performance of 33 and 1/3% of all obligations of Borrower to Bank whether direct or contingent, due or to become due, now existing or hereafter arising, plus interest, attorneys' fees, and costs.

A Continuing Guaranty by Midway Water System, Inc. guaranteeing to Bank the payment and performance of 33 and 1/3% of all obligations of Borrower to Bank whether direct or contingent, due or to become due, now existing or hereafter arising, plus interest, attorneys' fees, and costs.

A Continuing Guaranty by Holley- Navarre Water System, Inc. guaranteeing to Bank the payment and performance of 33 and 1/3% of all obligations of Borrower to Bank whether direct or contingent, due or to become due, now existing or hereafter arising, plus interest, attorneys' fees, and costs.

(10) **Setoff.** If an event of Default shall have occurred and be continuing, the Bank shall have the right to set off and apply against the obligations in such manner as the Bank may determine, at any time and without notice to the Borrower, any and all deposits (general or special, time or demand, provisional or final) or other sums at any time credited by or owing from the Bank, or any financial institution affiliate of Bank, to the Borrower whether or not the Loan obligations are then due. As further security for the Loan obligations, the Borrower hereby grants to the Bank a security interest in all money, instruments, and other property of the Borrower now or hereafter held by the Bank, or any financial institution affiliate of Bank, including, without limitation, property held in safekeeping. In addition to the Bank's right of setoff and as further security for the Loan obligations, the Borrower hereby grants to the Bank a security interest in all deposits (general or special, time or demand, provisional or final) and other accounts of the Borrower now or hereafter on deposit with or held by the Bank, or any financial institution affiliate of Bank, and all other sums at any time credited by or owing from the Bank, or any financial institution affiliate of Bank, to the Borrower. The rights and remedies of the Bank hereunder are in addition to other rights and remedies (including, without limitation, other rights of setoff) which the Bank may have.

E. CONDITIONS PRECEDENT TO LOANS. Bank shall be obligated to make the Loan only so long as: (i) all of the Loan Documents required by this Agreement have been delivered to Bank; (ii) Borrower is current in the performance of all of the other obligations of Borrower contained in the Loan Documents; (iii) no Default and no event has occurred which, with the passage of time, would constitute a Default; and (iv) no adverse material change in the financial condition of any Obligor has occurred.

F. DEFAULT. The occurrence of (i) the failure of Borrower to make any payment on any Loan when due; (ii) the failure of Borrower or any other Obligor to observe or perform promptly when due any covenant, agreement or obligation under this Agreement or under any of the other Loan Documents; (iii) the material inaccuracy at any time of any warranty, representation or statement made to Bank by Borrower or any other Obligor under this Agreement or the other Loan Documents; (iv) Borrower shall fail to discharge within a period of thirty (30) days after the commencement of any attachment, sequestration or similar proceeding or proceedings against any of its assets or properties; (v) a final judgment for the payment of money in excess of **TWO HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00)** in the aggregate shall be entered by a court or courts against Borrower or any other Obligor and the same shall not be discharged or a stay of execution shall not be procured, within thirty (30) days from the date of the entry thereof; (vi) any Borrower or any other Obligor shall fail to pay when due any principal of or any interest on any other debt, or the maturity of such other debt shall have been accelerated; (vii) the filing by or against any Borrower or any other Obligor of a proceeding under the United States Bankruptcy Code or for any other relief afforded debtors or affecting rights of creditors generally under the laws of any jurisdiction; (viii) any material adverse change in the financial condition of Borrower or any material discrepancy between the financial statement submitted by Borrower and the actual financial condition of such Borrower; (x) any statement, warranty or representation made by Borrower to Bank proves to be untrue in any material respect; and (xi) any discontinuance or termination by any Guarantor of its obligations under any guaranty of any Loan. In the event of a Default, Bank, at its option, shall have the right to exercise any and all of its rights and remedies under the Loan Documents.

G. MISCELLANEOUS PROVISIONS. Borrower agrees to pay, on demand, all of the costs, expenses and fees incurred in connection with the making or enforcement of the Loan, including attorneys' fees and appraisal fees. This Agreement is not assignable by Borrower and no party other than Borrower is entitled to rely on this Agreement. No condition or other term of this Agreement may be waived or modified except by a writing signed by Borrower and Bank. This Agreement shall supersede and replace any commitment letter between Bank and Borrower relating to any Loan. If any provision of this Agreement shall be held to be legally invalid or unenforceable by any court of competent jurisdiction, all remaining provisions of this Agreement shall remain in full force and effect.

H. INDEMNIFICATION. THE BORROWER HEREBY INDEMNIFIES THE BANK AND EACH AFFILIATE THEREOF AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, AND AGENTS FROM, AND HOLDS EACH OF THEM HARMLESS AGAINST, ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DAMAGES, PENALTIES, JUDGMENTS, DISBURSEMENTS, COSTS, AND

EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) TO WHICH ANY OF THEM MAY BECOME SUBJECT WHICH DIRECTLY OR INDIRECTLY ARISE FROM OR RELATE TO (A) THE NEGOTIATION, EXECUTION, DELIVERY, PERFORMANCE, ADMINISTRATION, OR ENFORCEMENT OF ANY OF THE LOAN DOCUMENTS, (B) ANY OF THE TRANSACTIONS CONTEMPLATED BY THE LOAN DOCUMENTS, (C) ANY BREACH BY THE BORROWER OF ANY REPRESENTATION, WARRANTY, COVENANT, OR OTHER AGREEMENT CONTAINED IN ANY OF THE LOAN DOCUMENTS, (D) THE PRESENCE, RELEASE, THREATENED RELEASE, DISPOSAL, REMOVAL, OR CLEANUP OF ANY HAZARDOUS MATERIAL LOCATED ON, ABOUT, WITHIN, OR AFFECTING ANY OF THE PROPERTIES OR ASSETS OF THE BORROWER OR ANY SUBSIDIARY, OR (E) ANY INVESTIGATION, LITIGATION, OR OTHER PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY THREATENED INVESTIGATION, LITIGATION, OR OTHER PROCEEDING, RELATING TO ANY OF THE FOREGOING. WITHOUT LIMITING ANY PROVISION OF THIS AGREEMENT OR OF ANY OTHER LOAN DOCUMENT, IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT EACH PERSON TO BE INDEMNIFIED UNDER THIS SECTION SHALL BE INDEMNIFIED FROM AND HELD HARMLESS AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DAMAGES, PENALTIES, JUDGMENTS, DISBURSEMENTS, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RESULTING FROM THE SOLE OR CONTRIBUTORY NEGLIGENCE OF SUCH PERSON BUT NOT SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

I. LIMITATION OF LIABILITY. Neither the Bank nor any affiliate, officer, director, employee, attorney, or agent of the Bank shall have any liability with respect to, and the Borrower hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Borrower in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents. The Borrower hereby waives, releases, and agrees not to sue the Bank or any of the Bank's affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents.

J. NO DUTY. All attorneys, accountants, appraisers, and other professional persons and consultants retained by the Bank shall have the right to act exclusively in the interest of the Bank and shall have no duty of disclosure, duty of loyalty, duty of care, or other duty or obligation of any type or nature whatsoever to the Borrower or any of the Borrower's shareholders, to any Obligor or to any other person.

K. BANK NOT FIDUCIARY. The relationship between the Borrower and the Bank is solely that of debtor and creditor, and the Bank has no fiduciary or other special relationship with the Borrower, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between the Borrower and the Bank to be other than that of debtor and creditor.

L. EQUITABLE RELIEF. The Borrower recognizes that in the event the Borrower fails to pay, perform, observe, or discharge any or all of its obligations to the Bank, any remedy at law may prove to be inadequate relief to the Bank. The Borrower therefore agrees that the Bank, if the Bank so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

M. NO WAIVER; CUMULATIVE REMEDIES. No failure on the part of the Bank to exercise and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided for in this Agreement and the other Loan Documents are cumulative and not exclusive of any rights and remedies provided by law.

N. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of the Bank and the Borrower and their respective successors and assigns, except that the Borrower may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Bank. The word "Bank" as used herein refers to Whitney Bank, a Mississippi state chartered bank doing business as Hancock Bank

through its locations in Mississippi, Alabama and Florida and doing business as Whitney Bank through its locations in Louisiana and Texas.

O. SURVIVAL. All representations and warranties made in this Agreement or any other Loan Document or in any document, statement, or certificate furnished in connection with this Agreement shall survive the execution and delivery of this Agreement and the other Loan Documents and repayment of the Borrower's obligations to the Bank, and no investigation by the Bank or any closing shall affect the representations and warranties or the right of the Bank to rely upon them.

P. OFAC. None of the Obligor (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

Q. PATRIOT ACT. The Bank hereby notifies Obligor that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Obligor, which information includes the name and address of such Person and other information that will allow such Bank to identify such Person in accordance with the Patriot Act. Each of the Obligor shall provide such information and take such other actions as are reasonably requested by the Bank in order to assist the Bank in maintaining compliance with the Patriot Act.

R. WAIVER OF JURY TRIAL. BANK AND EACH OBLIGOR KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS SUCH OBLIGOR MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING BASED ON, ARISING OUT OF, OR IN ANY WAY RELATED TO: THIS AGREEMENT; THE OBLIGATIONS; ANY NOTES, LOAN AGREEMENTS, OR ANY OTHER LOAN DOCUMENT OR AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH ANY OF THE OBLIGATIONS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. THIS JURY WAIVER ALSO APPLIES TO ANY CLAIM OR, COUNTERCLAIM, CAUSE OF ACTION OR DEMAND ARISING FROM OR RELATED TO (I) ANY COURSE OF CONDUCT, COURSE OF DEALING, OR RELATIONSHIP OF BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON WITH BANK OR ANY EMPLOYEE, OFFICER, DIRECTOR OR ASSIGNEE OF BANK IN CONNECTION WITH THE OBLIGATIONS WITH BANK; OR (II) ANY STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON BY OR ON BEHALF OF BANK TO BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON IN CONNECTION WITH THE OBLIGATIONS REGARDLESS OF WHETHER SUCH CAUSE OF ACTION ARISES BY CONTRACT, TORT OR OTHERWISE. EACH OBLIGOR HEREBY ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE BANK IN EXTENDING CREDIT TO THE BORROWER, THAT THE BANK WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT BORROWER HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER. EACH OBLIGOR FURTHER CERTIFIES THAT NO PERSON HAS REPRESENTED TO IT, EXPRESSLY OR OTHERWISE, THAT BANK OR ANY OTHER PERSON WOULD NOT, IN THE EVENT OF A LEGAL PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER.

S. ENTIRE AGREEMENT; AMENDMENT; WAIVERS. This Agreement, the Note, and the other Loan Documents referred to herein embody the final, entire agreement among the parties hereto and supersede any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral

agreements or discussions of the parties hereto. There are no oral agreements among the parties hereto. The provisions of this Agreement and the other Loan Documents to which the Borrower is a party may be amended or waived only by an instrument in writing signed by the parties hereto.

T. MAXIMUM INTEREST RATE. No provision of this Agreement or any other Loan Document shall require the payment or the collection of interest in excess of the maximum amount permitted by applicable law. If any excess of interest in such respect is hereby provided for, or shall be adjudicated to be so provided, in any Loan Document or otherwise in connection with this loan transaction, the provisions of this Section shall govern and prevail and neither the Borrower nor the sureties, guarantors, successors, or assigns of the Borrower shall be obligated to pay the excess amount of such interest or any other excess sum paid for the use, forbearance, or detention of sums loaned pursuant hereto. In the event the Bank ever receives, collects, or applies as interest any such sum, such amount which would be in excess of the maximum amount permitted by applicable law shall be applied as a payment and reduction of the principal of the indebtedness evidenced by any promissory note executed in connection with the Loan ("Note"); and, if the principal of the Note has been paid in full, any remaining excess shall forthwith be paid to the Borrower. In determining whether or not the interest paid or payable exceeds the Maximum Rate, the Borrower and the Bank shall, to the extent permitted by applicable law, (a) characterize any non-principal payment as an expense, fee, or premium rather than as interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the entire contemplated term of the indebtedness evidenced by the Note so that interest for the entire term does not exceed the maximum rate allowed by applicable law, as it changes from time to time.

U. NOTICES. All notices and other communications provided for in this Agreement and the other Loan Documents to which the Borrower is a party shall be given in writing and made by telecopy or mailed by certified mail return receipt requested, or delivered to the intended recipient at the "Address for Notices" specified below its name on the signature pages hereof; or, as to any party at such other address as shall be designated by such party in a notice to the other party given in accordance with this section. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopy, subject to mechanical confirmation of receipt, or when personally delivered or, in the case of a mailed notice, when duly deposited in the mails, in each case given or addressed as aforesaid.

V. GOVERNING LAW; VENUE; SERVICE OF PROCESS. This Agreement is made and delivered in the State of Florida and shall be governed by and construed in accordance with the laws thereof without reference to the conflicts of law principles that would cause the application of the laws of another jurisdiction. Borrower and each other Obligor party to this Agreement hereby irrevocably submits and consents to the exclusive personal jurisdiction and venue of any state or federal court in Florida located in the same judicial district as the office of Bank specified in the first paragraph of this Agreement and agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Agreement shall be litigated only in one of the foregoing described courts. Borrower and each other Obligor party to this Agreement, for themselves, and their respective heirs, successors and its assigns, and for any person claiming under or through any of them, hereby knowingly and voluntarily waives any and all rights to have the jurisdiction and venue of any litigation arising directly, indirectly or otherwise in connection with, out of, related to or from this Agreement in any other court, and hereby knowingly and voluntarily waives any and all rights to remove this action to, or to transfer, dismiss, or change venue to, any other court. Borrower and each other Obligor party to this Agreement further acknowledges and agrees that neither Bank nor any person acting on behalf of Bank has in any way agreed with or represented to Borrower or such Obligor that the provisions of this paragraph have been waived or will not be fully enforced by Bank. The Borrower agrees that service of process upon it may be made by certified or registered mail, return receipt requested, at its address specified or determined in accordance with the provisions of the Notices section above. Nothing herein or in any of the other Loan Documents shall affect the right of the Bank to serve process in any other manner permitted by law or shall limit the right of the Bank to bring any action or proceeding against the Borrower or with respect to any of its property in courts in other jurisdictions.

W. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

X. SEVERABILITY. Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confined to the provision held to be invalid or illegal.

Y. SALE; ASSIGNMENT; PARTICIPATIONS. The Obligors acknowledge(s) that the Bank has the right to sell, assign, transfer, negotiate, or grant participations in all or any part of any Loan and any other Loan Documents, including, without limitation, this Agreement, any promissory notes representing the Obligations, and all Loan Documents, without notice to the undersigned and that the Bank may disclose any documents and information which the Bank now has or later acquires relating to the Borrower, any collateral, or any Obligor in connection with such sale, assignment, transfer, negotiation, or grant. The Obligors agree that the Bank may provide information relating to any Loan and any other Loan Documents or relating to any Obligor to the Bank's parent, affiliates, subsidiaries and service providers.

Z. CONSTRUCTION. The Borrower and the Bank acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement and the other Loan Documents with its legal counsel and that this Agreement and the other Loan Documents shall be construed as if jointly drafted by the Borrower and the Bank.

AA. AGREEMENT REGARDING BANKRUPTCY AUTOMATIC STAY. In the event of the filing of any voluntary or involuntary petition in bankruptcy by or against the Borrower, the Borrower shall not assert or request any other party to assert that the automatic stay provided in Bankruptcy Code § 362 shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of the Bank to enforce any rights it has or may come to have by virtue of this Agreement, the Loan Documents, or any other rights the Bank has or may come to have against the Borrower, or against the Collateral; further, in the event of the filing of any voluntary or involuntary petition in bankruptcy by or against the Borrower, the Borrower will not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to Bankruptcy Code § 105, or any other provision of the Bankruptcy Code or applicable federal or state law to stay, interdict, condition, reduce or inhibit the ability of the Bank to enforce any rights it has or may come to have by virtue of this Agreement, the loan documents, or applicable law against the Borrower or against the collateral.

HANCOCK BANK

By: _____
Name: DAVID G. COOPER
Title: Senior Vice President
Address for Notices: 101 West Garden Street
Pensacola, Florida 32502
Telephone No.: 850-444-3219
Attention: David G. Cooper

BORROWER:
FAIRPOINT REGIONAL UTILITY SYSTEM,
INC., a Florida not for profit corporation

NOTICE OF INDEMNIFICATION:
BORROWER HEREBY ACKNOWLEDGES
AND AGREES THAT THIS AGREEMENT
CONTAINS CERTAIN NDEMNIFICATION
I PROVISIONS PURSUANT TO SECTION H
HEREOF.

By: _____
Name: EDWIN A. EDDY
Title: President

By: _____
Name: JOHN GRANT
Title: Secretary

Address for Notices: 8574 Turkey Bluff Road
Navarre, Florida 32566
Telephone No. : 850-939-8686
Attention: Edwin A. Eddy

GUARANTOR:

Midway Water Systems, Inc., a Florida non-profit corporation,

By: _____
JOHN GRANT, President

Address for Notices:
4971 Gulf Breeze Parkway
Gulf Breeze, Florida 32563
Telephone No.: 850-932-5188
Attention: John Grant

GUARANTOR:

City of Gulf Breeze, a Florida municipal corporation,

By: _____
MATT E. DANNHEISSER, Mayor

Address for Notices:
Post Office Box 640
Gulf Breeze, Florida 32561
Telephone No.: 850-934-5100
Attention: Matt E. Dannheisser

GUARANTOR:

Holley-Navarre Water Systems, Inc., a Florida non-profit corporation,

By: _____
WILLIAM J. GOULET, President

Address for Notices:
Post Office Box 6539
Navarre, Florida 32566-2239
Telephone No.: 850-939-2427
Attention: William J. Goulet

INTERNAL USE ONLY



Commercial Note

\$600,000.00

_____, 2015

For value received, the undersigned maker(s) (hereinafter referred to individually, collectively, and interchangeably as "Borrower"), jointly and severally, if more than one, promises to pay to the order of WHITNEY BANK, a Mississippi state chartered bank ("Bank"), doing business under the trade name Hancock Bank, with an office located at 101 West Garden Street, Pensacola, Florida 32502, the sum of SIX HUNDRED THOUSAND and no/100 (\$600,000.00) DOLLARS together with interest thereon, in accordance with the terms set forth in this Commercial Note ("Note").

