

# PANAMA CITY BEACH CITY COUNCIL AGENDA

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

MEETING DATE: MAY 9, 2019  
MEETING TIME: 6:00 P.M.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION – POLICE CHAPLAIN JOHN WOODROW, GULFVIEW UNITED METHODIST CHURCH
- III. PLEDGE OF ALLEGIANCE – COUNCILMAN SOLIS
- IV. COMMUNITY ANNOUNCEMENTS
- V. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 25, 2019
- VI. APPROVAL OF AGENDA, AND ADDITIONS OR DELETIONS
- VII. PRESENTATIONS- COUNCILMAN SOLIS
  - 1 BOYS & GIRLS CLUB CIVIC ACHIEVEMENT AWARD
  - 2 “NATIONAL POLICE WEEK” & “PEACE OFFICERS MEMORIAL DAY” PROCLAMATION & PRESENTATION TO CHIEF WHITMAN
  - 3 “NATIONAL PUBLIC WORKS WEEK” PROCLAMATION & PRESENTATION TO KELLY JENKINS
  - 4 “NATIONAL TOURIST WEEK” PROCLAMATION & PRESENTATION
  - 5 “NATIONAL SAFE BOATING WEEK” PROCLAMATION & PRESENTATION
  - 6 CHECK PRESENTATION BY IRONMAN TO POLICE DEPARTMENT FOR COPS N’ KIDS
  - 7 PICKLEBALL PRESENTATION – CARL GENDECE
- VIII. PUBLIC COMMENTS – REGULAR (NON-PUBLIC HEARINGS) & CONSENT ITEMS ONLY (LIMITED TO THREE MINUTES)
- IX. CONSENT AGENDA
  - 1 *RESOLUTION 19-88, TYLER TECHNOLOGIES EXECUTIME MOBILE ACCESS. “A Resolution of the City of Panama City Beach, Florida, approving an agreement with Tyler Technologies, Inc. for cloud based service for Executime in the amount of \$68,868; and providing an immediately effective date.”*
- X. REGULAR AGENDA - DISCUSSION/ACTION

NO.	OFFICIAL	ITEM
1	JP	RESOLUTION 19-87, BID AWARD – FRANK BROWN PARK SOCCER FIELD LIGHTING PROJECT.
2	MG	ORDINANCE 1490, AMENDING LDC REGARDING TELECOMMUNICATION FACILITIES IN THE RIGHT-OF-WAY.
3	ML	ORDINANCE 1491, AMENDING LDC RELATING TO HOSPITALS, 1 <sup>ST</sup> READING, <u>PUBLIC HEARING</u> .



**DRAFT  
MINUTES**

The Regular Meeting of the City Council of the City of Panama City Beach, Florida, and when permitted or required by the subject matter, the Panama City Beach Community Redevelopment Agency, held on April 25, 2019.

ROLL

MAYOR MIKE THOMAS

COUNCILORS:

PAUL CASTO

PHIL CHESTER

GEOFF MCCONNELL

HECTOR SOLIS

CITY MANAGER:

MARIO GISBERT

CITY CLERK:

MARY JAN BOSSERT

CITY ATTORNEY:

AMY MYERS

Mayor Thomas called the Regular Meeting to order at 9 a.m. with all Councilmen, the City Manager, City Clerk, and City Attorney present.

Councilman McConnell gave the invocation and led the Pledge of Allegiance.

Mayor Thomas announced the upcoming Community Events.

The Minutes of the Regular Meeting April 11, 2019 were read. **Councilman Chester made the motion to approve the Minutes as written. Second was by Councilman Casto and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

Mayor Thomas asked if there were any additions or deletions to the Agenda. There were none. **Councilman McConnell made the motion to approve the Agenda as written. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**PRESENTATIONS**

1 **FIRE DEPARTMENT UPDATE.** Chief Couch gave a PowerPoint presentation on the Fire Department. The presentation included a flowchart of the department along with descriptions of the two fire stations and the new station currently being under construction. He explained the number of accidents that have occurred this year compared to previous years and other counties. The Special Operations Unit, Wildland

Burn Team, CISM Team, Task Force 111 in Mexico Beach were recognized. He explained the Department is involved in humanitarian aid in Bay County and is invested in the community and youth activities.

Chief Couch explained the department is tied into County dispatch. He stated the County will install new radio equipment in the next year. Councilman McConnell commented that fiberoptic cable is already laid for the traffic system, it could also be used for communications; this issue needs to be pursued as a County initiative for getting some hard lines placed. Councilman Solis agreed it would be a good time to talk with the County about placing dedicated fiber from the EOC and to the Beach. With the expansion being done on Airport Road, the cable could be running on the back side where there are no infrastructures. He also asked if dead trees are being inspected within the City limits. Chief Couch explained he has spoken with the Forestry Department to gyro tract around the City. Chief Couch and Mr. Gisbert explained limitations with going on privately owned land and that the City's consultants and Bay County were working to address deadfall in the area. Mr. Gisbert explained the County is working on getting permission from the State to access private property so they can create fire breaks. Chief Couch explained the deadfall is not a big issue as it is over the bridge.

Councilman Chester asked what role the City has in assisting the airport. Chief Couch explained Panama City Beach Fire Department is the closest responding outside agency to the Airport. They typically arrive first on scene and set up the groundwork for others coming in to assist. The Fire Department also helps conduct training at the airport.

Mayor Thomas asked about the status of Hurricane Michael related fire station repairs. Mr. Gisbert explained they are working with FEMA on the scope of the repairs. Mayor Thomas stated water rescue equipment needs to be on all fire trucks. Councilman Casto stated he would like to see Beach Rescue transitioned from the Police Department to the Fire Department. Mr. Gisbert explained something will be brought to the Council in October. Mayor Thomas and the Council thanked the Fire Department for all they do.

**2 EMPLOYEE RECOGNITION FOR YEARS OF SERVICE – NELDA FIELDS.** Mayor Thomas invited Nelda Fields to the podium and congratulated her for her valuable contributions and dedication over the past 50 years to the City. She received a Key to the City and lapel pin for her service. Ms. Fields thanked the Mayor and stated it has been a wonderful journey. The audience responded with applause.

#### **PUBLIC COMMENTS (REGULAR NON-PUBLIC HEARINGS AND CONSENT ITEMS)**

Mayor Thomas opened the Public Comments section of the meeting at 9:32 a.m. and invited comments.

1 Gary Beck. Mr. Beck offered the Fire Department his fire suppression invention. Mayor Thomas explained the public comments section is in reference to the regular and consent items only.

2 Genese Hatcher, 203 S Wells Street. Ms. Hatcher thanked Ms. Nelda for always being kind. She explained she bought lots on Oleander to build rental homes and that parking is no longer allowed there. She explained there are five feet left over after houses are built if the City adds the additional three feet people can park under the houses. Parking is a serious issue for Panama City Beach. This would be a benefit for investors and others.

With no further comments, Mayor Thomas closed the Public Comments period at 9:36 a.m.

**CONSENT AGENDA**

Ms. Bossert read the Consent Agenda Items by title.

**ITEM 1 RESOLUTION 19-80, SHADDAI SHRINE TEMPLE SPRING CEREMONIAL PARADE.** *“A Resolution of the City of Panama City Beach, Florida, authorizing careful traffic control and extraordinary usage of a portion of Front Beach Road (U.S. 98) to permit the Shaddai Shrine Temple Spring Ceremonial Parade on the morning of Saturday, May 18, 2019; and providing an immediately effective date.”*

**ITEM 2 RESOLUTION 19-84, BID AWARD – NORTH GLADES AND HOMBRE DRAINAGE IMPROVEMENTS.** *“A Resolution of the City of Panama City Beach, Florida, approving an agreement with Gulf Coast Utility Contractors, LLC, related to the North Glades and Hombre Drainage Improvements Project in the amount of \$748,472; and providing an immediately effective date.”*

**ITEM 3 RESOLUTION 19-85, BID AWARD – WASTEWATER TREATMENT FACILITY GENERATOR REPLACEMENT RADIATORS.** *“A Resolution of the City of Panama City Beach, Florida, approving an agreement with TAW Power Systems, Inc. in the amount of \$123,388 for the purchase of two generator replacement radiators; and providing an immediately effective date.”*

Councilman Chester asked if a grant was received for the North Glades and Hombre Drainage Improvements Project. Ms. Younce explained there was not a grant and the project was included in the budget.

**Councilman Chester made the motion to approve the Consent Agenda. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**REGULAR AGENDA**

**ITEM 1 RESOLUTION 19-81, BUDGET AMENDMENT – RETIREMENT.** Ms. Myers read Resolution 19-81 by title. The Council had no comments.

**Councilman McConnell made the motion to approve Resolution 19-81. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>



**ITEM 2 RESOLUTION 19-82, AMENDMENT TO DISASTER PAY POLICY.**

Ms. Myers read Resolution 19-82 by title. She explained in anticipation that the City will be faced with emergencies in the future, staff requests the Council amend the personnel policies to permit additional compensation to salaried personnel during declared emergencies. Councilman McConnell explained this is a valuable tool for department heads to be compensated. Councilman Chester stated he saw department heads working around the clock even when their homes were destroyed or in need of repair.

**Councilman Chester made the motion to approve Resolution 19-82. Second was by Councilman McConnell and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**ITEM 3 RESOLUTION 19-86, CONTRACT FOR FIREFIGHTER PHYSICALS.**

Ms. Myers read Resolution 19-86 by title. She explained the Fire-Rescue Department is requesting the purchase of a multi-year contract for services to perform annual National Fire Protection Association physicals for the City's firefighters in accordance with NFPA Standards. The Council had no comments.

