

**RESOLUTION 16-20**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and XGD Systems, LLC, relating to the Conservation Park Trail Stabilization 2015 Project, in an amount not to exceed \$300,000, at the unit price of \$11.58 per LF for Type I Trail Stabilization and \$7.83 per LF for Type II Trail Stabilization, in substantially the form of the agreement attached and submitted to the Council today, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

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

**PASSED** in regular session this 12<sup>th</sup> day of November, 2015.

**CITY OF PANAMA CITY BEACH**

By:   
Gayle F. Oberst, Mayor


**ATTEST:**

  
Diane Fowler, City Clerk

# Memorandum

To: Mario Gisbert

CC: Diane Fowler, Jim Ponek

From: Al Shortt 

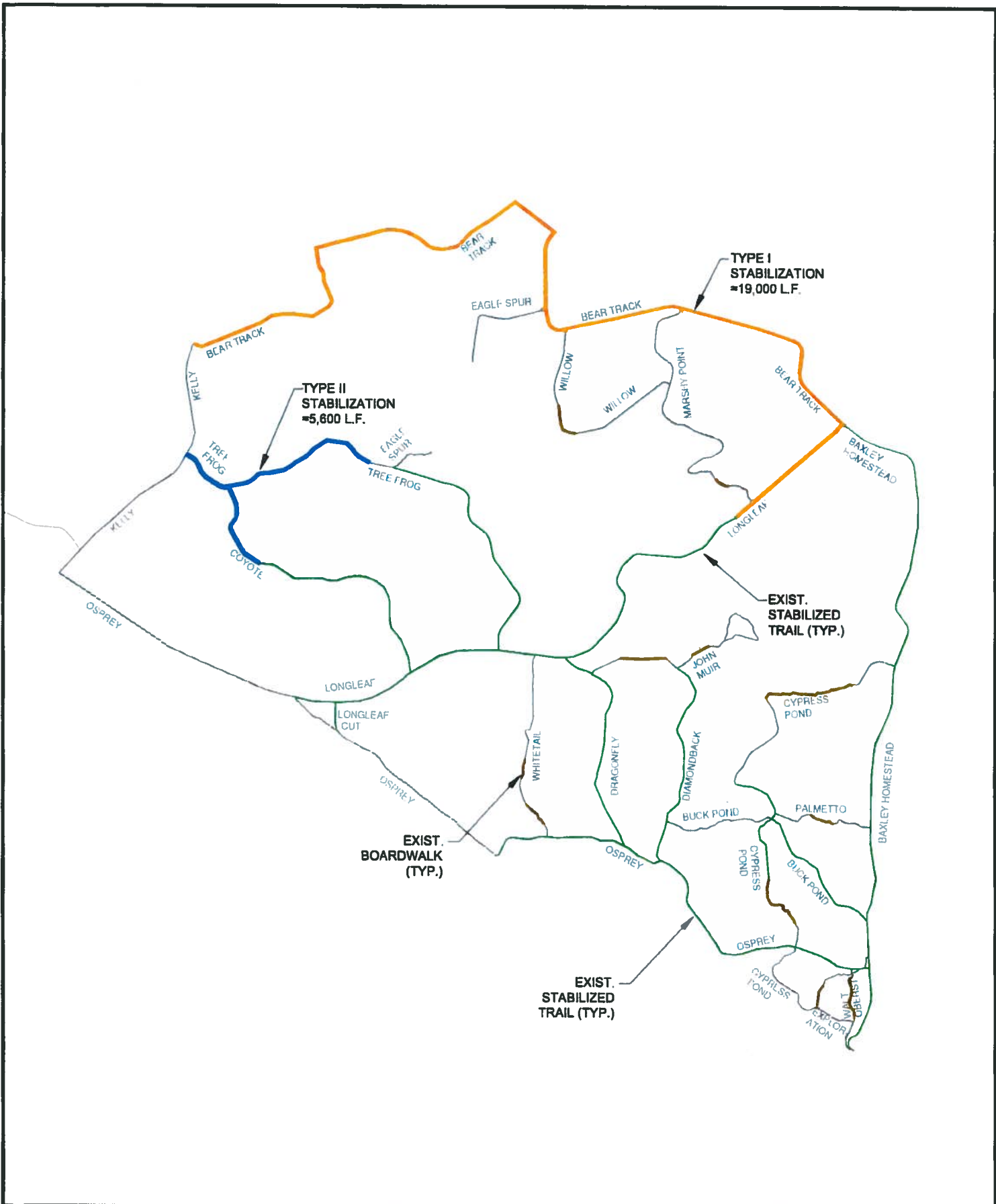
Date: November 5, 2015

Subject: Construction Bids – Conservation Park Trail Stabilization

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Since Conservation Park opened in 2011, staff has been working to implement a management program to restore the former tree farming site to a more natural condition. Recreational and environmental education opportunities are also being developed for the public to experience the park's natural setting. Conservation Park's twenty-five miles of internal trails and boardwalks give the public access to many areas of the 2,900 acre site, along with a connection to the entire Gayle's Trails network. Several miles of sandy trails have been improved over the past 5 years to provide a surface that allows cyclists to ride the trails. This fiscal year, staff budgeted \$300,000 to stabilize another 4.5+ miles of trails in the north and western sections of the park that are difficult for cyclists to travel. An exhibit showing the areas to be stabilized is attached for your use. Last year, the City earned over \$300,000 from timber sales in the park and staff desires to reinvest those funds back into the site.

Staff prepared contract bid documents and publically advertised for construction bids. The work is being bid on a unit price basis for either twelve feet wide or ten feet wide stabilization work. Twelve (12) bidders responded by the closing time and date and a bid tabulation from the public opening is attached. After review of the bids, staff recommends that the City award the Unit Price Bids to the low bidder, XGD Systems, LLC for the unit costs of \$11.58/LF for Type I stabilization and \$7.83/LF for Type II stabilization, with a not to exceed cost of \$300,000 for project. A proposed construction agreement between the City and XGD Systems is attached for your use as well.



**CONSERVATION PARK TRAIL STABILIZATION 2015**

**TRAIL STABILIZATION 2015 - CONSERVATION PARK  
PANAMA CITY BEACH  
2:00 P.M. NOVEMBER 3, 2015**

| BIDDER  | ADDRESS  | ADDENDUM #1 | BID BOND | PUBLIC ENTITY FORM | DRUG FREE FORM | TYPE I TRAIL STABILIZATION UNIT COST | TYPE II TRAIL STABILIZATION UNIT COST |