REPAYMENT:

The unpaid balance of this Note shall be due and payable in consecutive payments consisting of principal in the amount of TWENTY FIVE THOUSAND and no/100 (\$25,000.00) DOLLARS plus accrued interest to date, beginning _____, and on the same day in each month thereafter until _____ (the "Maturity Date"), on which date the entire unpaid balance of principal and accrued interest shall be due and payable in full.

Unless sooner declared due and payable in accordance with the provisions of this Note, on the Maturity Date, all outstanding principal, interest, fees, costs and expenses owing by Borrower to Bank shall be due and payable in full without notice or demand. Provided no other agreement between the Borrower and Bank expressly imposes a prepayment penalty, Borrower may prepay without penalty any principal on this Note in whole or in part and any prepayments made on this Note shall be applied to the principal payment(s) due on this Note in the inverse order of their maturity.

INTEREST:

[One Month ICE LIBOR] The interest rate on this Note is subject to change from time to time based on changes in an independent index which is the One Month ICE LIBOR (the "Index"). As used in this Note, the term "One Month ICE LIBOR" shall mean the One Month London InterBank Offered Rate ("LIBOR") in U.S. Dollars equal to the Intercontinental Exchange Benchmark Administration Ltd. ("ICE," or the successor thereto if ICE is no longer making a London Interbank Offered Rate available) ("ICE LIBOR") as set and in effect on the first day of each calendar month, as obtained by Bank from an intermediary source such as Bloomberg, L.P., who may not necessarily be the rate reporting intermediary Bank selects, which rate is based on an average of interbank offered rates for U.S. Dollar deposits in the London market based on quotes from designated banks in the London market and which rate shall be rounded up to the nearest one-eighth (1/8th) of one percent by Bank. Interest on the unpaid balance of this Note shall accrue at a variable rate equal to the Index plus a margin of 3% per annum. The initial Index based on the One Month ICE LIBOR (rounded up to the nearest 1/8th of one percent) as obtained by Bank from an intermediary source on _____, 2015 is ___ % per annum resulting in an initial interest rate on this Note of ___ % per annum. The Index shall be adjusted on the first day of each calendar month. The Index is not necessarily the lowest rate charged by Bank for any particular class of borrowers or credit extensions. Borrower understands that Bank may make loans based on other rates as well. If the Index becomes unavailable during the term of this Note, Bank may designate a substitute index by notice to Borrower. Borrower may obtain the current Index from Bank upon Borrower's request. Bank's determination of the Index shall be conclusive absent demonstrable error.

Default Rate. After maturity, whether that maturity results from acceleration or otherwise, interest shall, to the extent permitted by applicable law, accrue at the Default Rate. Additionally, upon the occurrence of any Event of Default hereunder other than a delinquent payment (and from and after the date of such occurrence), interest shall, to the extent permitted by applicable law, accrue at the Default Rate. The Default Rate shall be 18% per annum but in no event in excess of the maximum rate permissible under applicable law.

All interest shall be computed on the basis of the actual number of days elapsed over a year composed of 360 days. Interest shall accrue from the first date that funds are advanced to Borrower until all sums due hereunder are paid in full.

Notwithstanding the foregoing, under no circumstances will the effective rate of interest on this Note exceed the maximum rate permissible under applicable law. To the extent federal law permits Bank to contract for, charge or receive a greater amount of interest, Bank reserves the right to rely on federal law for the purpose of determining the maximum rate. It is the intention of Borrower and Bank to conform strictly to any applicable usury laws. The aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Note shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited to the principal balance on this Note or, if this Note shall have been paid in full, refunded to Borrower.

All payments to be made by the Borrower to Bank under or pursuant to this Note shall be in immediately available United States currency, without setoff or counterclaim, and in the event that any payments submitted hereunder are in funds not available until collected, said payments shall continue to bear interest until collected.

LATE PAYMENT AND NSF CHARGES: In the event any installment payment of principal and/or interest is more than ten (10) days past due Borrower promises to pay, in addition to the amount otherwise due hereunder, a delinquency charge of 5.00% of the unpaid portion of the regularly schedule payment, but not more than \$1000.00. In the event that any payment under this Note by check or preauthorized charge is later dishonored or returned to Bank unpaid due to insufficient funds, Borrower agrees to pay Bank an additional NSF check charge equal to \$25.00.

LINE OF CREDIT: This Note evidences a non-revolving line of credit under the terms of which the principal amount available to be advanced by Bank under this Note shall be reduced by the amount of each advance and shall not be increased as a result of payments or prepayments which reduce the unpaid principal balance, and advances hereunder shall be subject to that certain Loan Agreement dated the date as this Note, between Bank and Borrower, as the same may be amended from time to time.

Advances may be made by Bank upon the written, telephonic or facsimile request of Borrower, and Bank is authorized to rely conclusively upon such requests when received from a person purporting to be Borrower or Borrower's authorized officer or representative. Borrower covenants and agrees to furnish to Bank written confirmation of any non-written request for an advance within five (5) days of the resulting loan or advance, but any such loan or advance shall be deemed to be made under and entitled to the benefits of this Note irrespective of any failure by Borrower to furnish such written confirmation.

The unpaid principal balance of this Note at any time shall be the total amounts loaned or advanced hereunder by Bank, less the amount of payments or prepayments of principal made hereon by or for the account of Borrower. It is contemplated that by reason of prepayments there may be times when no indebtedness is owing hereunder; but notwithstanding such occurrences, this Note and any agreements and instruments securing the same shall remain valid and shall be in full force and effect as to loans or advances made pursuant to and under the terms of this Note subsequent to each occurrence. In the event that the unpaid principal amount hereof at any time, for any reason, exceeds the maximum amount hereinabove specified, Borrower promises and agrees to pay the excess principal amount promptly upon demand; such excess principal amount shall in all respects be deemed to be included among the loans or advances made pursuant to the other terms of this Note, shall bear interest at the rate or rates stated herein, and shall be fully secured by all collateral.

BALANCE OWING: The amount from time to time outstanding under this Note and each payment on this Note shall be evidenced by entries in Bank's internal records, which shall be conclusive evidence absent manifest error of (a) the amount of principal and interest owing on this Note from time to time; (b) the amount of each advance made to Borrower under this Note; and (c) the amount of each principal and/or interest payment received by Bank on this Note. The failure of Bank to make an accurate entry of advances and payments shall not limit or otherwise affect the obligation of Borrower to repay funds actually advanced by Bank hereunder. Any loan or advance shall be conclusively presumed to have been made under the terms of this Note to or for the benefit of Borrower when made in accordance with such requests and directions, or when made pursuant to the terms of any written agreement

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executed in connection herewith between Borrower and Bank, or when said advances are deposited to the credit of the account of Borrower with Bank regardless of the fact that persons other than those authorized hereunder may have authority to draw against such account, or when applied as a payment of principal and/or interest to another obligation of Borrower to Bank.

OBLIGORS: Any or each party to this Note (including each maker and endorser) and any or each surety and guarantor of this Note bound under separate instrument or agreement are hereinafter referred to jointly and severally as "Obligor."

SECURITY AND SET-OFF: In order to secure the repayment of the indebtedness evidenced by this Note, including, without limitation, future advances, interest, attorneys' fees, expenses of collection and costs, as well as the payment and performance of any and all other liabilities or obligations of any Borrower to Bank, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter arising, and including, but not limited to, all agreements with respect to any swap, forward, future, or derivative transaction or option or similar agreement involving, or settled by reference to, one or more interest rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value (collectively, the "Obligations"), Borrower hereby pledges to Bank, and grants to Bank a continuing lien and security interest in and a right of set-off and compensation against, all property of Borrower, including any such property Borrower holds jointly with someone else, that is now or hereafter on deposit with, in the possession of, under the control of or held by Bank or any financial institution affiliate of the Bank, including, without limitation, all cash, deposit accounts, funds on deposit, stocks, bonds, treasury obligations and other securities, investment property, financial assets, securities accounts, notes, documents, instruments, certificates of deposit, items, chattel paper, and other property (except IRA, pension, other tax-deferred retirement accounts and any accounts or property held in a trust or fiduciary capacity for which setoff would be prohibited by law), together with all property added to or substituted for any of the foregoing, and all interest, dividends, income, fruits, accessions and proceeds of any of the foregoing. The terms "chattel paper," "deposit accounts," "documents," "items," "instruments," "investment property," "securities accounts," "financial assets" and "proceeds" shall have the meaning provided in the Florida Uniform Commercial Code. Each Obligor releases Bank from any obligation with respect to the collateral including any obligation to collect any proceeds of or preserve any of Obligor's rights, including, without limitation, rights against prior parties, in any collateral in which Bank possesses a security interest. Any responsibility of Bank with respect to any collateral in which Bank possesses a security interest, whether arising contractually or as a matter of law, is hereby expressly waived.

EVALUATIONS: Borrower represents and warrants that the indebtedness evidenced by this Note was contracted for by Borrower at Borrower's request based upon Borrower's own independent determination of need. Borrower and each other Obligor understand and agree that any appraisals or evaluations made by or for the Bank of the financial condition of any person or the value of any property were made solely for the Bank's benefit and Bank in no way has represented or warranted the financial condition of any person or the value of any property in making or obtaining said appraisals or evaluations or in extending credit to Borrower or any other Obligor.⁴ Borrower and each other Obligor understand and agree that they have no right to rely on Bank's appraisals or evaluations in assuming this debt and executing this instrument and that their obligation to pay the debt represented by this Note is independent of any such appraisals or evaluations.

RENEWAL: If an earlier note of Borrower to Bank is renewed at the time of execution hereof, then this Note constitutes an extension, but not a novation, of the amount of the unpaid and continuing indebtedness, and all rights held by Bank under the earlier note shall continue in full force and effect.

FINANCIAL INFORMATION: Borrower shall, and shall cause each other Obligor to, promptly provide to Bank true and correct current financial statements and such other information regarding the financial condition, business and properties of each Obligor as Bank may request from time to time, all in form, substance and detail satisfactory to the Bank. The financial statements shall include, among other things, detailed information regarding (i) any entities, such as corporations, partnerships, or limited liability companies of which the Obligor is the majority owner and (ii) any entities of which the Obligor is not the majority owner, but for which Obligor is directly or contingently liable on debts or obligations of any kind incurred by those entities. All financial statements or records submitted to Bank via electronic means, including, without limitation by facsimile, open internet communications or other telephonic or electronic methods, including, without limitation, documents in Tagged Image Format Files ("TIFF")

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or Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect and the parties waive any rights they may have to object to such treatment. The Bank may rely on all such records in good faith as complete and accurate records produced or maintained by or on behalf of the party submitting such records.

DEFAULT: If any of the following events shall occur (each such event being referred to herein as an "Event of Default"): (a) the non-payment of any principal or interest on this Note or any other Obligation on the date when due; (b) the death, dissolution, liquidation or insolvency of any Obligor; (c) the filing by or against any Obligor of a proceeding under the U.S. Bankruptcy Code (d) the application for appointment of a receiver for, the making of a general assignment for the benefit of creditors of, or the filing of any proceeding seeking any other relief afforded debtors or affecting rights of creditors generally under the laws of any jurisdiction by or against any Obligor; (e) the default by any Obligor in the payment or performance of (i) any obligation under this Note or under any deed of trust, mortgage, security agreement or any other document securing payment of this Note, or (ii) any obligation under any other note or under any other agreement of any Obligor with or in favor of Bank; (f) any judgment, garnishment, seizure, tax lien or levy against any assets of any Obligor; (g) any material adverse change in the financial condition of any Obligor, or any material discrepancy between the financial statements submitted by any Obligor and the actual financial condition of any Obligor; (h) any statement, warranty, or representation made by any Obligor to Bank proves to be untrue in any material respect; (i) any default by any Obligor in the payment or performance of any material liabilities, indebtedness or obligations to any other creditor; (j) any merger, consolidation or change in any Obligor's type or form of organizational structure without the prior written consent of Bank; or (k) any discontinuance or termination of any guaranty of all or any portion of this Note by any Obligor or any attempt by any Obligor to do so; then, at the option of Bank, the full amount of this Note and all other obligations and liabilities, direct or contingent, of any Obligor to Bank shall be immediately due and payable without notice or demand.

REMEDIES: Bank shall have the remedies of a secured party under the Uniform Commercial Code of Florida in addition to any and all other remedies which may be available to it, all of which shall be cumulative and may be pursued singly, successively or together against any Obligor and/or any security given at any time to secure the payment hereof, all at the sole discretion of Bank. Failure on the part of Bank to exercise any right described herein or in such other documents shall not constitute a waiver of such right or preclude Bank's subsequent exercise thereof. If any notice of sale or other intended disposition of the collateral is required by law to be given, Borrower hereby agrees that a notice sent in compliance with applicable law or if applicable law does not define the required notice period then at least ten (10) days prior to such action shall constitute reasonable notice to Borrower. If the proceeds of any collateral securing this Note disposed of by Bank are insufficient to pay this Note in full, Obligor shall remain fully obligated for any deficiency.

FEES AND EXPENSES: Obligor agrees to pay on demand all charges, fees, costs and/or taxes levied or assessed against Bank in connection with this Note or any collateral securing this Note, together with all reasonable attorney's and paralegal's fees and expenses, and all other costs and expenses incurred by Bank in connection with the preparation, enforcement (including, without limitation, in bankruptcy, probate or administration proceeding or otherwise), workout, restructuring or collection of this Note, whether or not suit is filed, including such fees incurred in bankruptcy proceedings, at state and/or federal trial and appellate court levels, together with all other costs and expenses that may be incurred by Bank in connection with the enforcement of this Note or the preservation or enforcement of any of Bank's rights or interests with respect to any collateral securing this Note.

WAIVER: The Borrower waive(s), on behalf of itself and each Obligor, presentment, demand, protest, notice of dishonor, notice of demand or intent to demand, notice of acceleration or intent to accelerate, and all other notices, and agree(s) that no extension or indulgence to the undersigned (or any of them) or release, substitution or nonenforcement of any security, or release or substitution of any of the undersigned, any guarantor or any other party, whether with or without notice, shall affect the obligations of any of the undersigned. The undersigned waive(s) all defenses or right to discharge available under Section 3-605 of the Florida Uniform Commercial Code and waive(s) all other suretyship defenses or right to discharge and waives any right to receive notice of interest rate changes.

Each Obligor also agrees Bank may, one or more times, in its sole discretion, without releasing or affecting any of its rights and without notice to or the consent of such Obligor, take any one or more of the following actions:

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(a) release, renew, extend or modify the obligations of Borrower or any other Obligor; (b) release, exchange, modify, or surrender in whole or in part Bank's rights with respect to any collateral for this Note; (c) with the consent of Borrower, modify or alter the term, interest rate or due date of any payment of this Note; (d) grant any postponements, compromises, indulgences, waivers, surrenders or discharges or modify the terms of its agreements with Borrower or any other Obligor; (e) change its manner of doing business with Borrower or any other Obligor or person; or (f) impute payments or proceeds of any collateral furnished by any Obligor, in whole or in part to any costs, interest, or principal due on this Note, or to any other obligation of any Obligor to Bank, or in the event of a third party claim thereto retain the payments or proceeds as collateral for this Note without applying same toward payment of this Note, and each Obligor hereby expressly waives any claims or defenses arising from any such actions.

COMMERCIAL USE: Borrower warrants and represents to Bank and all other holders of this Note that all loans evidenced by this Note are and will be for business, commercial, or other similar purpose and not primarily for personal, family, or household purposes.

SALE/ASSIGNMENT: The Borrower acknowledge(s) that the Bank has the right to sell, assign, transfer, negotiate, or grant participations in all or any part of this Note and any related obligations, including, without limit, this Note, without notice to the undersigned and that the Bank may disclose any documents and information which the Bank now has or later acquires relating to the undersigned or to any collateral or to any Obligor or this Note in connection with such sale, assignment, transfer, negotiation, or grant. The Borrower agree(s) that the Bank may provide information relating to this Note or relating to the undersigned to the Bank's parent, affiliates, subsidiaries and service providers.