**Councilman Casto made the motion to approve Resolution 19-86. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman McConnell</b>	<b>Aye</b>
<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Casto</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**ITEM 4 ADDITIONAL HEIGHT IN FBO-1 – DISCUSSION.**

Ms. Myers explained given the Council's recent policy decisions to remove avenues that increase the maximum building heights in the City, she requested the Council's input so that the Planning Board could have a clear idea on how they would like to proceed on this matter. Mayor Thomas explained the City has received letters that requested to be read into the record. Ms. Bossert read the two letters opposing the addition height in FBO-1.

Councilman Casto explained when he was Public Works Director, he received hundreds of complaints about parking and noise on Oleander. He stated he cannot support more density in the residential neighborhood. Councilman Chester asked Mr. Leonard if the three feet were approved could it increase habitable floors. Mr. Leonard stated it could. Mr. Leonard explained that a developer could dig down three feet to achieve additional height. Councilman Solis explained he has had several people voice their opposition to the height increase. Councilman McConnell explained he received emails, all opposing the height increase and did not support the additional height in FBO-1. Mayor Thomas explained his opposition.

**DELEGATIONS**

Mayor Thomas explained the Delegations period and opened this portion of the meeting at 9:57 a.m.

1 Burnie Thompson, 17292 Front Beach Road. Mr. Thompson inquired about Mayor Thomas' text he made during the meeting. He asked Councilman Solis if he encouraged citizens to write the letters of opposition for the height increase. He requested the Federal Bureau of Investigations to investigate the City Council and the Governor of Florida to do a forensic audit. He stated the Civil Service Board to be put on the referendum cost the city ten thousand dollars and he would like to see the Council pay that out of their own pockets.

2 Genese Hatcher, 203 S Wells Street. Ms. Hatcher accused the Council of lying in opposition to the requested height increase. She reiterated that additional parking was a need for the City.

3 Gary Beck. Mr. Beck explained he was handed a letter that prohibits him to speak at the City Council Meetings. He explained the City of Panama City and Bay County Commissioners did the same to him. He spoke of the Constitution and the Bill of Rights.

4 Mr. Sewell, 435 Hidden Island Drive. Mr. Sewell inquired about the Joan Avenue lift station. He explained Oleander has always been rental properties, there are only two residents there now.

With no further comments, Mayor Thomas closed the Delegations period at 10:08 a.m.

Mayor Thomas explained he received a phone call during the meeting and responded via text message that he would return the call after the meeting. He defended the integrity of the Council and stated that each Council Member acts in the best interests of the City. In reference to the Civil Service Board referendum, Mayor Thomas explained the referendum was solely intended allow department heads to make hiring decisions.

Councilman Solis explained the Civil Service Board is an antiquated system and putting it on the referendum was money well spent. The Council is trying to save time and get employees hired faster. Councilman Solis defended the integrity of the Council and vehemently denied allegations of corruption. Councilman Solis stated that many detractors of the City do not live in the city limits but ignore issues in other cities. Mr. Solis stated that the public need to take notice of the individuals that do not live in the City that are trying to run the City and not to listen to fake news.

Councilman Chester asked Mr. Ponek if anything was coming up in the budget for additional pickleball courts. Mr. Ponek explained that with three indoor courts and two outdoor courts he did not anticipate additional courts in next year's budget. Councilman Casto requested they put lights up for the outside pickleball courts. Councilman McConnell asked for the department to look at something to help shade the playground equipment, it's too hot to play on the equipment during the summer. Mr. Ponek said the department is working on that issue.

Councilman McConnell explained the Civil Service Board's hiring process is a waste of time and resources. He stated everyone can have an opinion. The Civil Service Board hiring process does not agree with a growing organization.

#### **ATTORNEY REPORT**

Ms. Myers stated she had no report.

#### **CITY MANAGER REPORT**



Mr. Gisbert gave an update on Bay Parkway. The dredge and fill permits were submitted to the State, the project is on schedule.

### **COUNCIL COMMENTS**

Councilman Casto had no comment.

Councilman Solis explained he would like to see the Auxiliary Police pay increased. The pay is currently ten dollars an hour with no benefits. All Council Members agreed to look at the pay scale.

Councilman McConnell thanked the Panama City Beach Chamber of Commerce Hype Group to let him speak to them. He thanked Mr. Shortt and his department for the facility tour. He explained he missed the last council meeting and appreciated the opportunity to attend the Advanced Elected Municipal Officials training in Tampa with the Florida League of Cities.

Councilman Casto complimented the staff on getting the North Glades and Hombre Drainage Improvement Project passed through. At the beginning of proposing this project back in 2013, the initial response was that the ditch couldn't be widened. With the persistence of the consultants and staff, this project is going to happen.

Councilman Chester asked who oversees cleaning debris from ditches. The Mosquito Control oversaw cleaning ditches, but they have sold their equipment. Ms. Younce explained the only ditch in the city limits with the debris is North Glades and they are working it. The other ditches of concern were privately owned. The City would have to contact the property owners and receive a hold harmless agreement before any work could be done. She explained the Mosquito Control Board expects each municipality to clean their own ditches. Ms. Myers explained the mosquito control has one ditch that is under their jurisdiction.

With nothing further, the meeting was adjourned at 10:31 a.m.

READ AND APPROVED this 9<sup>th</sup> of May, 2019.

**IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.**

\_\_\_\_\_  
Mayor

ATTEST:

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

# PRESENTATION

1

CITY OF PANAMA CITY BEACH

# CIVIC ACHIEVEMENT AWARD

*Be It Known That*

**Melanie Scott**

HAS GIVEN EXCEPTIONAL SERVICE

TO THE BOYS AND GIRLS CLUB  
OF PANAMA CITY BEACH

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

**Presented this 9th of May, 2019**



MAYOR MIKE THOMAS

# PRESENTATION

2





# ~Proclamation~

A PROCLAMATION DESIGNATING  
MAY 15, 2019  
AS "PEACE OFFICERS MEMORIAL DAY" AND  
MAY 11-16, 2019  
AS "NATIONAL POLICE WEEK"  
IN PANAMA CITY BEACH

WHEREAS, each year, the Nation sets aside a week to salute the men and women who do the difficult, dangerous, and often thankless work of safeguarding our communities. Our police officers are the thin blue line whose sacrifices protect and serve us every day; and

WHEREAS, the routine, everyday nature of their courage makes it all the more extraordinary as the men and women put on their uniform, leave home, and report for duty, never knowing if they will return safely home. Just as police officers never let down their guard, we must never let slide our gratitude; and

WHEREAS, by taking the oath to serve and protect their fellow citizens, law enforcement officers answer the vital calling, performing their jobs with extraordinary distinction and accepting profound responsibility. These exceptional men and women work to uphold our laws and serve on the front lines in the fight against crime; and

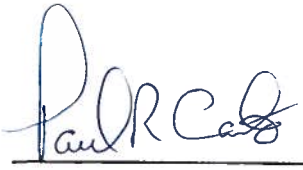
WHEREAS, as we mourn the fallen, let us also remember how they lived. With unflinching commitment, they defended us and kept us safe at home as we went about our everyday lives. To their families, we owe an unpayable debt. We ask God's blessings for their loved ones left behind.


NOW, THEREFORE, the City Council of the City of Panama City Beach City Council does hereby proclaim


**May 15<sup>th</sup> as "Peace Officers Memorial Day" and  
May 11-16, 2019 as "National Police Week"**

in Panama City Beach and encourage all Americans to honor the officers with appropriate ceremonies and observances. We further call upon all to observe May 15<sup>th</sup> as Peace Officers Memorial Day to honor those law enforcement officers who, through courageous acts, made the ultimate sacrifice in service to their community and ask the community to display the American flag at half staff from their homes and businesses on May 15<sup>th</sup>.


  
\_\_\_\_\_  
Mayor Mike Thomas

  
\_\_\_\_\_  
Councilman Paul Casto  
Ward 1

  
\_\_\_\_\_  
Councilman Phil Chester  
Ward 2

  
\_\_\_\_\_  
Councilman Geoff  
McConnell Ward 3



  
\_\_\_\_\_  
Councilman Hector Solis  
Ward 4



# PRESENTATION

3



# ~Proclamation~

A PROCLAMATION DESIGNATING  
THE WEEK OF MAY 19-25, 2019  
AS "NATIONAL PUBLIC WORKS WEEK"  
IN PANAMA CITY BEACH

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Panama City Beach; and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protection our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the City of Panama City Beach to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2019 marks the 59<sup>th</sup> annual National Public Works Week sponsored by the American Public Works Association.

NOW, THEREFORE, the City Council of the City of Panama City Beach City Council does hereby proclaim the week of May 19 – May 25, 2019, as

**"NATIONAL PUBLIC WORKS WEEK"**

in Panama City Beach.

Mayor Mike Thomas

Councilman Paul Casto  
Ward 1



Councilman Phil Chester  
Ward 2

Councilman Geoff  
McConnell Ward 3

Councilman Hector Solis  
Ward 4

# PRESENTATION

4



# ~Proclamation~

A PROCLAMATION DESIGNATING  
THE WEEK OF MAY 5-11, 2019  
AS "NATIONAL TOURISM WEEK"  
IN PANAMA CITY BEACH

WHEREAS, the natural beauty of our white sandy beaches and emerald waters, attracts more than 17 million people to Panama City Beach each year; and

WHEREAS, the travel and tourism industry is extremely important to the City of Panama City Beach, contributing significantly to our economic prosperity, quality of life and job opportunities for our citizens; and

WHEREAS, thousands of local residents are directly involved in the tourism industry and many more derive all or part of their livelihoods ensuring leisure and business travelers have a positive experience in our City; and

WHEREAS, officials and citizens of Panama City Beach recognize the industry has an annual economic impact of more than \$2.87 billion in Bay County; and

WHEREAS, tourism statewide has increased for the eighth consecutive year, and the State of Florida drew a record 126.1 million out-of-state visitors in 2018; and

NOW, THEREFORE, the City Council of the City of Panama City Beach City Council does hereby proclaim the week of May 5 – May 11, 2019, as

**"NATIONAL TOURISM WEEK"**

in Panama City Beach and encourages all residents to join in the observation and recognition.