GOVERNING LAW, JURISDICTION AND VENUE: THIS NOTE IS MADE AND DELIVERED IN THE STATE OF FLORIDA AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS THEREOF WITHOUT REFERENCE TO THE CONFLICTS OF LAW PRINCIPLES THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. BORROWER AND EACH OTHER OBLIGOR PARTY TO THIS NOTE HEREBY IRREVOCABLY SUBMITS AND CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT IN FLORIDA LOCATED IN THE SAME STATE JUDICIAL CIRCUIT OR FEDERAL DISTRICT COURT AND DIVISION, AS APPLICABLE, AS THE OFFICE OF BANK SPECIFIED IN THE FIRST PARAGRAPH OF THIS NOTE AND AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONNECTION WITH, OUT OF, RELATED TO OR FROM THIS NOTE SHALL BE LITIGATED ONLY IN ONE OF THE FOREGOING DESCRIBED COURTS. BORROWER AND EACH OTHER OBLIGOR PARTY TO THIS NOTE, FOR THEMSELVES, AND THEIR RESPECTIVE HEIRS, SUCCESSORS AND ITS ASSIGNS, AND FOR ANY PERSON CLAIMING UNDER OR THROUGH ANY OF THEM, HEREBY KNOWINGLY AND VOLUNTARILY WAIVES ANY AND ALL RIGHTS TO HAVE THE JURISDICTION AND VENUE OF ANY LITIGATION ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONNECTION WITH, OUT OF, RELATED TO OR FROM THIS NOTE IN ANY OTHER COURT, AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVES ANY AND ALL RIGHTS TO REMOVE THIS ACTION TO, OR TO TRANSFER, DISMISS, OR CHANGE VENUE TO, ANY OTHER COURT. BORROWER AND EACH OTHER OBLIGOR PARTY TO THIS NOTE FURTHER ACKNOWLEDGES AND AGREES THAT NEITHER BANK NOR ANY PERSON ACTING ON BEHALF OF BANK HAS IN ANY WAY AGREED WITH OR REPRESENTED TO BORROWER OR SUCH OBLIGOR THAT THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN WAIVED OR WILL NOT BE FULLY ENFORCED BY BANK.

WAIVER OF JURY TRIAL. BORROWER KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS BORROWER MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING BASED ON, ARISING OUT OF, OR IN ANY WAY RELATED TO: THIS NOTE; THE OBLIGATIONS; ANY NOTES, LOAN AGREEMENTS, OR ANY OTHER LOAN DOCUMENT OR AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH ANY OF THE OBLIGATIONS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. THIS JURY WAIVER ALSO APPLIES TO ANY CLAIM, COUNTERCLAIM, CAUSE OF ACTION OR DEMAND ARISING FROM OR RELATED TO (1) ANY COURSE OF CONDUCT, COURSE OF DEALING, OR

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RELATIONSHIP OF BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON WITH BANK OR ANY EMPLOYEE, OFFICER, DIRECTOR OR ASSIGNEE OF BANK IN CONNECTION WITH THE OBLIGATIONS; OR (II) ANY STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON BY OR ON BEHALF OF BANK TO BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON IN CONNECTION WITH THE OBLIGATIONS, REGARDLESS OF WHETHER SUCH CAUSE OF ACTION ARISES BY CONTRACT, TORT OR OTHERWISE. BORROWER HEREBY ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE BANK IN EXTENDING CREDIT TO THE BORROWER, THAT THE BANK WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT BORROWER HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER. BORROWER FURTHER CERTIFIES THAT NO PERSON HAS REPRESENTED TO IT, EXPRESSLY OR OTHERWISE, THAT BANK OR ANY OTHER PERSON WOULD NOT, IN THE EVENT OF A LEGAL PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER.

MISCELLANEOUS: The provisions of this Note may not be waived or modified except in writing, signed by Bank. Failure of Bank to exercise rights, remedies or options Bank may have upon the happening of one or more of the events giving rise to such rights, remedies or options shall not constitute a waiver of the right to exercise the same or any other right, remedy or option at any subsequent time in respect to the same or any other event. The acceptance by Bank of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the rights, remedies or options granted herein to Bank at that time or at any subsequent time or nullify any prior exercise of any such right, remedy or option without the express written acknowledgment of the Bank.

If any provision of this Note shall be held to be legally invalid or unenforceable by any court of competent jurisdiction, all remaining provisions of this Note shall remain in full force and effect.

The term "Bank" as used herein refers to Whitney Bank, a Mississippi state chartered bank doing business as Hancock Bank through its locations in Mississippi, Alabama and Florida and doing business as Whitney Bank through its locations in Louisiana and Texas. The term Bank includes transferees, successors, and assigns of Bank, and all rights of Bank hereunder shall inure to the benefit of its transferees, successors, and assigns. All obligations of Obligor shall bind Obligor's heirs, legal representatives, successors, and assigns.

The descriptive headings of the several sections of this Note are inserted for convenience only and shall not in any way affect the meaning or construction hereof.

Bank may, at its option and in its sole discretion, maintain and rely upon a photocopy, electronic copy or other reproduction of this Note, and Borrower and each other Obligor, for themselves and their respective heirs, successors, and assigns, and any person claiming by or through any of them, hereby waive any and all objections to, and claims or defenses based upon, the failure of Bank to produce the original hereof for any purpose whatsoever.

THIS NOTE EMBODIES THE FINAL, ENTIRE AGREEMENT OF BORROWER AND BANK WITH RESPECT TO THE SUBJECT MATTER HEREOF. NO COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OR OTHER EXTRINSIC EVIDENCE OF ANY NATURE SHALL BE USED TO CONTRADICT, VARY, SUPPLEMENT OR MODIFY ANY TERM OF THIS NOTE. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

INTERNAL USE ONLY

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BORROWER:
FAIRPOINT REGIONAL UTILITY SYSTEM,

INC., a Florida not for profit corporation

By: _____

Name: EDWIN A. EDDY

Title: President

THIS NOTE HAS BEEN BOTH EXECUTED AND DELIVERED OUTSIDE OF THE TERRITORIAL LIMITS OF THE STATE OF FLORIDA AND IS NOT SECURED BY FLORIDA REAL PROPERTY AND IS THEREFORE NOT SUBJECT TO FLORIDA DOCUMENTARY STAMP TAX.

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Continuing Guaranty

In consideration of Whitney Bank, a Mississippi state chartered bank ("Bank"), doing business as Hancock Bank, with an office located at 101 West Garden Street, Pensacola, FL 32502, giving or extending credit to Fairpoint Regional Utility System, Inc., a Florida non-profit corporation (hereinafter referred to as "Borrower"), the undersigned (hereinafter referred to as "Guarantor"), hereby enters into this Continuing Guaranty (hereinafter this "Guaranty") in favor of Bank and agrees as follows:

1. Guaranteed Obligations. Guarantor unconditionally guarantees to Bank the prompt payment in full when due, whether by acceleration or otherwise, of any and all indebtedness, obligations and liabilities of any kind of Borrower to Bank, whether direct, indirect or contingent, due or to become due, now existing or hereafter arising, under that certain Commercial Note dated of even date herewith and made by Borrower in favor of Bank, together with any and all renewals, extensions amendments or modifications of the foregoing (collectively, the "Obligations"), but in no event shall Guarantor's liability under this Guaranty exceed an amount equal to 33.33% of the principal amount of the Obligations outstanding at the time that Bank first gives written notice of default to Borrower on any of the Obligations, plus interest on this limited percentage of the principal, and attorneys' fees, collection costs and expenses, and other fees and charges (i) owed by Borrower to Bank on the Obligations or (ii) incurred by the Bank in enforcing this Guaranty. Any payments by the Guarantor prior to a notice of default to Borrower and a demand by Bank to Guarantor for payment shall not reduce the maximum liability of the Guarantor under this Guaranty. The term "Obligor" as used in this Guaranty means, individually, collectively, and interchangeably any, each and/or all of Borrower, Guarantor and each co-maker, endorser, surety or guarantor of Borrower's obligations to Bank.

2. Agreement to be Bound by Other Documents. Guarantor agrees to be bound by all of the terms and conditions of any notes, agreements, or other obligations in favor of Bank signed or incurred by Borrower. Guarantor hereby waives promptness, diligence, notice of default, notice of intent to accelerate, notice of acceleration, notice of acceptance of this Guaranty, notice of the incurring by Borrower of additional indebtedness, and all other notices and demands with respect to the Obligations and this Guaranty and further waives presentment, demand, dishonor and protest. Guarantor shall not have any rights of subrogation until the indefeasible payment in full in cash of all Obligations and any subrogation rights shall relate only to the collateral then held by Bank.

3. Revocation. Notice of revocation of this Guaranty will not be effective until ten (10) days after written notice thereof is delivered to an officer of Bank at the office where the Obligations were borrowed and such officer acknowledges in writing receipt of the notice (the "Effective Date"). Any such revocation shall be effective only as to indebtedness first incurred by Borrower after the Effective Date of notice of revocation as a result of new money advanced by Bank to Borrower where no commitment or obligation on the part of the Bank to make such advance existed prior to the said Effective Date. This Guaranty shall remain in full force and effect after the Effective Date as to: (a) any Obligations incurred or arising prior to the Effective Date; (b) Obligations arising from extensions of credit Bank is bound to advance, and any other Obligations that Bank is bound to permit to be incurred, pursuant to any commitment or agreement entered into prior to the Effective Date; (c) any payments or proceeds of any collateral received by Bank on or before the Effective Date and applied to the Obligations which are subsequently repaid by Bank as a result of a court order entered after the Effective Date and which are deemed to be reinstated pursuant to the terms of this Guaranty; (d) all renewals, extensions, and modifications of any Obligations described in subsections (a), (b), and (c) herein, including any such renewals, extensions or modifications which may occur after the Effective Date; and (e) all related interest, attorneys' fees, collection costs and expenses, and other fees and charges owed by Borrower to Bank in connection with the Obligations. A notice of revocation shall not affect the liability of any person not giving such notice.

4. Right of Set-Off. To secure this Guaranty, Guarantor pledges to Bank, and grants to Bank a continuing lien and security interest in, and a right of set-off and compensation against, all property of Guarantor or in which Guarantor has an interest, including any such property Guarantor holds jointly with someone else, that is now or hereafter on deposit with, in the possession of, under the control of or held by Bank or any financial institution affiliate of Bank, including, without limitation, all cash, deposit accounts, funds on deposit, stocks, bonds, treasury obligations and other securities, investment property, financial assets, securities accounts, notes, documents, instruments, certificates of deposit, items, chattel paper, and other property (except IRA, pension, other tax-deferred retirement accounts and any accounts or property held in a trust or fiduciary capacity for which setoff would be prohibited by law), together with all property added to or substituted for any of the foregoing, and all interest,

dividends, income, fruits, accessions and proceeds of any of the foregoing. The terms "deposit accounts," "instruments," "investment property," "documents," "chattel paper," "securities accounts," "financial assets" and "proceeds" shall have the meanings provided in the Florida Uniform Commercial Code, as the same may be amended from time to time.

5. Financial Information and Covenants. Guarantor covenants and agrees that, as long as the Obligations or any part thereof is outstanding, Guarantor shall promptly provide to Bank true and correct current financial statements and such other information regarding the financial condition, business and properties of Guarantor as Bank may require or request from time to time, all in form, substance and detail satisfactory to the Bank. The financial statements shall include, among other things, a balance sheet, a statement of cash flow and an income statement, in such form and reasonable detail as the Bank may request setting forth the financial condition of the Guarantor in a manner consistent with any prior financial statement, and with detailed information regarding (i) any entities, such as corporations, partnerships, or limited liability companies of which the Guarantor is the majority owner; and (ii) any other entities or persons for which Guarantor is directly or contingently liable on debts or obligations of any kind incurred by those entities or persons. In addition, Guarantor will furnish promptly to Bank such additional information concerning the Guarantor, Guarantor's financial condition, business and properties as Bank may reasonably request from time to time.

All financial statements or records submitted to Bank via electronic means, including, without limitation by facsimile, open internet communications or other telephonic or electronic methods, including, without limitation, documents in Tagged Image Format Files ("TIFF") or Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect and the parties waive any rights they may have to object to such treatment. The Bank may rely on all such records in good faith as complete and accurate records produced or maintained by or on behalf of the party submitting such records.

6. Payment and Performance. This is a guaranty of payment and not of collection, and the liability of Guarantor shall be absolute and unconditional. In the event of default by Borrower in payment or performance of the Obligations, or any part thereof, when such Obligations become due, whether by its terms, by acceleration, or otherwise, Guarantor shall promptly pay the amount due thereon to Bank without notice or demand in lawful money of the United States of America. All payments of Guarantor pursuant to this Guaranty may be applied to the Obligations guaranteed hereby as Bank may elect in its sole discretion.

7. Subordination of Rights. Notwithstanding anything to the contrary contained in this Guaranty, Guarantor hereby irrevocably subordinates and abates, until the Obligations have been indefeasibly repaid in full in cash, any and all rights it may now or hereafter have under any agreement or at law or in equity (including, without limitation, any law subrogating Guarantor to the rights of Bank) to assert any claim against or seek contribution, indemnification or any other form of reimbursement from Borrower or any other Obligor for any payment made by Guarantor under or in connection with this Guaranty or otherwise. Notwithstanding the foregoing, if Guarantor is or becomes an "insider" (as defined from time to time in Section 101 of the U.S. Bankruptcy Code) with respect to Borrower, then Guarantor irrevocably and absolutely waives any and all rights or subrogation, contribution, indemnification, reimbursement or similar rights against Borrower with respect to the Obligations and this Guaranty, whether such rights arise under an express or implied contract or by operation of law, it being the intention of Guarantor and Bank that Guarantor will not be deemed to be a "creditor" (as defined in Section 101 of the U.S. Bankruptcy Code) of Borrower by reason of the existence of this Guaranty in the event that Borrower becomes a debtor in any proceeding under the U.S. Bankruptcy Code.

8. Joint and Several Liability. If this Guaranty is executed by more than one person, each person is bound by all of the provisions of this Guaranty and is jointly and severally liable for the payment in full of the entire amount stated herein in the same manner as if such person was the only person executing this Guaranty. The failure to sign this or any other guaranty or agreement by any other person shall not affect the liability of any party hereto. This Guaranty does not supersede or cancel, and is in addition to, any other endorsements, guaranties, or obligations with respect to Borrower that are separate and apart from this instrument, whether signed by Guarantor or by any other Obligor. This Guaranty shall not be affected or limited by the amount of any other such endorsements, guaranties, or obligations with respect to Borrower. To the extent permitted by law, Guarantor's obligations under

this Guaranty shall continue notwithstanding any set-off, counterclaim, reduction, or diminution of the Obligations or any defense of any kind or nature (other than performance by Guarantor of its obligations hereunder) that Borrower may have or assert against Bank.

9. Actions by Bank With Respect to Obligations. Without releasing or affecting Guarantor's unconditional obligations hereunder, Bank may, one or more times, in its sole discretion, without notice to or the consent of Guarantor or any non-party Obligor, take any one or more of the following actions: (a) release, compromise, renew, extend, accelerate or modify the obligations of Borrower or any other Obligor; (b) release, exchange, modify, or surrender in whole or in part Bank's rights with respect to any collateral for the Obligations; (c) with consent of Borrower modify or alter the term, interest rate or due date of any payment of any of the Obligations; (d) forbear to enforce the payment of any or all Obligations or grant any postponements, compromises, indulgences, waivers, surrenders or discharges or agree to modify the terms of its agreements with Guarantor, Borrower or any other Obligor; (e) change its manner of doing business with Guarantor, Borrower or any other person; or (f) impute payments or proceeds of any collateral furnished for any of the Obligations, in whole or in part, to any of the Obligations, or retain the payments or proceeds as collateral for the Obligations without applying same toward payment of the Obligations; and Guarantor hereby expressly waives any defenses arising from any such actions. The release of liability of any person shall not affect the liability hereunder of any person who is not specifically released.

10. Default; Remedies; Waivers. For the avoidance of confusion, Guarantor acknowledges and agrees that a default or breach by Guarantor under any covenant, requirement or provision in this Guaranty shall also constitute a default under the documents and instruments evidencing the Obligations. The liability of Guarantor shall be primary and separate and independent of the obligations of Borrower or any other Obligor, and separate or joint actions may be instituted by Bank against any one or all of the Obligors (including Guarantor) or Borrower, as Bank may elect. Guarantor agrees that it shall not be necessary for Bank, in order to enforce such payment by Guarantor, first to institute suit or exhaust its remedies against Borrower or others liable on such Obligations, or to enforce any rights against any collateral which shall ever have been given to secure such Obligations. The liability of Guarantor will not be released, reduced, impaired or otherwise affected by, and Guarantor hereby waives and agrees not to assert any defenses based in whole or in part on, the following: (a) any exercise, failure to exercise or delay in exercising any right (including any right or redemption or other statutory right), remedy, power or privilege which Bank may have (even if such right, remedy, power or privilege is lost as a result) including without limitation an election to proceed with foreclosure which may destroy or otherwise impair the subrogation rights of the Guarantor or the right of the Guarantor to proceed against Borrower or any other Obligor for reimbursement, or both; (b) allegations concerning promptness or diligence or lack thereof on the part of Bank or any other person; (c) delay or failure to give notice of any kind including, without limitation, notice of default, intent to accelerate, acceleration, acceptance of this Guaranty or the incurring by Borrower of additional indebtedness, presentment, demand, dishonor and protest; (d) any requirement that Bank proceed against Borrower or any other person or entity or to proceed against or exhaust any collateral or security held by it at any time or to pursue any other remedy in its power before proceeding against Guarantor; (e) the invalidity, deficiency, illegality or unenforceability of all or any part of the Obligations or any document or agreement executed in connection with the Obligations for any reason whatsoever including, without limitation, the incapacity, lack of authority, death or disability of, or revocation hereof or thereof by any other Obligor; (f) the release or discharge of Borrower from, or impairment or modification of, Borrower's obligations with respect to any of the Obligations in any bankruptcy, receivership, or other insolvency proceeding or otherwise; (g) the existence, creation or incurring of any new or additional indebtedness or obligation or any action or non-action on the part of any other person or entity whomsoever, in connection with any of the Obligations; (h) Bank's failure to obtain and perfect or to maintain the perfection or priority of, or the release or waiver of any rights of Bank to, any security interest in or lien on any collateral securing the Obligations or any other indebtedness of Borrower to Bank; (i) the failure of Bank or any other party to exercise diligence or reasonable care in the preservation, enforcement, sale or other handling or treatment of all or any part of any collateral securing the Obligations; (j) any failure by Bank to sell any collateral in a commercially reasonable manner at a public or private sale or to give Guarantor or any other party notice of any such sale or otherwise comply with any applicable provisions of the Florida Uniform Commercial Code; (k) any failure on the part of Bank to disclose to the undersigned any facts it may now or hereafter know about Borrower, the Obligations and/or any collateral for the Obligations; (l) any right or claim of right to cause a marshaling of Borrower's assets or to require Bank to proceed

against Guarantor in any particular order; (m) Bank's course of dealing with Borrower or any other Obligor that may be at odds with the contractual terms of the documents evidencing the Obligations; or (n) any action or omission of any kind or at any time on the part of Bank in respect of any matter whatsoever or any other circumstance which might otherwise constitute a defense available to or a discharge of Borrower or other Obligor. Any action taken by Bank pursuant to the provisions herein contained or contained in the Obligations shall not release the party or parties to this Guaranty until all of the obligations of Borrower to Bank are paid and performed in full and no further disbursements remain available to Borrower from Bank. No failure on the part of Bank to exercise, and no delay in exercising any right, power, or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

11. Subordinated Indebtedness. Guarantor hereby agrees that the Subordinated Indebtedness (as hereinafter defined) shall be subordinate and junior in right of payment to the prior payment in full of all Obligations, and Guarantor hereby assigns the Subordinated Indebtedness to Bank as security for the Obligations. If any sums shall be paid to Guarantor by Borrower or any other person or entity on account of the Subordinated Indebtedness, such sums shall be held in trust by Guarantor for the benefit of Bank and shall forthwith be paid to Bank without affecting the liability of Guarantor under this Guaranty and may be applied by Bank against the Obligations in such order and manner as Bank may determine in its sole discretion. Upon the request of Bank, Guarantor shall execute, deliver, and endorse to Bank such documents and instruments as Bank may request to perfect, preserve, and enforce its rights hereunder. For purposes of this Guaranty, the term "Subordinated Indebtedness" means all indebtedness, liabilities, and obligations of Borrower to Guarantor, other than salary and ordinary business expense reimbursements for the prior month (which if not paid in the month following the month in which they were incurred shall become Subordinated Indebtedness), whether such indebtedness, liabilities, and obligations now exist or are hereafter incurred or arise, or whether the obligations of Borrower thereon are direct, indirect, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such indebtedness, liabilities, or obligations are evidenced by a note, contract, open account, or otherwise, and irrespective of the person or persons in whose favor such indebtedness, obligations, or liabilities may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by Guarantor.

(a) Guarantor agrees that any and all liens, security interests, judgment liens, charges, or other encumbrances upon Borrower's assets securing payment of any Subordinated Indebtedness shall be and remain inferior and subordinate to any and all liens, security interests, judgment liens, charges, or other encumbrances upon Borrower's assets securing payment of the Obligations or any part thereof, regardless of whether such encumbrances in favor of Guarantor or Bank presently exist or are hereafter created or attached. Without the prior written consent of Bank, no Guarantor shall (i) file suit against Borrower or exercise or enforce any other creditor's right it may have against Borrower; or (ii) foreclose, repossess, sequester, or otherwise take steps or institute any action or proceedings (judicial or otherwise, including without limitation the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any liens, security interests, collateral rights, judgments or other encumbrances held by Guarantor on assets of Borrower.

(b) In the event of any receivership, bankruptcy, reorganization, rearrangement, debtor's relief, or other insolvency proceeding involving Borrower as debtor, Bank shall have the right to prove and vote any claim under the Subordinated Indebtedness and to receive directly from the receiver, trustee or other court custodian all dividends, distributions, and payments made in respect of the Subordinated Indebtedness. Bank may apply any such dividends, distributions, and payments against the Obligations in such order and manner as Bank may determine in its sole discretion.

(c) Guarantor agrees that all promissory notes, accounts receivable, ledgers, records, or any other evidence of Subordinated Indebtedness shall contain a specific written notice thereon that the indebtedness evidenced thereby is subordinated under the terms of this Guaranty.

12. Amendments. No amendment or waiver of any provision of this Guaranty, nor consent to any departure by Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by Bank.

13. Reliance by Bank. Guarantor acknowledges and agrees that Bank is relying upon this Guaranty and the undertakings of Guarantor hereunder in making extensions of credit to Borrower and further acknowledges and agrees that the execution and delivery of this Guaranty is a material inducement to Bank in entering into the loan to the Borrower. Guarantor represents and warrants to Bank that Guarantor has received adequate consideration for Guarantor's guaranty hereunder of the Obligations and that such Obligations reasonably benefit or may be expected to benefit Guarantor directly or indirectly. Each Guarantor hereby acknowledges that there are no conditions to the full effectiveness of this Guaranty.

14. Payment of Expenses. Notwithstanding any other provision hereof which might limit the Guarantor's Obligations hereunder, Guarantor jointly and severally agrees to pay on demand all reasonable attorneys' fees and expenses and all other costs and expenses incurred by Bank in connection with the preparation, administration, enforcement, or collection of this Guaranty, whether or not suit is filed, and including all legal fees and expenses incurred by Bank in connection with any bankruptcy proceeding affecting Borrower, Guarantor or the obligations and/or proceedings at both trial and appellate court levels, together with all other costs and expense incurred by Bank in the enforcement or collection of the obligations and/or this Guaranty.

15. Independent Access to Information. Guarantor hereby represents and warrants to Bank that such Guarantor has adequate means to obtain from Borrower on a continuing basis information concerning the financial condition and assets of Borrower and any other Obligor and that no Guarantor is relying upon Bank to provide (and Bank shall have no duty to provide) any such information to any Guarantor either now or in the future. Further, Guarantor represents, warrants and agrees that any appraisals or evaluations made now or in the future by or for Bank of the financial condition of any person or the value or condition of any property are solely for the benefit of Bank, and Guarantor has no right to rely on the same, Guarantor's obligations under this Guaranty being independent of any such appraisals or evaluations. Guarantor further agrees and acknowledges that (a) Bank is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind with Borrower, Guarantor or any other Obligor responsible for the Obligations, and Bank does not intend to ever assume any such status, or assume any fiduciary responsibility or duty to Borrower, Guarantor or any other Obligor, but intends that the relationship between Bank and such persons shall at all times remain that of debtor and creditor; and (b) by accepting, requiring, obtain or approving anything required to be performed or provided to Bank under any other loan document or instrument executed in connection with this Guaranty or the Obligations (or by failing to accept, require, obtain or approve same), including acceptance of, or procurement of, any certificate, financial statement, inspection, survey, plans and specifications, appraisal or insurance in connection with any collateral pledged to secure the Obligations, including, without limitation, real estate collateral, Bank does so solely for its own benefit, and Bank shall not be deemed to have warranted or represented the sufficiency or legal effect of the same to Borrower, Guarantor or such persons, and no such acceptance or approval shall constitute a warranty, representation or undertaking by Bank to anyone including Borrower, Guarantor or such persons with respect to the Obligations or the collateral pledged to secure the Obligations. By its execution below, Guarantor hereby acknowledges and agrees that it shall have no right, at law or inequity, to assert a claim against Bank based on the foregoing.

16. Successors and Assigns. This Guaranty shall be binding on Guarantor and Guarantor's heirs, legal representatives, successors and assigns and shall inure to the benefit of Bank, its successors, assigns, and any person or persons, or entities, including, without limitation, any banking or other financial institution, to whom Bank may grant an interest in the Obligations, or any of them, and this Guaranty shall be binding on Guarantor to the extent of such assignment or interest. Any such assignment or grant of interest shall not operate to release Guarantor from any obligation to Bank hereunder with respect to any unassigned Obligations. The term "Bank" as used in this Guaranty refers to Whitney Bank, a Mississippi state chartered bank doing business as Hancock Bank, through its locations in Mississippi, Alabama and Florida and doing business as Whitney Bank through its locations in Louisiana and Texas.

17. Reinstatement of Obligations. If Bank receives any payment or proceeds of collateral, which payment or proceeds or any part thereof are subsequently required, by any court of competent jurisdiction, to be repaid to Borrower, Borrower's estate, trustee, or any other party, then to the extent of such repayment by Bank, the Obligations or part thereof which had been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the date the initial payment, reduction or satisfaction occurred, and Guarantor shall remain jointly and severally liable to Bank for the repayment of such amount reinstated. Guarantor shall defend and indemnify Bank from any claim or loss to Bank arising under this paragraph, including, without limitation, Bank's attorneys' fees and expenses in the defense of any such action or suit, WHETHER THE SAME IS A RESULT OF BANK'S ORDINARY NEGLIGENCE (BUT NOT ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OR OTHERWISE.

18. Sale/Assignment. The Guarantor acknowledge(s) that the Bank has the right to sell, assign, transfer, negotiate, or grant participations in all or any part of the Obligations and any related obligations, including, without limit, this Guaranty, without notice to the undersigned and that the Bank may disclose any documents and information which the Bank now has or later acquires relating to the undersigned or to the Borrower or the Obligations in connection with such sale, assignment, transfer, negotiation, or participation. The Guarantor agree(s) that the Bank may provide information relating to this Guaranty or relating to the undersigned to the Bank's parent, affiliates, subsidiaries and service providers.

19. GOVERNING LAW AND VENUE. THIS GUARANTY SHALL BE GOVERNED AND CONTROLLED BY FLORIDA LAW WITHOUT REFERENCE TO THE CONFLICTS OF LAW PRINCIPLES THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. GUARANTOR HEREBY IRREVOCABLY SUBMITS AND CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT IN FLORIDA LOCATED IN THE SAME STATE JUDICIAL CIRCUIT OR FEDERAL JUDICIAL DISTRICT, AS APPLICABLE, AS THE OFFICE OF BANK SPECIFIED IN THE FIRST PARAGRAPH OF THIS GUARANTY, AND AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONNECTION WITH, OUT OF, RELATED TO OR FROM THIS GUARANTY SHALL BE LITIGATED ONLY IN ONE OF THE FOREGOING DESCRIBED COURTS. GUARANTOR, FOR ITSELF, ITS HEIRS, SUCCESSORS AND ASSIGNS AND ANY PERSON CLAIMING UNDER OR THROUGH ANY OF THEM, HEREBY KNOWINGLY WAIVES ANY AND ALL RIGHTS TO HAVE THE JURISDICTION AND VENUE OF, AND ANY LITIGATION ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONNECTION WITH, OUT OF, OR RELATED TO OR FROM THIS GUARANTY IN ANY OTHER COURT, AND GUARANTOR HEREBY KNOWINGLY WAIVES ANY AND ALL RIGHTS OR TO TRANSFER, DISMISS, OR CHANGE VENUE TO, TO REMOVE AN ACTION TO, OR TO TRANSFER, DISMISS, OR CHANGE VENUE TO ANY OTHER COURT. GUARANTOR FURTHER ACKNOWLEDGES AND AGREES THAT NEITHER BANK NOR ANY PERSON ACTING ON BEHALF OF BANK HAS IN ANY WAY AGREED WITH OR REPRESENTED TO GUARANTOR THAT THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN WAIVED OR WILL NOT BE FULLY ENFORCED BY BANK.

20. Severability. If any provision of this Guaranty shall be held to be legally invalid or unenforceable by any court of competent jurisdiction, all remaining provisions of this Guaranty shall remain in full force and effect. This Guaranty is signed on and effective as of the date shown below.

21. Savings Clause. Guarantor and Bank stipulate and agree that it is their common and overriding intent to contract in strict compliance with applicable usury laws. In furtherance thereof, none of the terms of this Guaranty shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the maximum rate permitted by applicable law, and Guarantor shall never be liable for interest in excess of the maximum rate permitted by applicable law. If, for any reason whatever, such interest paid or received during the full term of the applicable indebtedness produces a rate which exceeds the maximum rate permitted by applicable law, Bank shall credit against the principal of such indebtedness (or, if such indebtedness shall have been paid in full, shall refund to the payor of such interest) such portion of said interest as

shall be necessary to cause the interest paid to produce a rate equal to the maximum rate permitted by applicable laws.

22. Notices. Except as otherwise expressly provided herein, all notices and other communications provided for in this Guaranty shall be given in writing and made by facsimile or electronic transmission with mechanical or electronic confirmation of delivery or by registered or certified mail, return receipt requested, postage prepaid, or by hand delivery or expedited delivery service, with delivery charges prepaid and with acknowledged receipt of delivery, addressed to the intended recipient at the "Address for Notices" specified below its name on the signature pages hereof; or, as to any party at such other address as shall be designated by such party in a notice to the other party given in accordance with this section. Except as otherwise provided in this Guaranty, all such communications shall be deemed to have been duly given when transmitted by facsimile, electronic transmission or when mailed or delivered in the manner specified.

23. Counterparts. This Guaranty may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Bank may, at its option and in its sole discretion, maintain and rely upon a photocopy, electronic copy or other reproduction of this Guaranty and Guarantor for itself, its heirs, successors and assigns and any person claiming by or through any of them, hereby waive any and all objections to, and claims and defenses based upon, the failure of Bank to produce the original hereof for any purpose whatsoever.

24. **WAIVER OF JURY TRIAL.** GUARANTOR KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS GUARANTOR MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING BASED ON, ARISING OUT OF, OR IN ANY WAY RELATED TO: THIS GUARANTY; THE OBLIGATIONS; ANY NOTES, LOAN AGREEMENTS, OR ANY OTHER LOAN DOCUMENT OR AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH ANY OF THE OBLIGATIONS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. THIS JURY WAIVER ALSO APPLIES TO ANY CLAIM OR, COUNTERCLAIM, CAUSE OF ACTION OR DEMAND ARISING FROM OR RELATED TO (I) ANY COURSE OF CONDUCT, COURSE OF DEALING, OR RELATIONSHIP OF BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON WITH BANK OR ANY EMPLOYEE, OFFICER, DIRECTOR OR ASSIGNEE OF BANK IN CONNECTION WITH THE OBLIGATIONS WITH BANK; OR (II) ANY STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON BY OR ON BEHALF OF BANK TO BORROWER, ANY OBLIGOR, OR ANY OTHER PERSON IN CONNECTION WITH THE OBLIGATIONS OR BANK REGARDLESS OF WHETHER SUCH CAUSE OF ACTION ARISES BY CONTRACT, TORT OR OTHERWISE. GUARANTOR ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE BANK IN EXTENDING CREDIT TO THE BORROWER, THAT THE BANK WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT GUARANTOR HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER. GUARANTOR FURTHER CERTIFIES THAT NO PERSON HAS REPRESENTED TO IT, EXPRESSLY OR OTHERWISE, THAT BANK OR ANY OTHER PERSON WOULD NOT, IN THE EVENT OF A LEGAL PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER.

25. Final Agreement. This Guaranty embodies the final, entire agreement of Guarantor and Bank with respect to the subject matter hereof. No course of dealing between guarantor and bank, no course of performance, usage of trade or evidence of any prior, contemporaneous or subsequent oral agreements or discussions or other extrinsic evidence of any nature shall be used to contradict, vary, supplement or modify any term of this guaranty. There are no oral agreements between guarantor and bank.

[signature page follows].

Date: _____, 2015.

CITY OF GULF BREEZE, FLORIDA
a Florida Municipal Corporation

By: _____
Name: _____
Title: Mayor

ATTESTED TO BY:

Name: Edwin A. Eddy
Title: City Manager

Address for Notice Purposes:

City of Gulf Breeze

Memorandum

To: Edwin A. Eddy, City Manager

From: Curt Carver, Deputy City Manager

Date: 4/24/2015

Subject: FY 2014 CAFR

The City Council received the FY2014 Comprehensive Annual Financial Report (CAFR) on April 20, 2015. The auditors indicated that it was a "clean" opinion in that the financial statements present fairly, in all material respects, the financial position of the City. They also reported that there were no disagreements with City management related to accounting, reporting or auditing matters.

City staff concurs with the information contained in the CAFR and the points raised in the compliance section of the document. As you know, a total of four points were raised regarding internal controls. These included issues related to:

1. close out procedures and the number of adjusting entries required;
2. development of a formal fraud prevention plan;
3. periodic review of inactive utility accounts; and
4. independent contractor agreements for CTA and GBFS.

Staff will be working on the first three of these issues and presenting solutions to the City Council in the future. The fourth item has already been addressed. Another issue regarding investment allocations identified in the accountant's report on Section 218.45 of the Florida Statutes will also be resolved in the near future. In order to maintain our GFOA Certificate of Achievement for Excellence in Financial Reporting, I would suggest that the City Council accept the FY 2014 CAFR as presented at the upcoming Special Meeting.

Should you have any questions, please do not hesitate to contact me.

Recommendation: That the City Council accept the FY 2014 Comprehensive Annual Financial Report for the Year Ending September 30, 2014, prepared and presented by Saltmarsh, Cleveland & Gund at the special City Council meeting on April 29, 2015.

Enclosures

City of Gulf Breeze

Memorandum

To: Edwin A. Eddy, City Manager

From: Curt Carver, Deputy City Manager

Date: 4/24/2015

Subject: Zoning and LDC Amendments

Enclosed is a copy of Ordinance 03-15 that was presented to the City Council on April 20th. As you know, the ordinance was approved on a First Reading on that date and the Council directed that it be placed on the May 4th agenda for a Second Reading and public hearing. Since much of the discussion at the April 20th meeting dealt with the process used by the City, I thought it would be beneficial to review the process that took place to get us to this place. This process really is part of a continuous planning effort that goes back to 2008, when the City initiated the Vision 2020 project. At that time the City adopted a vision of becoming a "most livable city."