**Mayor Mike Thomas**

**Councilman Paul Casto  
Ward 1**

**Councilman Phil Chester  
Ward 2**

**Councilman Geoff  
McConnell Ward 3**

**Councilman Hector Solis  
Ward 4**



# PRESENTATION

5





# ~Proclamation~

A PROCLAMATION DESIGNATING  
THE WEEK OF MAY 18-24, 2019  
AS "NATIONAL SAFE BOATING WEEK"  
IN PANAMA CITY BEACH

WHEREAS, recreational boating is fun and enjoyable, and we are fortunate to have sufficient natural resources to accommodate the wide variety of pleasure boating demands. However, our waterways can become crowded at times and be a place of chaos. While being a marvelous source of recreation, boating to the unprepared can be a risky sport; and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgement and not by the boat, equipment, or environmental factors and a significant number would be alive today had they worn their life jackets; and

WHEREAS, today's life jackets are more comfortable, more attractive, and more wearable than the styles in the years past and deserve a fresh look at today's boating public; and

WHEREAS, approximately 658 people died last year in boating-related accidents in the United States; nearly 70% of these are fatalities caused by drowning. Although that figure is down from previous years, the State of Florida had 60 deaths and 429 injuries; and

WHEREAS, responsible boaters are boat smart from the start and recognize that life jackets do not work if they are not worn. During National Safe Boating Week, we renew our commitment to raising awareness of the importance of making safe and sound boating decisions on the water; and

WHEREAS, we applaud the all-volunteer United States Coast Guard Auxiliary and local Flotilla 19 for being essential Safe Boating Partners with the Safe Boating Council;

NOW, THEREFORE, the City Council of the City of Panama City Beach City Council does hereby proclaim the week of May 18 – May 24, 2019, as

## "NATIONAL SAFE BOATING WEEK"

in Panama City Beach and urge the start of the year-round effort to promote safe boating and urge all those who boat to observe the theme of "Boat Smart, Boat Safe, Wear It" by wearing life jackets and practicing safe boating habits.

Mayor Mike Thomas

Councilman Paul Casto  
Ward 1



Councilman Phil Chester  
Ward 2

Councilman Geoff  
McConnell Ward 3

Councilman Hector Solis  
Ward 4

# CONSENT ITEM

1



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
ADMINISTRATION

2. MEETING DATE:  
05/09/2019

3. REQUESTED MOTION/ACTION:  
APPROVE A SOFTWARE AS A SERVICE AGREEMENT WITH TYLER TECHNOLOGIES FOR THE PROVISION OF EXECUTIME TIME CLOCK MOBILE ACCESS.

4. AGENDA

PRESENTATION   
PUBLIC HEARING   
CONSENT   
REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? Yes  No  N/A   
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED Yes  No  N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

ON MARCH 23, 2017, THE COUNCIL APPROVED AN AGREEMENT FOR THE IMPLEMENTATION OF THE EXECUTIME TIME CLOCK HARDWARE AND SOFTWARE SYSTEMS . UNDER THAT AGREEMENT, TYLER TECHNOLOGIES WAS SUBCONTRACTED TO PROVIDE DATA MANAGEMENT AND STORAGE AS WELL AS MOBILE ACCESS. ALTHOUGH THE CITY'S CURRENT CONTRACT FOR THESE SERVICES REMAINS IN EFFECT UNTIL MAY, 2020, THE CITY WAS INFORMED THAT RAMUNDSSEN WILL NO LONGER OFFER TYLER TECHNOLOGIES SERVICE.

TYLER TECHNOLOGIES HAS AGREED TO PROVIDE ITS PROPRIETARY MOBILE ACCESS SERVICE TO EXECUTIME UNDER THE SAME RATES AND TERMS AS THE CITY'S CURRENT ARRANGEMENT BUT REQUESTS AN ADDITIONAL THREE YEAR RENEWAL TO EXPIRE IN 2022. THE COSTS ASSOCIATED WITH THESE SERVICES ARE CURRENTLY BUDGETED FOR THIS FISCAL YEAR.

STAFF RECOMMENDS APPROVAL.

CONSENT

AGENDA ITEM # 1

**RESOLUTION 19-88**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH TYLER TECHNOLOGIES, INC. FOR CLOUD BASED SERVICE FOR EXECUTIME IN THE AMOUNT OF \$68,868; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Software As Service Agreement with Tyler Technologies, Inc., for cloud based service related to the City's Executime Timeclock for three years beginning May, 2019, in the total amount of Sixty-Eight Thousand, Eight Hundred Sixty-Eight Dollars (\$68,868.00), in substantially the form attached hereto as Exhibit A and Exhibit B and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF PANAMA CITY BEACH**

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

**ATTEST:**

\_\_\_\_\_  
Mary Jan Bossert, City Clerk

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

1



## SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

### SECTION A – DEFINITIONS

- **"Agreement"** means this Software as a Services Agreement.
- **"Business Travel Policy"** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **"Client"** means City of Panama City Beach, Florida.
- **"Data"** means your data necessary to utilize the Tyler Software.
- **"Data Storage Capacity"** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **"Defect"** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **"Defined Users"** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary.
- **"Developer"** means a third party who owns the intellectual property rights to Third Party Software.
- **"Documentation"** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **"Effective Date"** means the date by which both your and our authorized representatives have signed the Agreement.
- **"Force Majeure"** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **"Investment Summary"** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **"Invoicing and Payment Policy"** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **"SaaS Fees"** means the fees for the SaaS Services identified in the Investment Summary.
- **"SaaS Services"** means software as a service consisting of system administration, system



management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.

- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit D.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

## SECTION B – SAAS SERVICES

1. **Rights Granted**. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(8).
2. **SaaS Fees**. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. **Ownership**.
  - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.

- 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
- 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information.
- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event any of your Data has been lost or damaged due to an act or omission of Tyler or its subcontractors or due to a defect in Tyler's software, we will use best commercial efforts to restore all the Data on servers in accordance with the architectural design's capabilities and with the goal of minimizing any Data loss as greatly as possible. In no case shall the recovery point objective ("RPO") exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this subsection, RPO represents the maximum tolerable period during which your Data may be lost, measured in relation to a disaster we declare, said declaration will not be unreasonably withheld.
- 6.4 In the event we declare a disaster, our Recovery Time Objective ("RTO") is twenty-four (24) hours. For purposes of this subsection, RTO represents the amount of time, after we declare a

disaster, within which your access to the Tyler Software must be restored.

- 6.5 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.6 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.7 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.8 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.9 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.10 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

## **SECTION C – OTHER PROFESSIONAL SERVICES**

1. Other Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in our industry standard implementation plan. We will finalize that documentation with you upon execution of this Agreement.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith

estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.

3. Additional Services. The Investment Summary contains the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
8. Personnel. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
  - 9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (limited to the then-current version and the immediately prior version);

- 9.2 provide telephone support during our established support hours;
- 9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
- 9.4 make available to you all major and minor releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
- 9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with our then-current release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

#### **SECTION D – THIRD PARTY PRODUCTS**

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
  - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
  - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.



- 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

#### **SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES**

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

#### **SECTION F – TERM AND TERMINATION**

1. Term. The initial term of this Agreement is three (3) years from the first day of the first month following the first live use of the Tyler Software as hosted by Tyler, unless earlier terminated as set forth below. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
- 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.

- 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
- 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
- 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

## **SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE**

### **1. Intellectual Property Infringement Indemnification.**

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

### **2. General Indemnification.**

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent

caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

## SECTION H – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.
4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not

required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.

9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of



performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (c) a party receives from a third party who has a right to disclose it to the receiving party; or
- (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

**18. PUBLIC RECORDS:** The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Tyler is acting on behalf of City as provided under Section 119.011(2), Tyler agrees to also comply with that law as applicable to Tyler, specifically including to:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- B. Upon request of the City, provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law, or provide the City with a copy of the requested records.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the City.
- D. Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850.233.5100, mjbossert@pcbgov.com, and 110 South Arnold Road, Panama City Beach, FL 32413 .**

**19. Business License.** In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.

**20. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of



your state of domicile, without regard to its rules on conflicts of law.

21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

23. Contract Documents. This Agreement includes the following exhibits:

- Exhibit A Investment Summary
- Exhibit B Invoicing and Payment Policy  
Schedule 1: Business Travel Policy
- Exhibit C Service Level Agreement  
Schedule 1: Support Call Process

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Panama City Beach

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Address for Notices:

Tyler Technologies, Inc.  
One Tyler Drive  
Yarmouth, ME 04096  
Attention: Chief Legal Officer

Address for Notices:

City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, FL 32413  
Attn: City Manager



**Exhibit A  
Investment Summary**

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

*Tyler sales quotation to be inserted prior to Agreement execution.*

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**Exhibit B**  
**Invoicing and Payment Policy**

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

**Invoicing:** We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
  - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
  - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
  - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
  - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
  - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.
  - 2.6 *Other Fixed Price Services:* Other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
3. **Third Party Products.**
  - 3.1 *Third Party Software License Fees:* License fees for Third Party Software, if any, are invoiced

when we make it available to you for downloading.

3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.

3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.

4. **Expenses.** The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B at Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

**Payment.** Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is:

Bank:	Wells Fargo Bank, N.A. 420 Montgomery San Francisco, CA 94104
ABA:	121000248
Account:	4124302472
Beneficiary:	Tyler Technologies, Inc. – Operating



**Exhibit B  
Schedule 1  
Business Travel Policy**

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee’s office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

#### 4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem).

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of Defense and will be determined as required.

##### A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

##### Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

##### Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

\*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

##### B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.\*



\*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



**Exhibit C**

**SERVICE LEVEL AGREEMENT**

**I. Agreement Overview**

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process.

**II. Definitions.** Except as defined below, all defined terms have the meaning set forth in the Agreement.

*Attainment:* The percentage of time the Tyler Software is available during a calendar quarter, with percentages rounded to the nearest whole number.

*Client Error Incident:* Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

*Downtime:* Those minutes during which the Tyler Software is not available for your use. Downtime does not include those instances in which only a Defect is present.

*Service Availability:* The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding maintenance windows, Client Error Incidents and Force Majeure.

**III. Service Availability**

The Service Availability of the Tyler Software is intended to be 24/7/365. We set Service Availability goals and measures whether we have met those goals by tracking Attainment.

**a. Your Responsibilities**

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support incident number.

You must document, in writing, all Downtime that you have experienced during a calendar quarter. You must deliver such documentation to us within 30 days of a quarter's end.

The documentation you provide must evidence the Downtime clearly and convincingly. It must include, for example, the support incident number(s) and the date, time and duration of the Downtime(s).

**b. Our Responsibilities**

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of a Client Error Incident or Force Majeure). We will also work with you to resume normal operations.

Upon timely receipt of your Downtime report, we will compare that report to our own outage logs and

support tickets to confirm that Downtime for which we were responsible indeed occurred.

We will respond to your Downtime report within 30 day(s) of receipt. To the extent we have confirmed Downtime for which we are responsible, we will provide you with the relief set forth below.

c. Client Relief

When a Service Availability goal is not met due to confirmed Downtime, we will provide you with relief that corresponds to the percentage amount by which that goal was not achieved, as set forth in the Client Relief Schedule below.

Notwithstanding the above, the total amount of all relief that would be due under this SLA per quarter will not exceed 5% of one quarter of the then-current SaaS Fee. The total credits confirmed by us in one or more quarters of a billing cycle will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Every quarter, we will compare confirmed Downtime to Service Availability. In the event actual Attainment does not meet the targeted Attainment, the following Client relief will apply, on a quarterly basis:

Targeted Attainment	Actual Attainment	Client Relief
100%	98-99%	Remedial action will be taken.
100%	95-97%	4% credit of fee for affected calendar quarter will be posted to next billing cycle
100%	<95%	5% credit of fee for affected calendar quarter will be posted to next billing cycle

You may request a report from us that documents the preceding quarter's Service Availability, Downtime, any remedial actions that have been/will be taken, and any credits that may be issued.

**IV. Applicability**

The commitments set forth in this SLA do not apply during maintenance windows, Client Error Incidents, and Force Majeure.

We perform maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

**V. Force Majeure**

You will not hold us responsible for not meeting service levels outlined in this SLA to the extent any failure to do so is caused by Force Majeure. In the event of Force Majeure, we will file with you a signed request that said failure be excused. That writing will at least include the essential details and circumstances supporting our request for relief pursuant to this Section. You will not unreasonably withhold its acceptance of such a request.



**Exhibit C**  
**Schedule 1**  
**Support Call Process**

**Support Channels**

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

*Support Resources*

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – [www.tylertech.com](http://www.tylertech.com) – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

**Support Availability**

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

**Issue Handling**

*Incident Tracking*

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler’s website or by calling software support directly.

*Incident Priority*

Each incident is assigned a priority number, which corresponds to the client’s needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of Data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler’s responsibility for loss or corrupted Data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler’s responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

### *Incident Escalation*

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

### *Remote Support Tool*

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.





Quoted By: Brian Baker  
 Date: 2/12/2019  
 Quote Expiration: 8/11/2019  
 Quote Name: City of Panama City Beach, FL - ExecuTime Move to Tyler Cloud  
 Quote Number: 2019-66774  
 Quote Description:

**Sales Quotation For**  
 City of Panama City Beach  
 17110 Firenzo Ave  
 Panama City Beach, FL 32413  
 Phone +1 (850) 233-5120

Description	# Years	Annual Fee	One Time Fees		
			Impl. Hours	Impl. Cost	Data Conversion
<b>Human Capital Management:</b>					
ExecuTime Time & Attendance Mobile Access	3.0	\$2,388.00	0	\$0.00	\$0.00
ExecuTime Time & Attendance - Up to 750 Employees	3.0	\$20,568.00	0	\$0.00	\$0.00
<b>TOTAL:</b>		<b>\$22,956.00</b>	<b>0</b>	<b>\$0.00</b>	<b>\$0.00</b>

Summary	One Time Fees	Recurring Fees
Total SaaS	\$0.00	\$22,956.00
Total Tyler Software	\$0.00	\$0.00
Total Tyler Services	\$0.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$0.00	\$0.00
<b>Summary Total</b>	<b>\$0.00</b>	<b>\$22,956.00</b>
<b>Contract Total</b>	<b>\$68,868.00</b>	

2019-66774 -

CONFIDENTIAL

1 of 3

EXHIBIT B

CONSENT  
 AGENDA ITEM # 1

Unless otherwise indicated in the contract or Amendment thereto, pricing for optional items will be held for Six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ P.O. #: \_\_\_\_\_

All primary values quoted in US Dollars

**Comments**

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the size and scope of your project. The actual amount of services depends on such factors as your level of involvement in the project and the speed of knowledge transfer.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting.

In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf, and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

Implementation hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

Tyler's cost is based on all of the proposed products and services being obtained from Tyler. Should significant portions of the products or services be deleted, Tyler reserves the right to adjust prices accordingly.

The Munis SaaS fees are based on 32 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

Client agrees that items in this sales quotation are, upon Client's signature of same, hereby added to the Agreement between the parties, and subject to its terms. Additionally, and notwithstanding anything in the Agreement to the contrary, payment for said items shall conform to the following conditions: Licensee fees for Tyler and 3rd party products are due when Tyler makes such software available for download by the Client (for the purpose of this quotation, the 'Availability Date') or delivery (if not software); Maintenance fees, prorated for the term commencing when on the Availability Date and ending on the last day of the current annual support term for Tyler Software currently licensed to the Client, are due on the Availability Date; Fees for services, unless otherwise indicated, plus expenses, are payable upon delivery.

**REGULAR ITEM**

**1**



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

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

Parks and Recreation

**2. MEETING DATE:**

May 9, 2019

**3. REQUESTED MOTION/ACTION:**

Staff recommends City Council authorize the City to contract with the sole responsive bidder, M. Gay Constructors, Inc. in the amount of \$500,000.00 for the Frank Brown Park Soccer Field Lighting Project 2019.

**4. AGENDA**

PRESENTATION   
PUBLIC HEARING   
CONSENT   
REGULAR

**5. IS THIS ITEM BUDGETED (IF APPLICABLE)?** YES  NO  N/A   
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES  NO  N/A

**6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)**

Staff is recommending to approve entering into a contract with M. Gay Constructors, Inc in the amount of \$500,000.00 for Frank Brown Park Soccer Field Lighting. All Bid Specifications have been met with the proposed bid and staff is confident that the LED Soccer Lights and Poles being installed will be top quality and that the lighting spillage will be as minimal as possible for our neighbors next to the park.

To make sure the lighting spillage is as minimal as possible, staff required that a third party, International Dark Sky's Association, be contracted by the Bidder to provide an approval letter that lights being installed meet our specifications which include an IDA Standard. International Dark Sky's Association will also provide field verification upon completion of the installation to certify that adherence of the IDA standard is met by providing a detailed report to the City at the end of installation.

Staff recommends approval.

**PROPOSAL FORM**

TO: City of Panama City Beach, Florida

SUBMITTED: April 30, 2019.

**Frank Brown Park Soccer Field Lighting Project 2019**

The Undersigned, as Bidder, hereby declares that they have examined the proposal specifications and informed themselves fully in regard to all conditions pertaining to the equipment to be supplied.

The Bidder proposes and agrees, if this proposal is accepted, to contract with the City of Panama City Beach for the lump sum price listed, to furnish all labor, materials and supplies to install free and clear the Frank Brown Park Soccer Field Lighting Project 2019 in complete accord with the described and reasonably intended requirements of the Request for Proposals to the satisfaction of the City, with a definite understanding that no additional money will be allowed for any corrections or additions. Payment in full will be made to the Bidder within 30 days of delivery and completion of installation acceptable to the City. The Bidder further proposes and agrees to complete the Frank Brown Park Soccer Field Lighting Project 2019 by August 23, 2019 with liquidated damages thereafter of \$3,000.00 per day.

Purchase will be made under terms and conditions specified by the City in its form of a Purchase Order. If a deposit is required, it must be specified below. Final payment, in readily available funds, will be made upon acceptance by the City of strictly conforming goods after delivery and install. Strict adherence to the design build and specifications issued by the City or subsequently accepted in writing by the City will be required.

**ADDENDUM ACKNOWLEDGMENT:** (Only if addendums have been provided). I, the undersigned bidder, hereby acknowledge receipt of the following addenda: Addendum No. \_\_\_ Addendum No. \_\_\_.

**SUMMARY DESCRIPTION AND LUMP SUM PRICE:**

- Note:
1. A Detailed Design Build Description of the products with pictures to be submitted with this Proposal.
  2. A Specific Project Date Checklist is required with this Design Build Proposal.
  3. An Approval Letter per Bid Specs from IDA (International Dark-Sky Association) is required to be submitted with the bid.
  4. A confirmation letter per Bid Specs that all light poles include a remote driver system located 10 feet above grade.
  5. Bidder must be a licensed General Contractor in the State of Florida. Please attach a copy of the General Contractor's License Number with bid.
  6. A Certified, Signed and Dated 25 Year Warranty from per the Bid Specs will be attached with the Bid.
  7. A Cashier's Check Bid Bond of 5% of the total project to be included with the Bid (Exhibit D).