After celebrating the City's 50th birthday in 2011, the City started the second phase of this planning process. This was in response to changing economic conditions, transportation impacts expected from the reconstruction of the Pensacola Bay Bridge and a desire to diversify and strengthen the local economy. The City appointed a 10-member Steering Committee of local residents and City officials to create a Master Plan that was designed to:

1. create a long-term vision for economic development;
2. mitigate traffic impacts;
3. maintain and protect the quality of life for residents and businesses; and
4. create community consensus for future decisions.

Early on in this process, stakeholder interviews and 3 community workshops identified the following community issues:

- diversify housing choices;
- evaluate co-location of city hall and school recreational facilities;
- attract new businesses, jobs and restaurants;
- create a walkable and safe environment;
- plan for all age groups; and
- protect quality of life and schools.

After monthly public meetings, extensive public input and the evaluation of development alternatives, the Steering Committee presented the draft Master Plan at a public workshop in October 2012. The plan established several catalyst sites to diversify the business mix and promote mixed use development, recommended the creation of parallel local routes to disperse traffic from US 98 to improve traffic movement and created new community gathering places. It also recommended that existing height limits for commercial and multi-family structures be increased to 60' with appropriate buffers. This Plan was approved by the City Council in July 2013 after a public hearing process.

The approved Master Plan identified several near term action items. Two of these involved an amendment to the Comprehensive Plan (Plan Amendment) and Land Development Code (LDC). Action on these action items began in April 2014 when the City authorized its planning consultant to begin work. As with the Master Plan process, a 10 member Steering Committee was appointed. From May to August, the Steering Committee held a number of public meetings/workshops to develop the Plan Amendment. Major components of the Plan Amendment included the creation of the new MXD (Mixed Use Development) land use category within the CRA, sub-area districts, identified transportation improvements and provided for more flexible building heights and F.A.Rs. to avoid sprawl and incentivize increased economic development opportunities within the City. Fundamental to the plan amendment was that future development must meet concurrency standards for adopted levels of service for public infrastructure, such as roads and potable water. The Plan Amendment was finalized and presented to the City Council on August 4, 2014 and transmitted to State agencies for the required review. The City Council then held two public hearings, after which the Plan Amendment was approved on November 17, 2014.

As the above work was moving through the review and approval process, the Steering Committee picked up the task of revising the LDC in order to implement the approved Master Plan and Plan Amendment. The primary elements were adding the MXD zoning district to the LDC and creating target height zones, which could potentially allow for increased building height in return for increased building setback requirements and buffering standards. While some of these concepts were discussed in the earlier stakeholder meetings, the Steering Committee held a number of public workshops from September thru November of 2014 in order to develop specific language to be incorporated into the LDC.

Of particular note is the Steering Committee's evaluation of target height zones. Considerable deliberation took place on whether the additional height should be by right (simply permitted in the Land Development Code) or require specific development approval. In the end, the Steering Committee recommended that any project in one of the target height zones that exceeded 35' would require increased building setbacks, landscaped buffering, and a special exception approved by the City Council. The Steering Committee felt that this was a more effective way to achieve the community goals articulated in the Master Plan, while providing sufficient development controls. Beginning in January, our consultant and staff began preparing, revising and finalizing the actual ordinance for this round of consideration by the City Council. The proposed ordinance incorporates those recommendations regarding the special exception process, increased setbacks and buffering in the target height zone provisions.

As I have indicated in the past, Ordinance 03-15 is consistent with the recommendations of the Steering Committee, consistent with the approved Plan Amendment, implements portions of the Master Plan and is the product of a continuous multi-year public planning process (please see the attached schedule of meetings). It establishes: (1) the MXD zoning district; (2) five limited target height zones; (3) substantial buffering and additional setback requirements for applicable projects in those target height zones abutting residential areas; and (4) enhanced City review and approval steps as part of a special exception process.

Should you have any questions, please do not hesitate to contact me.

Recommendation: That the City Council approve Ordinance 03-15 adopting amendments to Chapters 20 and 21 of the Code of Ordinances in order to implement provisions of the Comprehensive Plan on May 4, 2015 after a Second Reading and public hearing on that date.

Enclosures

DATE	TYPE	LOCATION	PURPOSE
3/5/12	City Council Regular Meeting	City Hall	Appointment of Steering Committee
5/9/12	Stakeholders Meeting	City Hall	Master Plan
5/10/12	Stakeholders Meeting	City Hall	Master Plan
6/7/12	Kick Off Meeting	Comm Center	Master Plan
6/25/12	Planning/Design Workshop	City Hall	Master Plan
6/26/12	Planning/Design Workshop	City Hall	Master Plan
6/27/12	Planning/Design Workshop	City Hall	Master Plan
6/28/12	Planning/Design Workshop	City Hall	Master Plan
10/2/12	Steering Committee	City Hall	Master Plan
10/4/12	Steering Committee	City Hall	Master Plan
11/1/12	Public Workshop #3	City Hall	Master Plan
3/14/13	Steering Committee	City Hall	Master Plan
3/28/13	Steering Committee	City Hall	Master Plan
5/30/13	Steering Committee	City Hall	Master Plan
5/30/13	Steering Committee	City Hall	Master Plan
6/17/13	Steering Committee	City Hall	Master Plan
6/17/13	Steering Committee	City Hall	Master Plan
6/26/13	City Council Executive Session	City Hall	Master Plan
7/1/13	City Council Regular Meeting	City Hall	Master Plan
7/23/13	Public Meeting	Comm Center	Review Draft of Master Plan
7/31/13	City Council Special Meeting	City Hall	Adopted Master Plan
2/12/14	City Council Executive Session	City Hall	Comprehensive Plan
2/18/14	Community Redevelop Agency Board Mtg	City Hall	Comprehensive Plan
5/22/14	Steering Committee	City Hall	Comprehensive Plan
6/9/14	Public Workshop #1	City Hall	Comprehensive Plan

DATE	TYPE	LOCATION	PURPOSE
6/19/14	Public Workshop #2	City Hall	Comprehensive Plan
7/2/14	Stakeholders Meeting	City Hall	Land Development Code
7/2/14	City Council Executive Session	City Hall	Comprehensive Plan
7/7/14	City Council Regular Meeting	City Hall	Amendments to Comprehensive Plan
8/4/14	City Council Regular Meeting	City Hall	Transmittal Hearing - Comprehensive Plan
8/5/14	Stakeholders Meeting	City Hall	Land Development Code
9/30/14	Steering Committee	City Hall	Land Development Code
10/8/14	Public Workshop	City Hall	Land Development Code
10/15/14	City Council Executive Session	City Hall	Ordinance 08-14 - Comprehensive Plan
10/20/14	Steering Committee	City Hall	Comprehensive Plan
10/20/14	City Council Regular Meeting	City Hall	Ordinance 08-14 - Comprehensive Plan
11/12/14	City Council Executive Session	City Hall	Ordinance 08-14 - Comprehensive Plan
11/17/14	City Council Regular Meeting	City Hall	Public Hearing - Ordinance 08-14
12/16/14	Steering Committee	City Hall	Land Development Code
3/11/15	Public Workshop	City Hall	Land Development Code
4/1/15	City Council Executive Session	City Hall	Ordinance 03-15 - Land Develop Code
4/6/15	City Council Regular Meeting	City Hall	Ordinance 03-15 - Land Develop Code
4/15/15	City Council Executive Session	City Hall	Ordinance 03-15 - Land Develop Code

ORDINANCE 03-15

AN ORDINANCE OF THE CITY OF GULF BREEZE, FLORIDA, AMENDING SECTIONS OF THE LAND USE AND ZONING CODE AND THE LAND DEVELOPMENT CODE TO PROVIDE CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN 2035, DESIGNED TO IMPLEMENT THE CITY'S MOST LIVABLE CITY PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2(b), Article VIII of the State Constitution provides that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City Council adopted an amendment to the Comprehensive Plan, entitled "Comprehensive Plan 2035" by Ordinance No. 08-14 on November 17, 2014, in order to implement the City's Most Livable City Plan; and

WHEREAS, said amendment provides for a new land use category for mixed use development and recognizes the need to increase building heights in certain target areas; and

WHEREAS, said amendment recognized that certain revisions to the City's Land Use and Zoning Code and Land Development Code (Codes) would be necessary to ensure consistency with the goals and objectives of the Comprehensive Plan; and

WHEREAS, the Steering Committee has reviewed and recommended certain amendments to the Codes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA, AS FOLLOWS:

SECTION 1. Section 21-1 is hereby amended as follows:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense, words used in the singular number include the plural, and words used in the plural include the singular. The word "person" includes a firm, association, organization, partnership or corporation as well as an individual.

Accessory building or structure means a structure which is on the same parcel of property as a legally existing primary structure or principle use and the use of which is incidental to the use of the primary structure or principle use and contributes to the comfort,

convenience or necessity of the occupants. An accessory building or structure shall include, but not be limited to, a garage, storage shed, gazebo, picnic pavilion and similar buildings or structures. The term also includes accessory buildings or structures that are temporary or portable in nature.

Accessory use means a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Alteration of building means any change in the supporting members of a building (such as bearing walls, columns, girders) except such change as may be required for its safety; any addition to a building; any change in use from that of one district classification to another; and any change of a building from one location to another.

Building includes the word "structure" and means any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or chattels.

Condominium means a residential unit located within a multifamily building; such unit is individually owned without individual having title to the land on which the building is located.

Dwelling means a building, or a portion thereof, designed, arranged or used exclusively as the permanent living quarters for one or more persons as a single housekeeping unit.

Family means one or more persons occupying a dwelling unit and living as a single housekeeping unit.

Fence means a structure of any kind, except vegetation or plant life, erected for the purpose of enclosing a portion of land, or to divide a piece of land into distinct portions, or to separate two contiguous estates. A fence as defined above shall not include a structure erected along the exterior boundaries of any R-ES, R-1-AA, R-1-A or R-1 zoning district where those exterior boundaries border on a C-1 district or U.S. Highway 98 or Florida State Highway 399, so long as the structure does not exceed eight feet in height and is constructed of brick and/or cedar, juniper, cypress or redwood boards, is not electrified in any manner whatsoever, and is otherwise compatible aesthetically with the local environment and is approved by the designated development approval authority. If the structure does not conform to the above description, the structure shall be considered a fence and shall be subject to all of the ordinances and regulations regarding the constructions of fences.

Gasoline service station means a building or lot where gasoline or other flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks or motor vehicles by either service station attendants or by the owners of the motor vehicles or by persons other than the service station attendants. A gasoline service station shall also include a building or lot

where gasoline, oil and greases are supplied and dispensed to the motor vehicular trade and where battery, tire, vehicular repair or other similar services are supplied.

Grade means a reference plane representing the average of finished ground level adjoining the building at all exterior walls.

Group development means two or more principal buildings devoted to a common or similar use constructed on a single plot of ground which constitute an integrated industrial, commercial or apartment project.

Height as applied to a building or structure, means the vertical distance from grade or minimum base floor elevation as defined by the National Flood Insurance Program to the highest point of the finished roof surface or top of structure; height of a building in stories does not include basements and cellars, except as specifically provided otherwise.

Height, as applied to a story, means the vertical distance from top to top of two successive finished floor surfaces.

Height, as applied to a wall, means the vertical distance to the top measured from the foundation wall, or from a girder or other intermediate support of such wall.

Home occupation means any occupation or profession carried on by a member of a family residing on the premises.

Lot includes the words "plot" or "parcel" and means a portion or parcel of land devoted to a common use or occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Lot, through means interior lot having frontage on two streets other than a corner lot.

Lot, width means the distance between side lot lines measured at the setback line.

Map means the official zoning map.

Mobile home means any vehicle or similar portable structure designed for occupancy. This term shall include trailers.

Multifamily dwellings means a building or portion thereof used or designed as residences for two or more families having independent living facilities for each family.

Nonconforming use means a nonconformity that occurs when property, including buildings, structures and/or site improvements thereupon, is used for a purpose or in a manner that is in violation of and/or not in conformity with this Land Development Code.

Off-street parking means privately owned parking or standing space for motor vehicles lying outside the public right-of-way.

Open space means vegetated nonuse areas in public parks and other areas, including landscaped buffer zones.

Peddler means any individual, corporation, partnership, joint venture, sole proprietorship, business or person who shall sell, or offer for sale, or attempt to sell, to the general public, any manufactured or natural products, food, plants or any other items within the City limits from a motor vehicle, trailer, open air display or any structure not permanently attached to the ground. Excluded from this definition is ~~a city-licensed, franchised vendor who operates solely on the Gulf Breeze Fishing Pier~~; any school or civic groups which hold special event sales when same are done on a temporary basis; or any businesses which display a portion of their merchandise outside of a wholly enclosed building when that building is used for most business transactions.

Portable storage unit means any container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and which customarily is delivered and removed by truck.

Setback means the clearance from the property line to the nearest projection of a structure, including roof overhangs.

Sign, business means an attached or freestanding structure on which is announced the business use of a structure or the name of the operator of a business, located upon the same lot as the business.

Sign, outdoor advertising means an attached or freestanding structure for the purpose of conveying information, knowledge or ideas to the public.

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street means a public or private thoroughfare which affords the principal means of access to abutting property.

Street, arterial means a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed and high mobility importance. In addition, all United States numbered highways shall be arterials.

Street, collector means a route providing service which is of relatively moderate traffic volume, moderately average trip length, and moderately average operating speed. These routes also collect and distribute traffic between local roads or arterial roads and serve as linkage between land and mobility access needs.

Street, local means a route providing service which is of relatively low average traffic volume, low average trip length or minimal through traffic movements, and high land access for abutting property.

Structural value means the present-day value of the building, structure and/or site improvement. The value of the building, structure and/or site improvement as reflected in the most recent Santa Rosa County Property Appraiser valuation shall be deemed to be its present-day value. Where the value of a building, structure or site improvement was not determined by the most recent Santa Rosa County Property Appraiser valuation, or it cannot be derived therefrom, the present-day cost of replacing the building, structure or site improvement shall be deemed to be its structural value.

Structure means anything constructed, located or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground.

Swimming pool means any constructed pool structure over 18 inches in depth used for swimming or bathing.

Temporary structure means any form of shelter or covering, including a tent, pavilion, canopy or awning, that is for the shelter, housing or enclosure of persons, animals or chattels and which is used or to be used on a temporary basis in that it does not require more or less permanent location on the ground, or attachment to something having more or less permanent location on the ground.

Townhouse means a one-family, typically multistory dwelling within a minimum group of three attached units and a maximum of eight attached units, each having individual lot ownership.

Target height zone means an overlay district in which a special exception for building heights greater than 35 feet may be considered if specified design criteria and standards are met.

Used or occupied, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Yard, front means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street and the front line of the building projected to the side lot lines.

Yard, rear means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lot lines.

Yard, side means an open, unoccupied space on the same lot with a principal building, situated between the building and the side lines of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning district (land use district) means a district, as identified on the official zoning map that has specific requirements regarding the use of land and the location of structures.

SECTION 2. Section 21-26 of the Code of Ordinances is hereby amended as follows:

Sec. 21-26. - Districts enumerated.

For the purpose of this Land Development Code, the City is divided into ~~44~~ 12 land use districts designated as follows:

R-ES	Environmentally Sensitive Residential District
R-1-AA	Single-Family Residential District
R-1-A	Single-Family Residential District
R-1	Single-Family and Multifamily Residential District
R-C	Residential Condominium District
TH	Townhouse District
C-1	Commercial District
C-2	Limited Commercial District
M	Medical District
P	Public Lands District (Parks, Playgrounds, Schools)
CNS	Conservation District
<u>MXD-1</u>	<u>Mixed Use District</u>

SECTION 3. Section 21-29 of the Code of Ordinances is hereby amended as follows:

Sec. 21-29. - Use requirements by district.

The allowable uses of land and requirements for structures within each of the land use districts are contained within divisions 2-12 of this article and include:

- (1) Residential: R-ES, R-1-AA, R-1-A, R-1, R-C, TH.
- (2) Commercial: C-1, C-2.
- (3) Medical: M.
- (4) Mixed Use: MXD-1.
- (~~4~~5) Public lands: P.
- (~~5~~6) Conservation: CNS.

SECTION 4. Section 21-72 (b) (6) of the Code of Ordinances is hereby amended as follows:

(6) Any fence that utilizes a gate or similar device to restrict access to the driveway shall be equipped with a rapid entry system as specified in Section ~~21-265~~ 21-278.

SECTION 5. Section 21-162 of the Code of Ordinances is hereby amended as follows:

Sec. 21-162. – Height of buildings.

In the C-1 district, building height shall not exceed a total height of 35 feet, unless provided for in Section 21-273 - Target height zones.

SECTION 6. Section 21-194 of the Code of Ordinances is hereby amended as follows:

Sec. 21-194. – Height of buildings.

In the M district, building height shall not exceed a total height of 35 feet, unless provided for in Section 21-273 – Target Height zones.

SECTION 7. Article II. DISTRICT REGULATIONS of Chapter 21 of the Code of Ordinances is hereby amended by adding the following:

DIVISION 15 MXD-1 MIXED USE DISTRICT

Sec. 21-246. – Intent.

The MXD-1 district is intended to implement the City’s *Most Livable City Plan* and Comprehensive Plan 2035, by providing for medium to high-density development with a mix of uses within an appropriate area. These uses will be mixed throughout the district, as well as in individual developments. Residential, retail and office uses may be mixed either vertically or horizontally in a building within the MXD-1 district.

Sec. 21-247 – Permitted, prohibited uses.