Lump Sum price for the Frank Brown Park Soccer Field Lighting Project 2019: \$ 500,000.00

Specify terms of any deposit or write "none required": None Required

Name of SUPPLIER: M. Gay Constructors, Inc.

ADDRESS: PO Box 26249 CITY: Jacksonville STATE: FL ZIP: 32226

EMAIL ADDRESS: mgcbillh@gmail.com / mgcdanielle1@gmail.com PHONE: (904)714-4001

References: Please list 5 successful LED Athletic Field Lighting Projects from 2018 & 2019:

Name	Location/Agency	Address or Email	Phone Number
Laureate City Park Soccer	Orlando Utility Commission	Eddie O'Donnell eodonnell@ouc.com	<u>407-234-2715</u>
Twin Lakes Sports Complex	Sarasota County	Anthony Bell AMBELL@SCGOV.NET	<u>941-999-0588</u>
Fernandina Beach High School Field Lighting	Nassau County School Board	David Kramer kramerda@nassau.k12.fl.us	<u>904-225-5343</u>
Ormond Beach Sports Complex	City of Ormond Beach	Eric Silbermann esilbermann@amweigel.com	Office (386) 257-6691 Cell (386) 795-3498
Baldwin High School Field Lighting	Duval County School Board	Kimberly A. DeBerry kim.kimselectric@comcast.net	Office: 904-757-6633 Cell: 904-545-8684

SIGNATURE – (Confirming all information above is correct) 

Print Name: Michael Gay and Print Title President

I agree to post a Payment Bond, Performance Bond and Insurance (Exhibit E, F & G) if awarded the job - Initial 



**RESOLUTION 19-87**

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH M. GAY CONSTRUCTORS, INC. RELATED TO THE FRANK BROWN PARK SOCCER FIELD LIGHTING PROJECT 2019 IN THE AMOUNT OF \$500,000; AND PROVIDING FOR AN IMMEDIATELY EFFECTIVE DATE.

BE IT RESOLVED that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and M. Gay Constructors, relating to the purchase and installation of equipment for the Frank Brown Park Soccer Field Lighting Project 2019, in the amount of Five Hundred Thousand Dollars (\$500,000.00), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

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

**PASSED** in regular session this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF PANAMA CITY BEACH**

By:

Mike Thomas, Mayor

\_\_\_\_\_  
**ATTEST:**

\_\_\_\_\_  
Mary Jan Bossert, City Clerk

PANAMA CITY BEACH – FRANK BROWN PARK  
SOCCER FIELD LIGHTING PROJECT 2019  
PROJECT NO. \_\_\_\_\_

SECTION 00050  
AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called  
"OWNER") and M. GAY CONSTRUCTORS, INC., doing business as a  
\_\_\_\_\_(an individual), or (a partnership), or (a corporation), having a business  
address of PO BOX 26249, Jacksonville, FL 32226 (hereinafter called "CONTRACTOR"), for the  
performance of the Work (as that terms is defined below) in connection with the  
construction of **Frank Brown Park Soccer Field Lighting Project**, to be located at  
**16200 Panama City Beach Parkway Panama City Beach, Florida 32413**,  
in accordance with the Drawings and Specifications prepared by The City of Panama City  
Beach Parks and Recreation Department.

OWNER and CONTRACTOR, for the consideration herein set forth, agree as  
follows:

1. The CONTRACTOR shall furnish, at its sole expense, all supervision, labor,  
equipment, tools, material, and supplies to properly and efficiently perform all  
of the work required under the Contract Documents and shall be solely  
responsible for the payment of all taxes, permits and license fees, labor  
fringe benefits, insurance and bond premiums, and all other expenses and  
costs required to complete such work in accordance with this Agreement  
(collectively the "Work"). CONTRACTOR'S employees and personnel shall  
be qualified and experienced to perform the portions of the Work to which  
they have been assigned. In performing the Work hereunder,  
CONTRACTOR shall be an independent contractor, maintaining control over

AGREEMENT

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and having sole responsibility for CONTRACTOR'S employees and other personnel. Neither CONTRACTOR, nor any of CONTRACTOR'S sub-contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of OWNER.

2. The CONTRACTOR will commence the Work required by Contract per the Bid Documents.

Dates are as follows:

The Project may begin as follows:

**1-Soccer/Flag Football Fields: July 15, 2019**

**2-South Complex Baseball/Softball Fields/Batting Cages: July 29, 2019**

**3-Equipment may begin to be delivered to the staging areas beginning July 8, 2019. It is not the responsibility of the City to keep track of the equipment or to protect the equipment from damage. It is the responsibility of the Bidder and Shipping Companies to unload all equipment themselves. If the City is required to unload any equipment, the City will not be held liable for any damage from unloading equipment. No Exceptions!**

Job Completion will be to complete the project by Wednesday September 4, 2019 with liquidated damages of \$3,000.00 per day thereafter. *If project is not approved by IDA before the Deadline of August 23, 2019 there will be a \$3,000.00 per day liquidated damages penalty until lighting is approved by IDA.*

Final Completion of the Work shall be achieved by CONTRACTOR within the time period set forth in Section 15.2 of Section 00100, General Conditions.

3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$3,000 for each calendar day that expires after the Contract Time for Substantial Completion as more fully set forth in Section 15 of the General Conditions.
4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of

AGREEMENT

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SPECIFICATIONS prepared or issued by

\_\_\_\_\_

dated \_\_\_\_\_.

**ADDENDA [LIST ANY ADDENDA ISSUED PRIOR TO EXECUTION OF THE AGREEMENT.]**

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

The Contract Documents also includes any written amendments to any of the above signed by the party to be bound by such amendment. The Contract Documents are sometimes referred to herein as the "Agreement".

6. The OWNER will pay the Contract Price to the CONTRACTOR in the manner and at such times as set forth in Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. This Agreement shall be governed by the laws of the State of Florida.
9. All notices required or made pursuant to this Agreement shall be in writing and, unless otherwise required by the express terms of this Agreement, may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, or (iii) by hand delivery to the appropriate address as herein provided. Notices to OWNER required hereunder shall be

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directed to the following address:

If to Owner:

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

ATTENTION: Mario Gisbert, City Manager  
Fax No.: (850) 233-5108

If to Contractor:

M. Gay Constructors, Inc.  
P.O. Box 26249  
Jacksonville, FL 32226

ATTENTION: Michael Gay, President  
Fax No.:

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

10. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement the sales tax savings program as more fully described in the Sales Tax Exemption Addendum. If required by OWNER, the Sales Tax Exemption Addendum shall be made a part of the Contract Documents, the form of which is set forth in Section 00808.
11. The failure of OWNER to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
12. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature

AGREEMENT

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concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.

13. Should any provision of the Agreement be determined by a court with jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.
14. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term "including" is not limiting, and the terms "hereof", "herein", "hereunder", and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.
15. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be \_\_\_\_\_
16. CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, or ENGINEER may be responsible, in whole or in part, shall

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relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This section shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may make a claim for its actual and direct delay damages accruing after said 90 calendar days as provided in Section 00805 Supplemental Conditions, Contract Claims and Changes. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

17. INSURANCE - BASIC COVERAGES REQUIRED NAMING THE CITY OF PANAMA CITY BEACH AS ADDITIONAL INSURED.

The CONTRACTOR shall procure and maintain the following described insurance on policies and with insurers acceptable to OWNER. Current Insurance Service Office (ISO) policies, forms, and endorsements or equivalents, or broader, shall be used where applicable.

These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient

AGREEMENT

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or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

The CONTRACTOR and the CONTRACTOR'S subcontractors and sub-subcontractors shall be solely responsible for all of their property, including but not limited to any materials, temporary facilities, equipment and vehicles, and for obtaining adequate and appropriate insurance covering any damage or loss to such property. The CONTRACTOR and the CONTRACTOR'S sub-contractors and sub-subcontractors expressly waive any claim against OWNER arising out of or relating to any damage or loss of such property, even if such damage or loss is due to the fault or neglect of the OWNER or anyone for whom the OWNER is responsible. The CONTRACTOR is obligated to include, or cause to be included, provisions similar to this paragraph in all of the CONTRACTOR'S subcontracts and its subcontractors' contracts with their sub-subcontractors.

The CONTRACTOR'S deductibles/self-insured retention's shall be disclosed to OWNER and are subject to OWNER'S approval. They may be reduced or eliminated at the option of OWNER. The CONTRACTOR is responsible for the amount of any deductible or self-insured retention. Any deductible or retention applicable to any claim or loss shall be the responsibility of CONTRACTOR and shall not be greater than \$25,000, unless otherwise agreed to, in writing, by OWNER.

Insurance required of the CONTRACTOR or any other insurance of the CONTRACTOR shall be considered primary, and insurance of OWNER shall be considered excess, as may be applicable to claims or losses which arise out of the Hold Harmless, Payment on Behalf of OWNER, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or

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lease.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE  
COVERAGE

The CONTRACTOR shall purchase and maintain workers' compensation and employers' liability insurance for all employees engaged in the Work, in accordance with the laws of the State of Florida, and, if applicable to the Work, shall purchase and maintain Federal Longshoremen's and Harbor Workers' Compensation Act Coverage. Limits of coverage shall not be less than:

\$1,000,000	Limit Each Accident
\$1,000,000	Limit Disease Aggregate
\$1,000,000	Limit Disease Each Employee

The CONTRACTOR shall also purchase any other coverage required by law for the benefit of employees.

The CONTRACTOR shall provide to OWNER an Affidavit stating that it meets all the requirements of Florida Statute 440.02 (15) (d).

COMMERCIAL GENERAL LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Commercial General Liability Insurance on a full occurrence form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage, Products and Completed Operation Liability Coverages and shall not exclude coverage for the "X" (Explosion), "C" (Collapse) and "U" (Underground) Property Damage Liability

AGREEMENT

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exposures. Limits of coverage shall not be less than:

Bodily Injury, Property Damage & Personal Injury Liability	\$1,000,000 Combined Single Limit Each Occurrence, and
	\$2,000,000 Aggregate Limit

The General Aggregate Limit shall be specifically applicable to this Project. The Completed Operations Liability Coverages must be maintained for a period of not less than three (3) years following OWNER'S final acceptance of the project.

The CONTRACTOR shall add OWNER as an additional insured through the use of Insurance Service Office Endorsements No. CG 20.10.10.01 and No. CG 20.37.10.01 wording or equivalent, or broader, an executed copy of which shall be attached to or incorporated by reference on the Certificate of Insurance to be provided by CONTRACTOR pursuant to the requirements of the Contract Documents.

BUSINESS AUTOMOBILE LIABILITY COVERAGE

The CONTRACTOR shall purchase and maintain Business Automobile Liability Insurance as to ownership, maintenance, use, loading and unloading of all of CONTRACTOR'S owned, non-owned, leased, rented or hired vehicles with limits not less than:

Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit Each Accident
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EXCESS OR UMBRELLA LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Excess Umbrella Liability Insurance or Excess Liability Insurance on a full occurrence form providing the same continuous coverages as required for the underlying Commercial General, Business Automobile and Employers' Liability Coverages with no gaps in continuity of coverages or limits with OWNER added by endorsement to the policy as an additional insured in the same manner as is required under the primary policies, and shall not be less than \$10,000,000, each occurrence and aggregate as required by OWNER.

ADDITIONAL INSURANCE

The OWNER requires the following additional types of insurance.  
[Either list any required insurance (e.g. Professional Liability Insurance) or indicate that none is required at this time]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) copies each of which shall be deemed an original on the date first written above.

AGREEMENT

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(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH,  
FLORIDA

ATTEST:

BY:

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

NAME: \_\_\_\_\_  
(Please type)

TITLE: \_\_\_\_\_

\_\_\_\_\_  
City Attorney (as to form only)

CONTRACTOR:

ATTEST:

BY: \_\_\_\_\_

\_\_\_\_\_

NAME: \_\_\_\_\_  
(Please Type)

NAME \_\_\_\_\_  
(Please Type)

ADDRESS: \_\_\_\_\_

[END OF SECTION 00050]

AGREEMENT

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**REGULAR ITEM**

**2**



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

CITY MANAGER/MARIO GISBERT

2. MEETING DATE:

MAY 9, 2019

3. REQUESTED MOTION/ACTION:

CONSIDER FIRST READING OF ORDINANCE PROPOSING WAIVER OF SPACING REQUIREMENTS FOR SMALL CELL POLES THAT RESEMBLE CRA LIGHT POLES

4. AGENDA

PRESENTATION

PUBLIC HEARING

CONSENT

REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES  NO  N/A   
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES  NO  N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

The City regulates the use of Rights-of-way through its City Code and Land Development Regulations and requires any person who will place or maintain a utility pole or other Facility in a Right-of-way to obtain a permit or development order from the City. The City has various requirements on the placement and design of Small Wireless Poles and other utility poles to improve aesthetics, safety, and efficient use of right-of-way, and to otherwise improve the character of the community and advance health, safety, and welfare. Within the boundaries of the Front Beach Road CRA, there is a plan for underground utilities and uniform placement of identical, high quality light poles on both sides of the streets. Under the City's current regulations, strict underground utility requirements exist for the areas where the CRA project has been constructed and these strict rules go into effect in the rest of the CRA as the time for construction approaches for a given area. The placement of utility poles and other Facilities that conflict with the CRA project goals and the current and future underground requirements would significantly undercut the project and make much of the City's efforts and expenditures go to waste. Utility companies have successfully begun designing and disguising their equipment and poles to mimic structures and objects that are generally considered normal and desirable along streets, such as the CRA light poles. If the community considers CRA light poles to be desirable and if a utility pole is difficult to distinguish from those light poles and does not have overhead wires and readily visible equipment, then allowing this style of utility pole or Facility does not detract from the goals of the City's underground utilities efforts. As such, the ordinance proposes to waive otherwise applicable placement and design requirements for utility companies who propose to install a utility pole that closely resembles a CRA-style light pole and replaces an existing CRA-style light pole or is placed where a CRA-style light would be placed in the future. Staff recognizes that matching the design of CRA-style light poles creates increased cost and effort for utility companies, but also that the City's waiver of various location requirements provides value to the utility companies which may exceed this increased cost and effort. The ordinance also provides that when an applicant can meet the regular rules for placement of a Small Wireless Pole or other utility pole in a particular location, that applicant has no obligation to utilize the CRA-style light pole design.

Staff recommends approval.

ORDINANCE NO. 1490

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 19 OF THE CITY CODE RELATING TO RIGHT-OF-WAY USE TO WAIVE THE 75 FOOT SPACING REQUIREMENT BETWEEN UTILITY POLES AND OTHER FACILITIES DESIGNED AND SPACED LIKE CRA-STYLE LIGHT POLES WITH CERTAIN CONDITIONS; SIMILARLY WAIVING THE PROHIBITION ON BEING ON SOUTH SIDE OF RIGHT-OF-WAY; ALLOWING SUCH UTILITY POLES DESPITE APPLICABLE UNDERGROUND UTILITY RULES; WAIVING LAND DEVELOPMENT CODE LOCATION REQUIREMENTS FOR SMALL WIRELESS POLES THAT QUALIFY FOR THIS WAIVER; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach (the “City”) regulates the use of Rights-of-way through its City Code and Land Development Regulations and requires any person who will place or maintain a utility pole or other Facility in a Right-of-way to obtain a permit or development order from the City; and

WHEREAS, Florida Statute 337.401 provides that the City retains the authority to regulate and manage Rights-of-way in exercising its police power, but that all rules which govern providers of communications services must be reasonable and nondiscriminatory; and

WHEREAS, this ordinance applies equally not only to all communications service providers, but to all persons who request to install Facilities in a Right-of-way; and

WHEREAS, the City has various requirements on the placement and design of Small Wireless Poles and other utility poles to improve aesthetics, safety, and efficient use of right-of-way, and to otherwise improve the character of the community and advance health, safety, and welfare; and

WHEREAS, within the boundaries of the Front Beach Road Community Redevelopment Area (including the north-south connector streets and sometimes collectively referred to as the “CRA”), there is a partially constructed plan for underground utilities and uniform placement of identical, high quality light poles on both sides of the streets; and

WHEREAS, strict underground utility requirements exist for the areas where the CRA project has been constructed and these strict rules go into effect in the rest of the CRA as the time for construction approaches for a given area; and

WHEREAS, the City and Community Development Agency are devoting massive effort and expenditures toward this CRA project and it is one of the City’s highest priorities; and

WHEREAS, the placement of utility poles and other Facilities that conflict with the CRA project goals and the current and future underground requirements would significantly undercut the project and make much of the City's efforts and expenditures go to waste; and

WHEREAS, utility companies have successfully begun designing and disguising their equipment and poles to mimic structures and objects that are generally considered normal and desirable along streets, such as the CRA light poles; and

WHEREAS, if the community considers CRA light poles to be desirable and if a utility pole is difficult to distinguish from those light poles and does not have overhead wires and readily visible equipment, then allowing this style of utility pole or Facility does not detract from the goals of the City's underground utilities efforts; and

WHEREAS, locations in the City with strict underground utility requirements have high population density and providing additional options to wireless companies and other utilities to expand their service in these areas is beneficial to the community and will increase convenience and safety; and

WHEREAS, if a utility pole closely resembles a CRA-style light pole and replaces an existing CRA-style light pole or is placed where a CRA-style light would be placed in the future, the City's otherwise applicable placement and design requirements provide minimal benefit and sometimes will result in reduced service and unintended negative consequences, and therefore, are appropriate for waiver by City Planning Staff pursuant to this ordinance; and

WHEREAS, the City recognizes that matching the design of CRA-style light poles creates increased cost and effort for utility companies, but also that the City's waiver of various location requirements provides value to the utility companies which may exceed this increased cost and effort; and

WHEREAS, when an applicant can meet the regular rules for placement of a Small Wireless Pole or other utility pole in a particular location, that applicant has no obligation to utilize the CRA-style light pole design.

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

SECTION 1. From and after the effective date of this ordinance Chapter 12 of the Code of Ordinances of the City of Panama City Beach, related to Right of way use and permitting is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Sec. 19-154. - Permittee obligations.**

- A. Telecommunications Towers, Small Wireless Poles, Collocations, and other wireless communications Facilities are governed additionally by the more specific requirements of