- (a) Permitted Uses. Land and buildings within the MXD-1 mixed use district shall be used only for the following purposes:
- (1) Restaurants, cafes, and other food and beverage providers.
 - (2) Business and professional offices, and any other uses allowed in the C-2 district.
 - (3) Hotels, motels and other lodging facilities.
 - (4) Educational uses.
 - (5) Medical clinics (including nursing homes as defined in section 21-191).
 - (6) Churches, religious institutions, private or parochial schools and fraternal organizations.
 - (7) Municipal, county, state, federal and public buildings.

- (8) Retail shops.
- (9) Multi-family residential, including townhouses, condominiums and apartments, and accessory uses.
- (b) Prohibited Uses. Any use that is prohibited in the CDB Overlay district, Section 21-243(b), shall be prohibited in any MXD-1 district.
- (c) Uses allowed as a special exception. A single use development on a parcel of 2½ or fewer acres shall require a special exception, as described in Sections 20-41 through 20-146 of this code.

Sec. 21-248. - Height of buildings.

In the MXD-1 district building height shall not exceed a total height of 35 feet, unless provided for in Section 21-273 – Target height zones.

Sec. 21-249. - Setback requirements.

- (a) Front setbacks shall be consistent with the applicable criteria of Chapter 26, Community Redevelopment Area Design Standards, as amended.
- (b) When abutting land is zoned R-ES, R-1, R-1-A, R-1-AA, P, M or TH, unless otherwise specified by special exception:
 - (1) The building setbacks shall be not less than 30 feet.
 - (2) A landscaped buffer of not less than 15 feet in width or masonry wall of not less than 8 feet in height shall be established and/or installed along the entire length of and contiguous to the property line.

Sec. 21-250. - Parking.

The total required parking for a mixed-use development shall be the total of the required parking for each separate use in such a development, according to the requirements in Chapter 24, Division 3 of this Code, unless the developer provides a shared parking study during the development review process that demonstrates that the adjacent land uses have significantly different peak parking characteristics that vary by time of day. The applicant must demonstrate that the parking occupancy for adjacent uses does not exceed 100% of the total spaces within the parking lot during the weekday daytime, weekday evening, weekend daytime and weekend evening time periods.

Sec. 21-251. - Density.

- (a) The minimum density for residential uses in the MXD-1 district shall be 11 dwelling units per acre. The maximum density for residential uses in the MXD-1 district shall be 40 dwelling units per acre. No more than 75% of the total floor area of development within the MXD-1 district may be used for residential use, unless the parcel is located within a Subarea District as

designated on the Future Land Use Map, consistent with Future Land Use Element Policy 1.10.4 of the Gulf Breeze Comprehensive Plan.

- (b) The minimum intensity for non-residential uses in the MXD-1 district shall be 0.25 F.A.R. The maximum intensity for non-residential uses in the MXD-1 district shall be 3.0 F.A.R. No more than 75% of the total floor area of development within the MXD-1 district may be used for residential use, unless the parcel is located within a Subarea District as designated on the Future Land Use Map, consistent with Future Land Use Element Policy 1.10.4 of the Gulf Breeze Comprehensive Plan.
- (c) The development yield for residential and non-residential uses shall be determined by multiplying the maximum allowable density or F.A.R. by the acreage of land identified for either residential or non-residential uses.

Sec. 21-252. – Areas of dwelling units.

The minimum floor area of any individual dwelling unit in the MXD-1 district shall be 800 square feet. The overall average floor area for a dwelling unit, for the entire development, shall not be less than 1000 square feet, except for licensed assisted living facilities. All dwelling units located at a licensed assisted living facility are exempt from these minimum area requirements.

Sec. 21-253. – Design review process.

Developments in the MXD-1 district shall adhere to the review process specified in Section 21-244 of this Code.

Sec. 21-254. – Design guidelines.

Developments in the MXD-1 district shall adhere to the design guidelines specified in Section 21-245 of this Code.

Sec. 21-255 – Sec. 21-259. Reserved.

SECTION 8. Section 21-257 of the Code of Ordinances is hereby amended by deleting it in its entirety.

SECTION 9. Chapter 21 of the Code of Ordinances is hereby amended by renumbering the following Sections as outlined in the following table:

Section Title	Old Section	New Section
Manufactured home, mobile homes and modular homes.	21-246	21-260
Location of group homes and foster care facilities.	21-247	21-261
Cumulative residential provisions.	21-248	21-262
Exceptions to height limits.	21-249	21-263
Reduction of lot area.	21-250	21-264

Street Frontage.	21-251	21-265
Front yard exceptions.	21-252	21-266
Minimum yards and open spaces.	21-253	21-267
Yard, parking, open space to service one building.	21-254	21-268
Electrified and barbed wire fences prohibited.	21-255	21-269
Setback, fencing requirements for swimming pools.	21-256	21-270
Satellite dishes-Requirements and restrictions.	21-258	21-271
Same-Permit, plans required.	21-259	21-272
Height restrictions. (New- Target height zones.)	21-260	21-273
Restricted uses in residential districts.	21-261	21-274
Exterior lighting.	21-262	21-275
Underground utility requirements.	21-263	21-276
Use of temporary structures for nonresidential purposes.	21-264	21-277
Rapid entry system.	21-265	21-278
Portable storage units.	21-266	21-279
Reserved.	21-267	21-280
Vacant lot and construction site maintenance.	21-268	21-281
Reserved.	21-269:21-280	21-282:21-294
Intent.	21-281	21-295
Review Process.	21-282	21-296
Planned unit development types.	21-283	21-297
Minimum area requirements.	21-284	21-298
Reserved.	21-285:21-290	21-299:21-304
Intent and purpose.	21-291	21-305
Definitions.	21-292	21-306
Registration for placing or maintaining....	21-293	21-307
Notice of transfer, sale or assignment in public rights....	21-294	21-308
Placement or maintenance of a communications.....	21-295	21-309
Suspension of permits.	21-296	21-310
Appeals.	21-297	21-311
Involuntary termination of registration.	21-298	21-312
Existing communications facilities in public right....	21-299	21-313
Insurance.	21-300	21-314
Indemnification.	21-301	21-315
Construction bond.	21-302	21-316
Security fund.	21-303	21-317
Enforcement remedies.	21-304	21-318
Abandonment of a communications facility.	21-305	21-319
Force majeure.	21-306	21-320
Reservation of rights and remedies.	21-307	21-321
Reserved.	21-308:21-349	21-322:21-349

SECTION 10. The newly renumbered Section 21-273 (formerly Section 21-260) of the Code of Ordinances is hereby amended by deleting it in its entirety and inserting the following in place of said deletion:

Sec. 21-273. - Target height zones.

Except as otherwise provided herein, the maximum height limit within the City of Gulf Breeze shall be 35 feet. Such height shall be measured from grade.

(a) Purpose and Intent.

The purpose of target height zones is to allow increased height in designated areas of the City of Gulf Breeze in order to promote redevelopment and revitalization in the CRA.

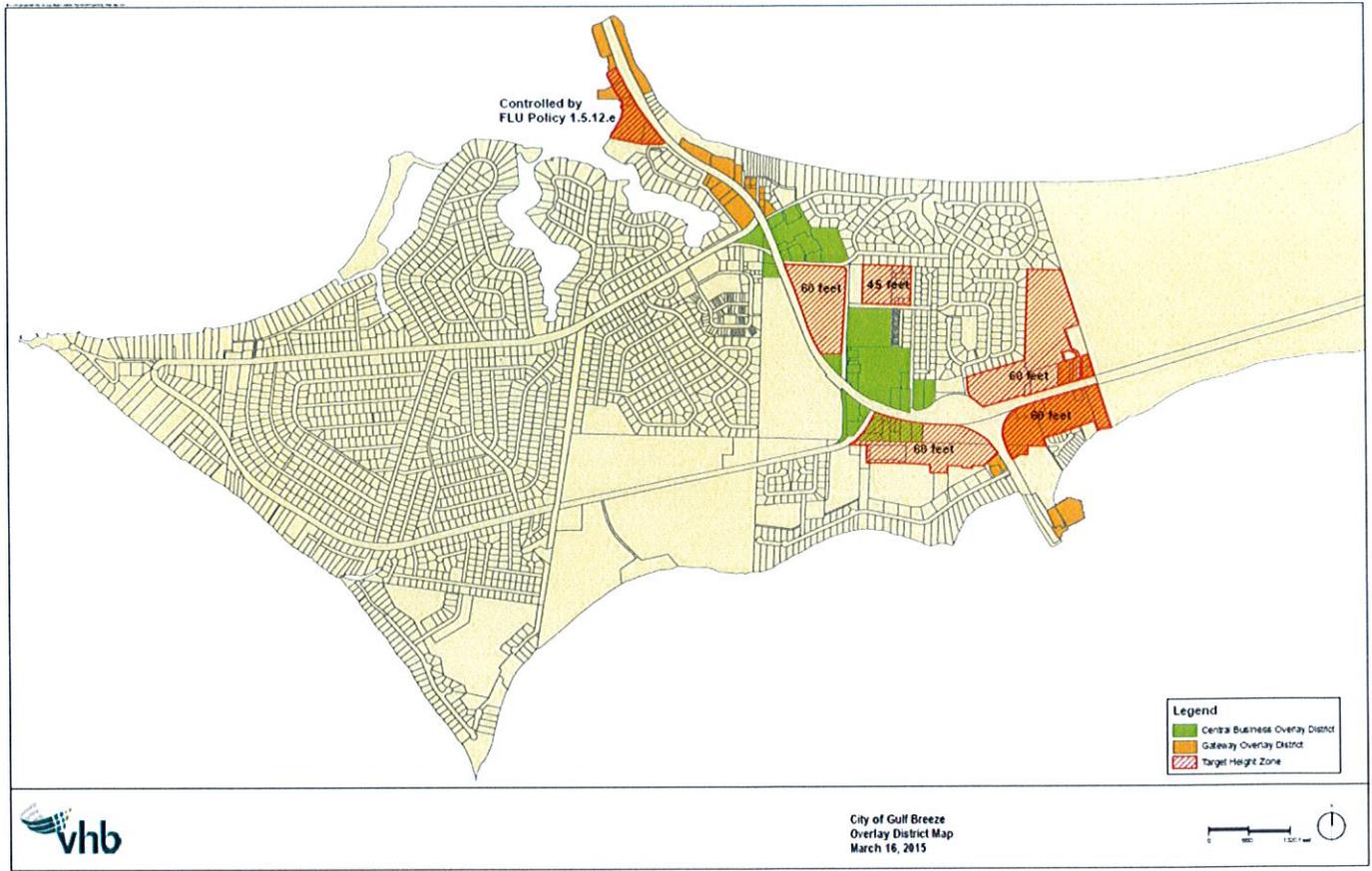
This Section is intended to provide design criteria and standards for the review and approval process to address impacts of increased building heights.

(b) Applicability.

The provisions of this Section apply only where a building height of greater than 35 feet is proposed upon a parcel.

Target height zones are depicted on the City's Overlay District Map. The City's Overlay District Map indicates the maximum building height for each of the aforementioned target height zones. Target height zone standards establish a process by which additional building heights may be considered by special exception in established target height zones. The underlying zoning district standards shall continue to apply, unless provided for in this section.

Overlay District Map



(c) Application Review and Approval Procedure.

Any proposed development where a building height of greater than 35 feet is requested shall be considered a special exception, and a level three development, and shall adhere to the level three development process described in Sections 20-41 through 20-80 of this Code, with the additional review and approval procedure described herein.

(1) Pre-Application Meeting. No application for a special exception for buildings greater than 35 feet shall be determined to be complete by the City Manager or designee, as indicated in Section 20-43, until the applicant has attended a pre-application meeting, described in Section 20-167 of this Code.

a. The purpose of the pre-application meeting is for the applicant to meet with City staff to review the proposed special exception

and discuss potential issues, concerns and questions to be addressed by the applicant.

- b. Upon request for a pre-application meeting, the City Manager, or designee, shall schedule a pre-application meeting with the applicant and appropriate City staff.

(d) Setback requirements.

For any parcel in a target height zone upon which a building is proposed to exceed 35 feet in height and which parcel abuts or is within 50 feet of property zoned R-1, R-1A or R-1AA, the following setback standards shall apply:

- (1) Any portion of a building that is greater than 35 feet must provide additional setback from any residential property outside the target height zone, in the amount of 1/4 feet of setback for every 1 foot of total building height.
 - a. The additional setback required by subsection (d) (1) above, may contain landscaping, parking, stormwater retention areas or buildings or sections of buildings that do not exceed 35 feet in height.
- (2) Buildings in target height zones that do not abut residential property, are not required to provide the additional setback described in subsection (d) (1) above, and shall adhere to the underlying zoning district setback requirements.
- (3) Buildings, or portions of buildings, that are 35 feet in height or less, shall provide setbacks as required by the underlying zoning district.
- (4) Buildings in the Harbourtown target height zone shall not be required to adhere to the additional setbacks for adjacent residential property.

(e) Design criteria.

- (1) Proposed development located within a target height zone where a building height of greater than 35 feet is requested shall adhere to the City's adopted Community Redevelopment Plan and urban design guidelines described in chapter 26 of this Code.
- (2) For all proposed development where a building of greater than 35 feet in height is requested, City staff, the Architectural Review Board and City Council shall require design criteria to mitigate the visual impact. The special exception will not be granted unless it is demonstrated to the satisfaction of the City Council that adverse visual impacts of the proposed development will be substantially

mitigated through implementation of the required design criteria. These design criteria include, but are not limited to:

- a. Enhanced landscape buffering that exceed minimum standards described in subsection (g) below;
 - b. Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light and glare, and screening of physical features of a proposed development;
 - c. Variable setbacks, based upon degree of difference in proposed scale, mass or height, as described in subsection (d) (1) above;
 - d. Transitions of building scale, massing or height to reduce monotonous design; and
 - e. Other innovative site design features that strive to achieve compatibility and mitigate potential negative impacts.
- (f) City staff, the Architectural Review Board, and/or City Council may request that the applicant provide visual studies, elevations, renderings, other studies deemed appropriate, that demonstrate the proposed methods of mitigation described in this section and elsewhere in this Code.
- (g) Buffering. For proposed development where a building height of greater than 35 feet is requested and which parcel abuts or is within 50 feet of property zoned R-1, R-1A or R-1AA, the following buffering standards shall apply in addition to the landscaping and buffering standards in the CRA district standards, Section 26-13. Where there is a conflict between the two sections, the more restrictive standards shall apply.
- (1) Location of Buffer: The buffer shall be located at the perimeter of the zoning lot where required. Buffer shall extend to the zoning lot line or the right-of-way line, except where easements, covenants, or natural features may require the buffer to be set back from the property line. Buffer areas shall be served by automatic irrigation systems to promote growth.
 - (2) Required Buffer: No less than a 15 foot vegetated buffer or 8 foot high masonry wall shall be provided for proposed mixed use multi-story development adjacent to existing single family residential development. The required vegetation shall consist of a minimum 33 shrubs/100 linear feet planted within the first 5 feet of the required

buffer, and 4 canopy trees/100 linear feet planted within the second 5 feet of the required buffer.

(3) Plant Sizes at installation

- i. Canopy Trees: No less than 3.5” DBH, 14’ overall height with 8’ spread, 65 gallon container that will create a continuous overlapping leafy canopy within five years of planting.
- ii. Shrub/Evergreen Screen: 30” minimum at installation to create 42”– 60” high by 36” wide hedge or continuous screen with 90 percent opacity at the height of the screen within one year of planting. 3 gallon container.
- iii. The applicant shall submit a landscape maintenance plan that establishes a program for ongoing landscape maintenance and irrigation to prevent the visual screen from degrading over time and thereby ensuring that the required 90 percent opacity and overlapping canopy is maintained for the life of the project. The plan will identify periodic inspection dates for code enforcement and compliance review.

SECTION 11. The newly renumbered Section 21-297 (formerly Section 21-283) of the Code of Ordinances is hereby amended as follows:

Sec. 21-297. - Planned unit development types.

Planned unit developments may be classified either as residential, commercial or mixed use PUD. A residential PUD is a development exclusively devoted to residential uses. These uses may occur as single-family and/or multifamily uses. A commercial PUD is a development exclusively devoted to a variety of commercial activities, including public and medical uses. A mixed use PUD is a development that incorporates both residential and commercial (including public and/or medical) uses. Districts in which PUD's may be approved are listed below:

Type	Districts in which permitted
Residential	R-1-AA, R-1-A, R-ES, R-1, TH, R-C
Commercial	C-1, C-2, M, P
Mixed use	R-1-A, R-1, R-C, TH, C-1, C-2, M, P, <u>MXD-1</u>

SECTION 12. Section 20-42 of the Code of Ordinances is hereby amended as follows:

Sec. 20-42. - Approval authority for various development levels.

The authority for approval of the various development levels is established as follows:

<i>Type of development</i>		<i>Approval authority</i>
(1)	Level one development:	
a.	Development Order	City Manager or designee
b.	Special Exception	Board of Adjustment
c.	Variance	Board of Adjustment
d.	Development Order Appeal	Development Review Board*
(2)	Level two development:	
a.	Development Order	Development Review Board
b.	Special Exception	Board of Adjustment
c.	Variance	Board of Adjustment
d.	Development Order Appeal	City Council*
(3)	Level three (3) development:	
a.	Development Order	City Council
b.	Variations for Level Three Developments set forth in subsections 20-41 (c)(2)-(4)	City Council
c.	All Other Variations	Board of Adjustment
d.	Special exceptions	Board of Adjustment <u>City Council</u>
e.	Development Order Appeal	Circuit court

**Note*—Decisions regarding appeals shall be final. Further action shall be filed with the circuit court of the county.

SECTION 13. Section 20-67 of the Code of Ordinances is hereby amended as follows:

Sec. 20-67. - Duties.