- the Panama City Beach Land Development Code.
- B. No new Facility that is over fifteen (15) feet in height from grade may be constructed within seventy-five (75) feet of any other Facility that is over fifteen (15) feet in height from grade, unless granted a variance due to unique circumstances. This restriction shall not prohibit the City from installing new Facilities for public safety and welfare reasons, including light poles. **Also, within the boundaries of the Front Beach Road Community Redevelopment Area, this restriction does not apply to a utility pole or other Facility, regardless of ownership, if it complies with the Community Redevelopment Area-style light pole design and specifications and it either replaces an existing Community Redevelopment Area-style light pole or is installed in the exact location of a planned future Community Redevelopment Area-style light pole according to the best available Community Redevelopment Agency plans and Planning Department staff approval. Unless the Front Beach Road Community Redevelopment Agency adopts new light pole design and specifications for a portion of the City, complying with Community Redevelopment Area-style light pole design and specifications means following standards provided by the Front Beach Road Segment 2 Ornamental Aluminum Roadway Lighting and Banner Standard and the construction documents for Front Beach Road Segment 2 for the pole and light fixture, which are on file City Hall. Compliance with these requirements also means all wiring and equipment must be contained underground or inside the pole so that it is not visible or distinguishes the pole and equipment from the Community Redevelopment Area-style light poles. Each such pole may have one box on the ground in the immediate vicinity of the pole for electrical or other equipment so long as it is not taller than three-feet from grade and matches the color and style of other utility boxes located in the Community Redevelopment Area right of way. Planning staff may approve minor deviations in design, brands, and materials that do not result in easily noticeable differences between the pole, fixture, and any visible equipment relative to the actual Community Redevelopment Area-style light poles. Applicants for the waiver under this paragraph must apply to the Planning Department using the procedures applicable to Small Wireless Poles provided by the Panama City Beach Land Development Code. Applicable underground utility requirements of the City are waived for utility poles and other Facilities that strictly comply with this section and which are approved by the City Planning Department, in recognition that such poles do not provide greater negative impacts to the community than the City's own light poles.**
- C. No person shall be granted a permit or otherwise be allowed to install any utility pole or any other Facility if such Facility would be three (3) or more feet above grade within a Right-of-way south of the centerline of Front Beach Road, South Thomas Drive, or the portion of Thomas Drive east of South Thomas Drive. This prohibition shall not apply to light poles owned by the City **or a utility pole or other Facility approved by the City Planning Department under paragraph B. above based on meeting Community Redevelopment Area-style light pole location, design, and specification requirements.** Any existing utility poles or Facilities that would not be permissible under this rule shall not be permitted to be replaced, but may be maintained used and repaired, provided repairs do not exceed 50% of the value of the utility pole or Facility.



SECTION 2. From and after the effective date of this ordinance Section 5.05.07 of the Panama City Beach Land Development Code, related to Small Wireless Poles is amended to read as follows (new text **bold and underlined**, deleted text struckthrough):

**5.05.07 Allowable Locations for Small Wireless Poles and associated Ground-Mounted Equipment Located in Public Right-of-Way**

- A. Applications to place ***Small Wireless Facilities*** and ***Small Wireless Poles*** in a public right-of-way may not be denied solely based on the Comprehensive Plan future land use categories and zoning categories of adjacent parcels.
- B. ***Small Wireless Poles*** in public right-of-way (as opposed to a ***Collocation*** on a preexisting structure) are not permissible within 250 feet of the footprint of any ***Dwelling***, including attached garages, porches, and balconies, except ***Dwellings*** that front on the Front Beach Road or South Thomas Drive rights-of-way, in which case the minimum distance shall be 100 feet. In addition, ***Small Wireless Poles*** in public right-of-way (as opposed to a collocation on a preexisting structure) shall not be permissible within 50 feet of the primary public pedestrian entrance to any business.
- C. A new ***Small Wireless Pole*** is not permitted within 200 feet of an existing ***Small Wireless Pole***.
- D. It is preferable for all equipment to be integrated into or mounted on the ***Wireless Support Structure*** or utility pole. Ground-mounted equipment that is in addition to a ***Wireless Support Structure*** or utility pole or associated with a ***Collocation*** shall not be permissible within 500 feet of the footprint of any ***Dwelling***, including attached garages, porches, and balconies, except ***Dwellings*** that front on the Front Beach Road or South Thomas Drive rights-of-way, in which case the minimum distance shall be 150 feet. This restriction does not apply to equipment installed entirely underground consistent with existing grade. In addition, ground mounted equipment associated with or installed because of a ***Small Wireless Pole*** or a ***Small Wireless Facility***, including the ***Collocation*** of a ***Small Wireless Facility***, may not be placed on a sidewalk, bike path, or multi-use trail. Ground-mounted equipment includes, but is not limited to, any of the following associated with a ***Small Wireless Facility*** or installed due to a ***Small Wireless Facility***: electric generators or meters, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and guy wires or other secondary supports.
- E. ***Small Wireless Facilities***, ***Small Wireless Poles***, and associated equipment are not exempt from the City's applicable undergrounding requirements that prohibit above-ground structures in certain public right-of-way, except that ***Collocations*** on existing above-ground structures are not subject to undergrounding requirements that are applicable to a location. At such time an existing above-ground structure is transitioned to underground, any right to ***Collocate*** above ground on it is lost.

- F. Applications for **Small Wireless Poles** or **Collocations of Small Wireless Facilities** in locations subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association are governed by the more stringent rules provided for **Telecommunications Towers and Antennas** unless the **Homeowner Association** is a co-applicant, in which case the more lenient rules for **Small Wireless Facilities** and **Small Wireless Poles** will apply. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities as provided by Florida law.
- G. The requirements of B. through E. of this Section are waived for Small Wireless Poles located within the boundaries of the Front Beach Road Community Redevelopment Area and approved by City Planning Staff for the waiver available under Panama City Beach Code Sec. 19-154 B for complying with Community Redevelopment Agency-style light pole placement, design, and specifications. Applicants agree that in return for the waiver of these requirements and any applicable undergrounding requirement, they will comply with Planning Staff conditions on shielding, stealthing, and limiting the visibility of antennas on the pole to minimize visual differences between the Small Wireless Pole and an actual Community Redevelopment Agency light pole.

When a Community Redevelopment Agency-style light pole is replaced under this paragraph, the applicant must bear the full cost of the replacement and installation and shall perform the work. Pole replacement under this Section may qualify as a collocation pursuant to Section 5.05.08(g) except that the design requirements of this section must be followed, including that the height of the new Small Wireless Pole must comply with the Community Redevelopment Agency-style light pole design and specifications. The new pole shall be owned and maintained by the applicant, unless otherwise agreed by City and applicant in writing.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code and Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

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

PASSED, APPROVED AND ADOPTED at the regular meeting of the

City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

ATTEST:

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

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2019.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2019.

Notice provided to the Secretary of State on the 29<sup>th</sup> day of April, 2019, which is at least 10 days prior to consideration on first reading.

**REGULAR ITEM**

**3**



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:  
PLANNING

2. MEETING DATE:  
MAY 9, 2019

3. REQUESTED MOTION/ACTION:  
HOLD PUBLIC HEARING AND CONSIDER FIRST READING OF ORDINANCE REGULATING THE DEVELOPMENT OF HOSPITALS IN THE CITY

4. AGENDA

PRESENTATION	<input type="checkbox"/>
PUBLIC HEARING	<input checked="" type="checkbox"/>
CONSENT	<input type="checkbox"/>
REGULAR	<input checked="" type="checkbox"/>

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES  NO  N/A   
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES  NO  N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)  
ON NOVEMBER 8TH, 2018, THE CITY COUNCIL INDICATED ITS SUPPORT FOR THE ESTABLISHMENT OF A HOSPITAL ON THE ISLAND. SUBSEQUENTLY, THE PLANNING BOARD CONSIDERED THE LAND DEVELOPMENT REGULATIONS CONTROLLING THE DEVELOPMENT OF SUCH A USE. THE PROPOSED ORDINANCE ADDS HOSPITALS TO THE LIST OF USES IN THE LAND DEVELOPMENT CODE, AND REVISES THE SUPPLEMENTAL STANDARDS SPECIFIC TO HOSPITALS TO CONFIRM ITS COMPATIBILITY WITH SURROUNDING LAND USES.

BECAUSE THE ORDINANCE CHANGES THE ACTUAL LIST OF PERMITTED, CONDITIONAL OR PROHIBITED USES IN THE CITY, FLORIDA STATUTES REQUIRE A PUBLIC HEARING ON FIRST READING OF THE ORDINANCE. STAFF HAS PROPERLY ADVERTISED A PUBLIC HEARING FOR FIRST READING OF THIS ORDINANCE ON MAY 9, 2019. IF APPROVED AT FIRST READING, STAFF WILL ADVERTISE NOTICE OF A SECOND READING AND PUBLIC HEARING ON MAY 23, 2019.

ORDINANCE NO. 1491

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATING TO HOSPITALS; REORGANIZING EXISTING REGULATIONS CONCERNING HOSPITALS; REVISING THE SUPPLEMENTAL STANDARDS SPECIFIC TO HOSPITALS TO SET FORTH MINIMUM LOT SIZE, SPACING AND BUFFERING AND SCREENING REQUIREMENTS, AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE ORDINANCE; INCREASING THE PARKING REQUIREMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, on November 8, 2018, the City Council has publicly declared its support for the future siting of a hospital within the City; and

WHEREAS, the Planning Board has considered the land use regulations controlling the development of hospitals in the City, and on April 10, 2019, recommended amendments to the land development code to confirm a hospital's compatibility with surrounding land uses; and

WHEREAS, the City Council has considered the amendments and finds that they are in the best interests of the health, safety and welfare of the City's residents and visitors.

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

SECTION 1. From and after the effective date of this ordinance, Section 1.07.00 of the Land Development Code of the City of Panama City Beach related to Definitions, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Ordinance 1491  
Page 1 of 6



**Licensed Facility** – A location providing day or **Residential** care or treatment for elderly persons or disabled adults. The term “facility” may include, but is not limited to, any ~~hospital~~, training center, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, **Group Home**, mental health treatment center, or continuing care community.

SECTION 2. From and after the effective date of this ordinance, Table 2.03.02 of the Land Development Code of the City of Panama City Beach related to Land Uses, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Land Uses	AR	R-1a	R-1b	R-1c	R-1cT	RO	RTH	R-2	R-3	CL	CM	CH	M1	C	R	PF
<b><u>Hospital</u></b>												<del>S</del> <b><u>5.04</u></b> <del>15</del>	<del>S</del> <b><u>5.04</u></b> <del>.15</del>			<del>S</del> <b><u>5.04</u></b> <del>15</del>

SECTION 3. From and after the effective date of this ordinance, Table 4.05.02A of the Land Development Code of the City of Panama City Beach related to Parking Space Requirements, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Table 4.05.02.A: Parking Space Requirements**

Type of Use or activity	Minimum Number of Spaces
Hospitals and other medical facilities providing overnight accommodations	<del>2</del> <b><u>2+</u></b> per patient bed.