The Architectural Review Board for the City shall have the following duties related to application and administration of the applicable sections of the Land Development Code and the design guidelines:

- (1) Receive presentations by owners/developers and City staff of projects which meet the applicability requirements found in chapter 26 of the Municipal Code of Ordinances and the City's adopted design guidelines. Make recommendations regarding these projects to the Development Review Board and the City Council.
- (2) Make recommendations to the City Council regarding changes to the City's urban design guidelines as well as the Municipal Code of Ordinances which are deemed by the Architectural Review Board to have an impact on or facilitate the process for development or redevelopment projects in the community redevelopment area.
- (3) The Architectural Review Board may also make recommendations to the City Council relative to public improvement projects within the community redevelopment area.
- (4) The chair of the Architectural Review Board will serve as a nonvoting ex officio member of the development Review Board for the purpose of presenting findings of the Architectural Review Board to the Development Review Board (DRB). The chair of the Development Review Board shall also serve as nonvoting ex officio member of the Architectural Review Board.
- (5) Receive staff recommendations regarding approval or denial of applications for special exceptions for increased building height in target height zones.
- (6) Review all proposed special exceptions for increased building height in target height zones.
- (7) Refer special exceptions for increased building height in target height zones to the City Council with recommendation for approval or denial.

SECTION 14. – SEVERABILITY

If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by any court to be unconstitutional, inoperative, invalid or void, such holding shall not in any manner affect the validity of the remaining portions of this ordinance.

SECTION 15. – CODIFICATION

The provisions of this ordinance shall become and be made a part of the Code of Laws and ordinances of the City of Gulf Breeze. The sections of this ordinance may be renumbered or re-

lettered to accomplish such, and the word "Ordinances" may be changed to "Section", "Article", or any other appropriate word.

SECTION 16. - CONFLICT

The provisions of this ordinance shall be deemed to control and prevail over any ordinance or portion thereof in conflict with the terms hereof.

SECTION 17. - EFFECTIVE DATE

This ordinance shall become effective upon its adoption by the City Council.

PASSED ON THE FIRST READING ON THE 20th DAY OF APRIL, 2015.

ADVERTISED ON THE _____ DAY OF _____, 2015.

PASSED ON THE SECOND READING ON THE ____ DAY OF _____, 2015

BY: _____
MATT DANNHEISSER, MAYOR

ATTEST:

LESLIE GUYER, CITY CLERK

City of Gulf Breeze

Memorandum

To: Edwin A. Eddy, City Manager

From: Curt Carver, Deputy City Manager

Date: 4/23/2015

Subject: Ordinance 04-15

As you know, Ordinance 04-15 amends Section 3-4(b) of the City Code as it relates to the prohibition for a restaurant to sell liquor drinks within 150' of a church or school property. It distinguishes restaurants that are located in shopping centers and the practicality of the prohibition when you consider the area and relative distance of these type of retail facilities to adjoining properties. The proposal eliminates the property line measurement if the restaurant is:

1. located in a unified group of stores, such as a named shopping center complex;
2. the parcel or the sum of the parcels on which the unified group of stores are located exceeds 2.5 acres; and
3. the footprint and/or exterior serving areas of the restaurant are located more than 150' from the property line of a church or school.

If these conditions are present, then the restaurant would be allowed to serve liquor drinks in addition to beer and wine. Ordinance 04-15 was passed unanimously by the City Council on a First Reading on April 20, 2015 and they directed that the ordinance be scheduled for a public hearing and Second Reading on May 4, 2015.

Should you have any questions, please do not hesitate to contact me.

Recommendation: That the City Council approve Ordinance 04-15 adopting an amendment to Section 3-4 (b) of the Code of Ordinances to permit the sale of liquor drinks by restaurant within 150 feet of a school or church property under certain conditions after the Second Reading and public hearing on May 4, 2015.

Enclosures

ORDINANCE NO. 04-15

AN ORDINANCE OF THE CITY OF GULF BREEZE, FLORIDA, PERTAINING TO THE REGULATIONS OF CERTAIN BUSINESSES THAT SELL OR SERVE ALCOHOLIC BEVERAGES; AMENDING SECTION 3-4(B) OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gulf Breeze desires to promote and protect the health, safety, morals and welfare of its citizens through the regulation of the location and operation of certain business engaged in the selling or serving of alcoholic beverages; and,

WHEREAS, the City of Gulf Breeze finds that certain location, separation and operational requirements for businesses that sell or serve alcoholic beverages may minimize adverse secondary effects associated with such business operations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gulf Breeze, Florida, as follows:

SECTION 1 - Section 3-4(b) is hereby amended as follows:

(b) The following businesses or establishments shall be exempt from the requirements of subsection (a) to the extent set forth below:

- (1) A business or establishment which has a restaurant license authorized under F.S. (2005) § 561.20(2)(a)4, shall be exempt from the distance requirements of subsection (a) and shall be allowed to sell liquor, beer, and wine for on-premises consumption to the extent permitted in its license; provided, however, no such business or establishment shall sell or serve liquor if it is located within 150 feet of a church or public school. Notwithstanding the foregoing, any such business or establishment that is: (a) located in a unified group of stores, such as a named shopping center complex; and, (b) the parcel or the sum of the parcels on which the unified group of stores are located exceeds 2.5 acres; and, (c) the footprint and/or exterior serving areas of the business or establishment are located more than 150 feet from the property line of a church or school shall be considered in compliance;
- (2) A business or establishment which has a license authorized under F.S. (2005) § 563.02(1)(a), shall be exempt from the distance requirements of subsection (a) and shall be allowed to sell beer and wine, but not liquor, for off-premises consumption only;
- (3) A restaurant does not hold a license authorized pursuant to F.S. (2005) § 561.20(2)(a)4, but which is equipped to serve at least 35 persons full-course

ORDINANCE 04-15

Page 2 of 2

meals at tables at one time and which derives at least 51 percent of its gross revenues from the sale of food and nonalcoholic beverages shall be exempt from the separation requirements set forth in subsection (a) and shall be allowed to sell beer and wine, but not liquor, for on-premises consumption; and

- (4) A bona fide nonprofit civic organization which has a license authorized under F.S. (2005) § 561.422, shall be exempt from the distance requirements of subsection (a) and shall be allowed to sell alcoholic beverages to the extent permitted in its license.

SECTION 2 - SEVERABILITY

If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by any court to be unconstitutional, inoperative, invalid or void, such holding shall not in any manner affect the validity of the remaining portions of this Ordinance.

SECTION 3 - CONFLICT

The provisions of this Ordinance shall be deemed to control and prevail over any ordinance or portion thereof in conflict with the terms hereof.

SECTION 4 - EFFECTIVE DATE

This Ordinance shall become effective upon its adoption by the City Council.

PASSED ON THE FIRST READING ON THE 20th DAY OF APRIL, 2015.

ADVERTISED ON THE ___ DAY OF _____, 2015.

PASSED ON THE SECOND READING ON THE ___ DAY OF _____, 2015.

By: _____
Matt E. Dannheisser, Mayor

ATTESTED TO BY:

Leslie Guyer, City Clerk



City of Gulf Breeze

MEMORANDUM

TO: Edwin A. Eddy, City Manager

FROM: Thomas E. Lambert, Assistant Director of Public Services

DATE: April 24, 2015

RE: SSRUS Board Recommendations

A handwritten signature in black ink, appearing to be "T. Lambert", is written over the "FROM:" line of the memorandum.

The following recommendations were recommended by the SSRUS Board at their April 13, 2015 meeting.

Redwood Lane 12" Gravity Sewer Slip Lining

A major gravity main to the treatment facility is in need of repair. This main carries the sewer flow from College Park and Whisper Bay areas. The leak in the main is a major contributor of excess groundwater that must be treated and poses a risk of ground subsidence.

The main is 10 feet deep, making excavation difficult. Staff solicited quotes for slip-lining the main to avoid the cost of excavation. Brown Construction, a Pensacola based firm, submitted the low price.

RECOMMENDATION: The SSURS Board recommends the City Council authorize Brown Construction to slip-line the 12" gravity sewer main from US Highway 98 to Redwood Lane at a cost of \$25,450 funded from reserves.

Wastewater Treatment Facility Fencing

The F/Y 2015 capital budget includes the installation of additional fencing to protect the wastewater treatment facility. The facility is partially fenced, but has depended on the pond, a berm and the golf course to prevent unauthorized entry. Recently, there have been more instances of citizens trespassing on the site. Staff solicited quotes as shown on the attached memo.

RECOMMENDATION: The SSRUS Board recommends the City Council authorize the approved capital budget expenditure of \$13,500 with A-1 Hurricane Fence for the installation of a perimeter fence at the wastewater treatment facility.

(850) 934-5100 • (850) 934-5114

P.O. BOX 640 • 1070 SHORELINE DRIVE • GULF BREEZE, FLORIDA 32562-0640



City of Gulf Breeze

MEMORANDUM

TO: Edwin A. Eddy, City Manager

FROM: Vernon L. Prather, Director of Public Services *V.P.*

DATE: April 8, 2015

RE: Redwood Lane 12" Gravity Sewer Slip Lining

There is a 12" clay sewer main needing repair to stop infiltration in Santa Rosa Shores Subdivision. The gravity sewer line flows southward from Hwy 98 to Redwood Lane and is major connector with sewage flows from the north side of Hwy 98

This sewer main has no lateral connections and is approx. 10' deep; therefore making excavation for replacement extremely difficult and expensive. The best method of repair is to slip line the existing 12" gravity sewer main with a water tight liner which will seal out the infiltration and prevent further deterioration.

Staff solicited quotes and obtained the following:

Brown Construction:	\$25,450
B & W Utilities:	\$27,237
Warrington Utility & Excavating:	\$26,661

Recommendation: SSRUS Board recommend that the City Council authorize Brown Construction to slip-line the 12" gravity sewer main from Hwy 98 to Redwood Lane at cost of \$25,450

D.A.D.



Since 1995
 Certified General &
 Underground Utility Contractors
 CGCO45510 CUC056748 AL44998



Therran Gentry
 City of Gulf Breeze

Re: Redwood Ln

We are please to provide our price for the following scope of work on the above referenced project.

Redwood Ln Main Liner

1	Temp Bypass from MH to FM on N side of 98	1	LS	\$	25,450.00
2	12" Full Lenth Liner w/ Post Video Inspection	314	LF	\$	-
				TOTAL	\$ 25,450.00

Notes:

- 1 Items not specifically noted are excluded.
- 2 Scope and price based on Camera Report, 6/3/2014.
- 3 Dewatering testing is excluded.
- 4 Relocation of other existing utilities is excluded.
- 5 Per SBP, Customer to provide the following: Suitable access to job site and water via fire hydrant.
- 6 An additional charge of \$250.00 per hour will be billed for standby time if site is inaccessible.

Thank you for the opportunity to quote this work. Should you have any questions or need further information, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabe Jackson".

Gabe Jackson

B & W Utilities Inc.

P.O. Box 1187
Cantonment FL. 32533
850-982-4453
Fax: 850-780-6683

Proposal #181

To: City of Gulf Breeze	Job: Redwood Ave. Liner
----------------------------	----------------------------

Quantity	Description	Price Each	Amount
	Scope of Work: Provide labor, equipment and material to install 12''*314' full length liner on Redwood Ave. Includes bypass pumping and post video inspection		
Date: 4-8-15		Total:	\$27,237.00

For B&W Utilities Inc.

Brandon Vaughn, Pres.



State Certified# CU C1224889
Fire Main # FPC11-000045

Date: April 9, 2015

Re: Redwood Avenue

Attn: Mr. Therran Gentry

Warrington Utility & Excavating Inc. will provide material, labor, and supervision to install 12" x 314' liner on Redwood Ave.

Grand Total: \$26,661.80

Please Note the following:

- Price subject to change in case of any unforeseen circumstances or any utilities encountered
- Price does not include any removal and/or replacing unsuitable materials
- Anything not specifically stated in this proposal is excluded from price
- Price does not include any fee's (i.e. permits, tie in, impact, layout, etc.)
- We are not responsible for utilities damaged by other companies/contractors (i.e. utilities already approved/installed)
- If project start or finish is delayed due to circumstances beyond our control, we reserve the right to modify our prices for any labor, equipment or material price increase

Complete Sanitary Sewer Systems * Mains, Laterals, Lift Stations, Force Mains, etc. * Complete Water Main Systems * Fire Hydrants, Wet Taps, Services, Back Flow Preventors and Testing, Pressure Testing, Jack & Boring * Complete Storm Drain Systems * Concrete Pipe and Plastic Pipe * Curb Inlets, Catch Basins, Box Culverts, Under drain Systems, Excavating * Dewatering * Electrical and Telephone conduit
8401 Untreiner Avenue, Pensacola, FL 32534 Office: (850) 476-2280, Fax: (850)476-2283

CITY OF GULF BREEZE

Tiger Point Wastewater Treatment Plant

Interoffice Memorandum

DATE: 4/7/15

TO: Vernon Prather; Thomas Lambert 

FROM: Jason Randell

RE: Fencing Contractor Recommendation

We currently have an approved capital expense budget allocation in the amount of \$13,500 for the installation of a perimeter fence at the wastewater treatment facility. Please see the attached overhead picture which outlines the existing fence line and the new proposed fence line.

We received quotes from three separate licensed fencing contractors for the installation of 1,300 linear feet of 72 inch commercial grade chain link fencing, 2 access gates, and approximately 34 feet of 72" treated wood privacy fencing as follows:

1. A-1 Hurricane Fence Industries: **\$13,500**
2. KD Services of NWF LLC: **\$13,597**
3. Atlantic Industrial Fence, Inc.: **\$14,693**

I recommend the expenditure of \$13,500 for the fencing project using A-1 Hurricane Fence Industries as the contractor for the project. A-1 Hurricane Fence provided the lowest quote, and has performed very well on several fencing projects with SSRUS including the front fence and gate at the wastewater treatment facility.

Sincerely,

Jason Randell
WWTF Supervisor

Recommendation: SSRUS Board and City Council authorize the expenditure of \$13,500 for the installation of a perimeter fence at the waste water treatment facility.



A-I HURRICANE FENCE INDUSTRIES

Ph: (850)432-0921

Fax: (850)438-4202

E-mail: gblackhfwf1@bellsouth.net

959 W. Massachusetts Ave.

Pensacola, FL 32505

March 30, 2015

The City of Gulf Breeze

P. O. Box 640

Gulf Breeze, FL 32561

Attn: Jason Randall

Re: Tiger Point WWTF

The purpose of this letter is to provide pricing for the fence work as per our site visit last week. We propose to furnish and install the approximately 1300' of 6' chain link fence with one walk gate and one double swing access gate for 12' opening, using the specifications provided as follows:

Sub 20 frame with top rail furnished and installed \$13,500.00.

This includes the 34' of 6' treated pine wood fence over the berm.

If we reach an agreement, it would need to be understood that if our scope of work comes farther down the line than reasonably anticipated, and that if steel prices escalate, that we would then expect to be able to recover the amount of the increase in the material. Labor and equipment would not be affected.

This would not include any clearing, grubbing or earth work of any kind, nor grounding of the fence, nor penetration of anything other than soil to set posts, nor anything else not specifically mentioned herein without express written agreement between us.

Should you have any questions or require further information, please don't hesitate to contact me at my office.

Best,

George Black

Commercial Estimator/Project Manager



ATLANTIC INDUSTRIAL FENCE, INC.
 Pensacola, FL 32502
 www.pensacolafence.net

1995 Barrancas Ave.
 (850) 432-1716 FAX 432-1717
 aifincl@atlanticindustrialfence.com

BID PROPOSAL / CONDITIONS

Page 1 of 2
 03/23/2015

Client Information:

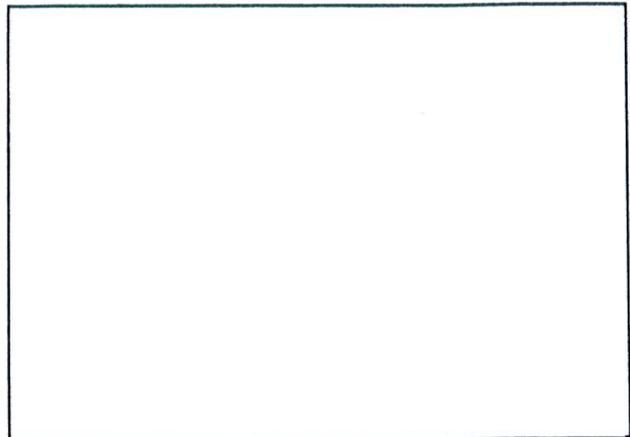
City of Gulf Breeze
 Attn: Jason Randell
 P.O. Box 640
 Gulf Breez, FL 32562-0640

Job Information:

Perimeter Fence
 6' high chain link & wood
 T0323151B.JS0

Scope of Work:

Quote includes:
 Install approximately 1300' of 6' high commercial grade SS-20 framework and 9 gauge fabric chain link fence with two 12' double gates as discussed with Jason Randell.
 Also, install 34 of 6' high treated pine wood privacy fence over berm.



TERMS & CONDITIONS

I. BOTH PAGES MUST BE SIGNED, INITIALED AND RETURNED TO VALIDATE THIS PROPOSAL. BY ACCEPTING THE PRICE, YOU ALSO ACCEPT ALL CONDITIONS OF THIS PROPOSAL AND THEY SHALL SUPERCEDE OR BE INCLUSIVE OF ANY OTHER CONTRACT.

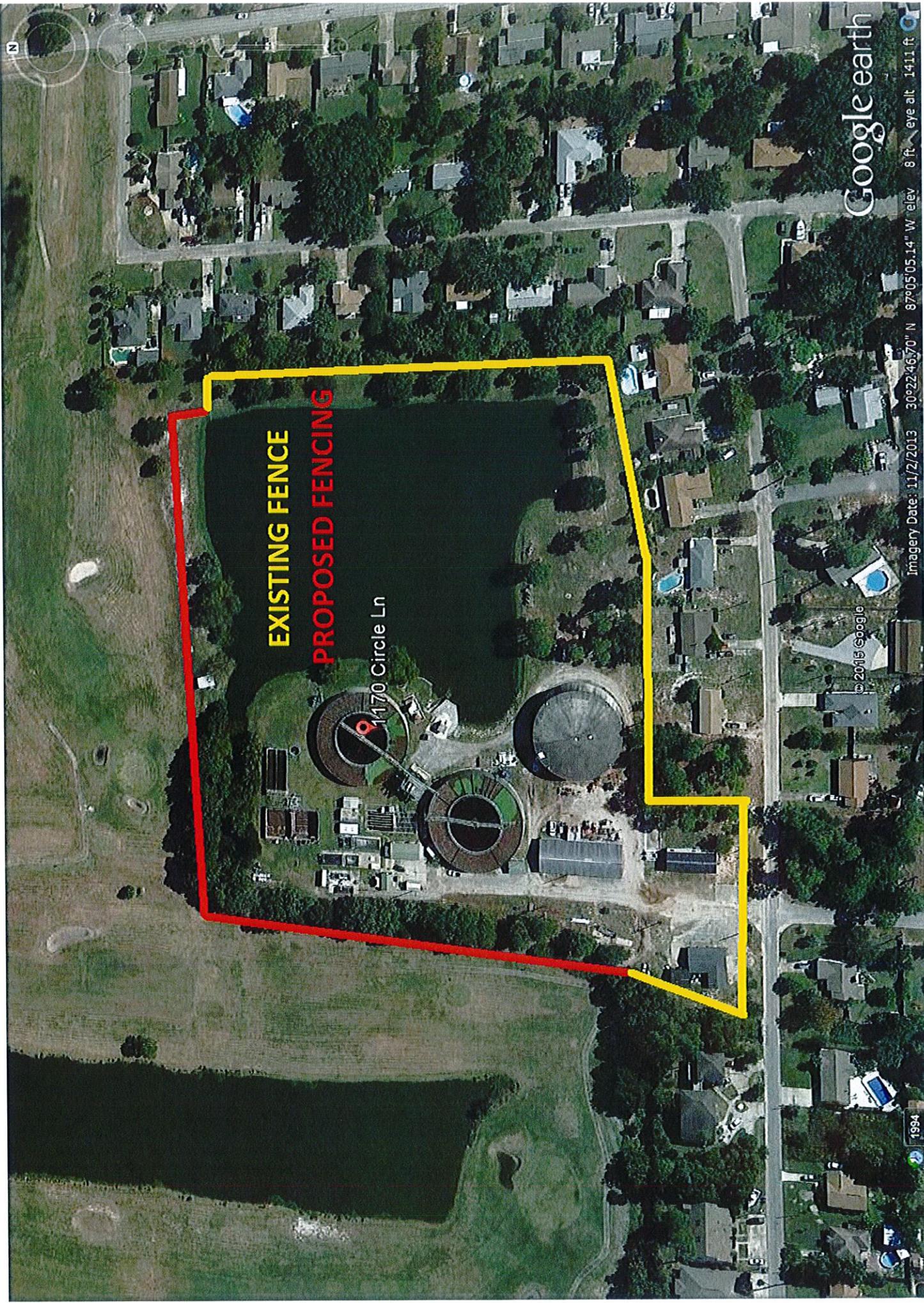
II. ALL FENCE LINES MUST BE CLEARED, GRADED, MARKED AND HAVE ACCESSIBLE WORKING AREA TO INSTALL FENCE.

III. Under no circumstances does ATLANTIC INDUSTRIAL FENCE, INC. assume responsibility concerning property line location or in any way guarantee their accuracy. ATLANTIC INDUSTRIAL FENCE, INC. assumes no responsibility for unmarked sprinkler lines, or any other unmarked buried lines or objects. City of Gulf Breeze will assume all liability for any damage caused by directing ATLANTIC INDUSTRIAL FENCE, INC. to dig in the immediate vicinity of any utilities. The price quoted does not include cutting or breaking thru asphalt or concrete, unless stated above.

Approved & Accepted for Client(s) :

Estimated Amount: \$ 14692.98
 Security Deposit: \$ _____
 Balance Due: \$ 14692.98

Name & Title	Date
For ATLANTIC INDUSTRIAL FENCE, INC.:	
<u>Dennis Toothman</u>	<u>03/24/15</u>
Company Representative	Date



EXISTING FENCE
PROPOSED FENCING

1170 Circle Ln

Google earth

Imagery Date: 11/2/2013 30°22'46.70" N 87°05'05.14" W elev 8 ft eye alt 1411 ft

© 2015 Google

1994



City of Gulf Breeze

TO: Edwin A. Eddy, City Manager
FROM: Thomas E. Lambert, Assistant Director of Public Services
DATE: April 24, 2015
RE: Drainage Easement from Santa Rosa County School District

A handwritten signature in black ink, appearing to read "T. Lambert", is written over the "FROM:" line of the memo.

The Stormwater Task Force recommended that the project to serve Russ Drive and Dracena Way be revised to include gravity drainage instead of a pump station. The revision will require an additional easement from the Santa Rosa County School District to provide a path for the discharge pipe along the western and southern property of the three schools in Gulf Breeze. The District has agreed to the easement.

The proposed easement agreement is based on the existing easement the City has from the District. The District's and the City's attorneys have reviewed the revised document and find it satisfactory.

The design drawings for the pipe are 90% complete, and the permit revision will be submitted to the Northwest Florida Water Management District in the next two weeks. The contractor approved for the original project will provide a change order price for the City Council's approval in early June, with the work to start in July.

RECOMMENDATION: The City Council authorize the Mayor to execute the drainage easement with Santa Rosa County School District for the Russ Drive and Dracena Way drainage project.

EASEMENT

STATE OF FLORIDA
COUNTY OF SANTA ROSA

THIS EASEMENT is made on this ____ day of _____, 2015, by and between THE SCHOOL BOARD OF SANTA ROSA COUNTY, FLORIDA, whose post office address is 5086 Canal Street, Milton, Florida 32570, (hereinafter "Grantor"), and the CITY OF GULF BREEZE, a Florida municipal corporation, whose post office address is Post Office Box 640, Gulf Breeze, Florida 32562-0640 (hereinafter "Grantee").

RECITALS:

A. Grantor is the owner of that certain property located in the City of Gulf Breeze, Santa Rosa County, Florida, more particularly described in Exhibit "A" attached hereto and hereby made a part hereof (hereinafter the "Property"). Grantor owns the Property in fee simple and has the right to convey the Property and/or interests therein to Grantee.

B. Grantor is a Florida district school board that operates the public schools in Santa Rosa County, including Gulf Breeze Elementary School, Gulf Breeze Middle School, Gulf Breeze High School (all three of which shall be collectively referred to herein as the "Schools").

C. Grantee is a Florida municipal corporation which provides sewer, water, stormwater, and natural gas utility services (hereinafter collectively "Utility Service"). Grantor has previously granted an easement to Grantee for, and/or has otherwise consented to Grantee, using portions of the Property for Utility Services purposes.

D. For purposes of improving drainage and preventing flooding, Grantor and Grantee desire to construct for stormwater drainage facilities upon portions of the Property.

E. Subject to the terms and conditions hereof, Grantor is willing to grant this Easement for Stormwater Service purposes.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grantor does hereby grant, bargain, sell and convey unto Grantee, its successors and assigns, forever, the perpetual, non-exclusive right and easement to enter upon, occupy and use the Property for the purposes of (i) installation, construction, maintenance, repair and replacement of stormwater lines and appurtenances and all facilities and equipment necessary or convenient in connection therewith (hereinafter collectively the "Grantee's Facilities"), together with the right to lay, bury, construct, operate, maintain, dig up, repair, install and replace such Grantee's Facilities from time to time;

2. The Property may not be utilized for travel, traffic or use by any motorized vehicles that may be operated upon public roads and thoroughfares in the State of Florida; provided, however, the Grantee and its contractors may operate such motorized vehicles upon the Property if the utilization thereof is necessary, convenient, or expedient for the installation, construction, maintenance, repair and/or replacement of the Grantee's Facilities.

3. The use of the Grantee's Facilities by the Grantor shall be limited to the stormwater connections established in the original construction of the Facilities ("Stormwater Service Connection"), which original construction will occur based on plans and specifications from Jehle-Halstead, Inc. entitled "Nightingale Manor Outfall 2015". Future stormwater connections by Grantor to Grantee's Facilities, and the Facilities referenced in that certain easement between the parties dated March 28, 2002, will require Grantee's approval and be subject to approval of any local, state or federal agency having jurisdiction over the specific Stormwater Service Connection.

4. Grantee agrees, at its sole cost and expense, to (i) install, maintain, repair and replace all of Grantee's Facilities located within the Property, and (ii) repair or replace any damage to the ground surface and improvements (including but not limited to the buildings, trees, fences and landscaping) located on the Property, or located on property owned by Grantor adjacent thereto, caused by the installation, construction, repair and maintenance of Grantee's Facilities located within the Property.

5. Grantor and Grantee each hereby covenant that they shall not use the Property, or allow the Property to be used, for any purpose inconsistent with or which impedes or impairs use of the Property for the purposes contemplated herein including any structures or appurtenances within six (6.0) inches of the ground surface, as it exists on the date of this Easement, within the fenced-in athletic practice field as it exists on the date of this Easement.

6. Grantee agrees, that when practical, the scheduling of all maintenance performed on utilities contained within the Easement will be pre-arranged with the Grantor in an effort to limit disruption with day-to-day school activities.

7. To the extent allowed by law, Grantee shall indemnify, defend and hold Grantor, its officers, agents and employees harmless from and against any and all claims, suits, causes of action, proceedings, loss, liability, damages, cost and expense caused or resulting from Grantee's Facilities on the Property for the purposes contemplated herein, including attorney's fees, expenses and costs incurred in defending said claims; provided, however, the duty to indemnify, defend and hold harmless as set forth in this paragraph shall not apply to any claims, suits, causes of action, proceedings, loss, liability, damages, etc., based upon, caused by or resulting from Grantor's acts or omissions.

8. This Easement and all rights and obligations contained herein shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties hereto and shall be deemed to run with the land.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

GRANTEE

Signed, sealed and Delivered
In the Presence of:

CITY OF GULF BREEZE, FLORIDA,
A Florida municipal corporation,

By: _____

Type/Print Name: _____

MATT DANNHEISSER
Mayor

Type/Print Name: _____

(AFFIX CITY SEAL)

ATTESTED TO BY:

Stephanie Lucas or Leslie Guyer, City Clerk

STATE OF FLORIDA
COUNTY OF SANTA ROSA

The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this _____ day of _____, 2015, by Matt Dannheisser and Stephanie Lucas or Leslie Guyer, Mayor and City Clerk, respectively, of the City of Gulf Breeze, Florida. They are personally known to me or produced _____ as identification.

NOTARY PUBLIC
[AFFIX NOTARY SEAL]

GRANTOR

THE SCHOOL BOARD OF SANTA ROSA
COUNTY, FLORIDA

By: _____
HUGH WINKLES
Its: Chairperson

ATTESTED TO BY:

TIM WYROSDICK, Superintendent

[AFFIX SCHOOL BOARD SEAL]

Type/Print Name: _____

Type/Print Name: _____

STATE OF FLORIDA
COUNTY OF SANTA ROSA

The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this _____ day of _____, 2015, by Hugh Winkles and Time Wyrosdick, Chairperson and Superintendent, respectively, of The School Board of Santa Rosa County, Florida. They are personally known to me or produced _____ as identification.

NOTARY PUBLIC

[AFFIX NOTARY SEAL]



City of Gulf Breeze

DEPARTMENT OF PARKS AND RECREATION

To: Edwin A. Eddy, City Manager

From: Ron Pulley, Director of Parks & Recreation

Subject: Christmas Decorations – Highway 98

Date: April 23, 2015

In August of 2012, Council approved a three year contract with Property Innovations, Inc. to provide and maintain Christmas holiday decorations on Highway 98 within the business district of the city limits. The decoration plan and layout was developed by a citizen committee appointed by the Mayor. The terms of this contract, which included a \$15,172.00 annual fee, expired at the end of the 2014 Christmas season.

Sealed bids for the continuation of the current Christmas holiday decoration program were solicited, received and opened on April 9, 2015. The attached bid package outlines the terms, conditions and scope of services.

The City received three responses and they are as follows:

- | | |
|--|-------------|
| 1. The Lighting Company (formerly known as Property Innovations, Inc.)
48 Commerce Lane
Freeport, FL | \$16,355.00 |
| 2. Hepworth Landscape and Lawn Maintenance
426 Surrey Drive
Gulf Breeze, FL | \$13,850.00 |
| 3. Lawn Master, Inc.
3200 E. Johnson St.
Pensacola, FL | \$10,780.00 |

Recommendation

That Council award a contract to Lawn Master, Inc. in the amount of \$10,780.00 annually for the provision of Christmas holiday decorations in the medians of Highway 98 within the business district of the city limits. Further, that Council authorize payment using CRA funds and authorize annual renewal pending satisfactory contractor performance.

Bid Specifications
Christmas Holiday Decorations
Highway 98, Gulf Breeze Parkway Medians

Base Bid - Alternate #1

Provide labor, equipment and NEW materials to prepare, install and take down Christmas Holiday Decorations in the specified locations in the medians of Highway 98, Gulf Breeze Parkway, within the city limits of Gulf Breeze, Florida.

Base Bid - Alternate #2

Recommend an alternate design of decorations for the City's consideration. Provide labor, equipment and materials to prepare, install and take down Christmas Holiday Decorations in the specified locations in the medians of Highway 98, Gulf Breeze Parkway, within the city limits of Gulf Breeze, Florida. The term of this contract shall be for a period of one year. The City, at its discretion, shall have the right to renew or extend the agreement on a yearly basis thereafter. This alternate design must also be used in the additive alternates. Include descriptions and illustrations with your bid. Assume a budget equal to your Base Bid - Alternate #1.

The base bids shall include items numbered 3, 4, 5, 11, 15, 16, 26, 27, and 28. All remaining items shall be considered individual additive alternates. Funding for these additive alternates will be subject to donations from local individuals or businesses. **Bidder will provide a date by which all materials must be ordered in order to meet the installation deadline of Thanksgiving Day.**

All Christmas Holiday lighting and decor are to be fully installed and functional by Thanksgiving Day and shall be removed within 7 calendar days of notification by the City of Gulf Breeze.

All bids shall include maintenance support with a 24 hour maximum response time following notification by the City of Gulf Breeze.

The following is the installation design for the lighting and decor to be provided in Base Bid – Alternate #1:

“Gulf Breeze Sign”

Provide and Install 6' x 2'3" red mesh bow just behind and over sign. Bow to be outlined with clear LED mini's.

Sign Flower Bed

Install multi-colored LED mini's throughout the bed at a height and angle visible to motorists

Palm Trees

Trunk wrap with 6" to 8" verticle spacing using clear LED mini's.

On the palm boot, randomly place red LED mini's

Fronnd light 8 to 10 fronds per tree with clear rope lights

Crepe Myrtles

Trunk and branch wrap with 1.5" to 3" verticle spacing using clear LED mini's

Live Oak Trees

Trunk and branch wrap with 1.5" to 3" verticle spacing using clear LED mini's

30' Christmas Tree

Provide a fresh cut or artificial 30' Christmas tree, decorated with multi-colored 4" balls and multi-colored C-7 lights.

Bid Items and Locations

Island 1

1. Ten(10) Crepe Myrtles

Island 2

2. Six(6) Crepe Myrtles

Island 3

3. **Gulf Breeze Sign**
4. **Three(3) Palms**
5. **Sign Flowerbed**

Island 4 (Reader board)

6. Four(4) Palms
7. Two(2) Live Oaks
8. Two(2) Palms

Island 5 (Shell)

9. Four(4) Crepe Myrtles
10. Two(2) Live Oaks

Island 6 (Taco Bell)

N/A

Island 7

N/A

(Fairpoint/98 Intersection)

Island 8

11. **Eight(8) Crepe Myrtles**
12. Seven(7) Crepe Myrtles
13. Seven(7) Crepe Myrtles

S.W. corner Andrew Jackson Trail/98

14. Seven(7) Palms

Island 9

15. **Eight(8) Live Oaks**

Island 10

16. **Eight(8) Live Oaks**

Island 11

17. Four(4) Crepe Myrtles

Daniel Dr./98 Intersections

Island 12

N/A

Island 13

N/A

Island 14

N/A

399 Overpass N.E. Cloverleaf

18. Add 30' Christmas Tree

Island 15

19. Two(2) Live Oaks
20. Two(2) Palms
21. Three(3) Palms
22. Two(2) Live Oaks
23. 12 Crepe Myrtles
24. Two(2) Palms
25. Five(5) Crepe Myrtles

(G. B. Baptist Hospital Entrance)

Island 16

N/A

Island 17

26. **Gulf Breeze Sign**
27. **Three(3) Palms**
28. **Sign Flowerbed**

Note: Islands are numbered west to east, beginning at the landing of the Three mile Bridge and ending at the Naval Live Oaks Reservation east of Gulf Breeze Baptist Hospital.