SECTION 4. From and after the effective date of this ordinance, Section 5.04.15 of the Land Development Code of the City of Panama City Beach related to Supplemental Standards for Hospitals, is created to read as follows:

**5.04.15 Hospitals**

- A. Hospitals are allowable in the CH, M-1, and PF zoning districts, subject to the standards of these zoning districts and the standards of this section
- B. Hospitals are prohibited in the Coastal High Hazard Overlay District.
- C. The property shall be separated from properties zoned or used for residential purposes by a vegetative fence, a Solid Faced masonry or wooden wall or fence, not less that six (6) feet and not more than (8) feet in height. The decorative side of the fence shall face outward.
- D. The buffer that is otherwise required shall be increased by thirty (30) percent.
- E. The number of Shrubs, small trees and medium or large trees otherwise required in the buffer shall be increased by thirty (30) percent.
- F. The primary access to the hospital shall be from an Arterial or Collector Street. No access shall be permitted from local streets providing access to property zoned or used for residential purposes.
- G. Emergency room access and receiving areas shall be located on the side of the structure not adjacent to property zoned or used for residential purposes.
- H. Helicopter pads shall be located a minimum of 500' from a property zoned or used for residential purposes.
- I. Minimum lot size shall be 30 acres.
- J. The minimum setback from any property zoned or used for residential purposes is 100 feet.

SECTION 5. From and after the effective date of this ordinance, Section

5.04.05 of the Land Development Code of the City of Panama City Beach related to Supplemental Standards for Licensed Facilities, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

#### **5.04.05 Community Residential Homes and Licensed Facilities**

- A. *Community Residential Homes*** with six (6) or fewer residents are allowable all districts except the C and R districts, subject to the standards of this zoning district, a minimum separation of one thousand (1,000) feet between each facility and the standards of this section, excluding paragraphs E and F.
- B. *Licensed Facilities*** with seven (7) to fourteen (14) residents are allowable in the R-2, R-3, CL, CM and CH zoning districts, subject to the standards of the R-3, CL, CM and CH zoning districts and the standards of this section.
- C. *Licensed Facilities*** with fifteen (15) or more residents are allowable in the R-3, CL, CM and CH zoning districts, subject to the standards of these zoning districts and the standards of this section.
- D. *Community Residential Homes*** and other ***Licensed Facilities*** which house persons of limited mobility are prohibited within the Coastal High Hazard Overlay District.
- E.** When located next to a property that is ***Used*** or zoned for ***Single Family Residential*** purposes, the side and rear yards shall be enclosed with a ***Solid Faced*** masonry or wooden wall or fence not less than six (6) feet and not more than eight (8) feet in height. The decorative side of the fence shall face outward.
- F.** The number of ***Shrubs***, small trees and medium or large trees otherwise required in the buffer shall be increased by thirty (30) percent.
- G. *Community Residential Homes*** and other applicable ***Licensed Facilities*** shall meet all requirements of section 419.001, F.S.
- H. ~~Hospitals may be permitted as a supplemental use in the PF zoning district subject to the standards of this section. Hospitals are allowable in the CH, M-1 and PF zoning districts, subject to the standards of those zoning districts and the standards of this section~~**
  - ~~1. Hospitals are prohibited in the Coastal High Hazard Overlay District.~~

~~2. The buffer that is otherwise required for the hospital shall be increased by thirty (30) percent.~~

I. **Nursing Homes** are allowable in the R-3, CL, CM and CH zoning districts, subject to the standards of those zoning districts and the standards of this section.

1. **Nursing Homes** are prohibited in the Coastal High Hazard Overlay District.

2. **Nursing Homes** in the R-3 zoning district shall in all respects be consistent with the **Residential** structures in the neighborhood and be consistent with the **Residential** character of the neighborhood. Determination of consistency shall be based on the design of the structure; the amount and location of off-**Street** parking; the location, size and design of the **Driveway; Building** orientation; landscaping; number, size and location of **Accessory Structures**; and the size and location of swimming pools or other outdoor **Recreation** facilities and equipment.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 7. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 8. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the

Ordinance 1491  
Page 5 of 6

City Council of the City of Panama City Beach, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

ATTEST:

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

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2019.

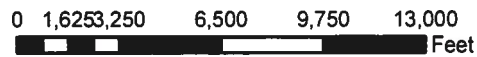
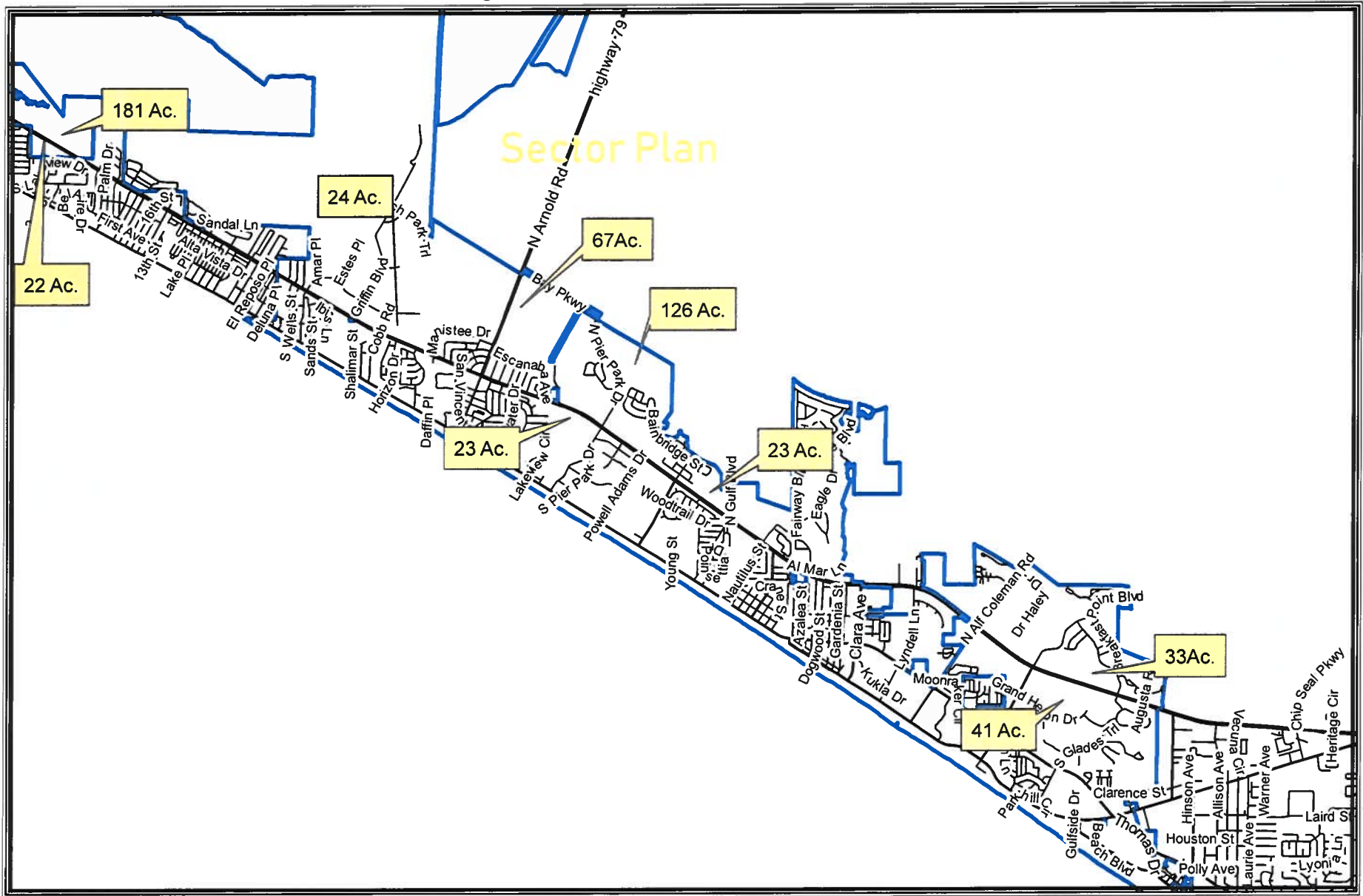
\_\_\_\_\_  
MAYOR

Published in the News Herald on the 25th day of April, 2019.

Published in the \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Posted on pcbgov.com on the \_\_\_\_ day of \_\_\_\_\_, 2019.

# Large Vacant Parcels Near Major Arterials



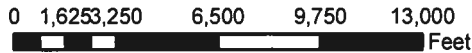
Prepared by The  
City of Panama City Beach  
Planning Department

AGENDA ITEM #

3



# Large Vacant Parcels Near Major Arterials



Prepared by The  
City of Panama City Beach  
Planning Department

**REGULAR ITEM**

**4**



# CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

CITY MANAGER/MARIO GISBERT

2. MEETING DATE:

MAY 9, 2019

3. REQUESTED MOTION/ACTION:

DIRECT STAFF ON FILLING OF VACANCY OF COUNCIL APPOINTED SEAT ON CIVIL SERVICE BOARD

4. AGENDA

PRESENTATION   
PUBLIC HEARING   
CONSENT   
REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? Yes  No   
BUDGET AMENDMENT OR N/A

N/A

DETAILED BUDGET AMENDMENT ATTACHED Yes  No

N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

COMMISSIONER JOHN REICHARD HAS RESIGNED FROM THE CITY'S CIVIL SERVICE BOARD, EFFECTIVE MAY 2, 2019. HIS SEAT IS APPOINTED BY THE COUNCIL.

STAFF REQUESTS COUNCIL CONSIDER THE APPOINTMENT OF ANOTHER CITY ELECTOR TO THE SEAT.