|---|--|-------------|----------|--------------------|----------------|--------------------------------------|---------------------------------------|
| XGD Systems, LLC<br>Telephone 772-286-6822          | 415 NW Flagler Ave, Unit 302<br>Stuart, FL 34994 | X           | X        | X                  | X              | \$11.58 per L.F.                     | \$7.83 per L.F.                       |
| RBM Contracting<br>Telephone 850-622-1434           | P.O. Box 2174<br>San ta Rosa Beach, FL 32459     | X           | X        | X                  | X              | \$11.40 per L.F.                     | \$10.27 per L.F.                      |
| GCUC<br>Telephone 850-265-9166                      | 13938 Highway 77<br>Southport, FL 32409          | X           | X        | X                  | X              | \$14.25 per L.F.                     | \$10.00 per L.F.                      |
| C-Miles Construction<br>Telephone 850-747-1826      | 1625 Airport Rd.<br>Panama City, FL 32105        | X           | X        | X                  | X              | \$14.30 per L.F.                     | \$12.21 per L.F.                      |
| CW Roberts<br>Telephone 850-385-5060                | 3372 Capital Circle NE<br>Tallahassee, FL 32308  | X           | X        | X                  | X              | \$14.65 per L.F.                     | \$9.06 per L.F.                       |
| Sikes Concrete<br>Telephone 850-265-4564            | 8030 Hwy 77<br>Southport, FL 32409               | X           | X        | X                  | X              | \$15.65 per L.F.                     | \$10.00 per L.F.                      |
| H&T Contractors, LLC<br>Telephone 850-835-0231      | 376 Ben King Roads<br>Freeport, FL 32435         | X           | X        | X                  | X              | \$15.65 per L.F.                     | \$11.94 per L.F.                      |
| Roberson Excavation, Inc.<br>Telephone 850-626-9911 | 6013 Southridge Road<br>Milton, FL 32570         | X           | X        | X                  | X              | \$16.31 per L.F.                     | \$16.31 per L.F.                      |
| 814 Sand, Inc.<br>850-814-7263                      | 12030 Hwy 70<br>Southport, FL 32409              | X           | X        | X                  | X              | \$18.33 per L.F.                     | \$14.70 per L.F.                      |
| North Florida Construction<br>850-674-5730          | P. O. Box 129<br>Clarksville, FL 32430           | X           | X        | X                  | X              | \$19.98 per L.F.                     | \$11.06 per L.F.                      |
| Marshall Brothers Const. &Eng.                      | 1717 Tennessee Ave.<br>Lynn Haven, FL 32444      | X           | X        | X                  | X              | \$20.00 per L.F.                     | \$14.00 per L.F.                      |
| GAC Contractors, Inc.                               | 4116 Hwy 231 North<br>Panama City, FL 32404      | X           | X        | X                  | X              | \$24.98 per L.F.                     | \$29.00 per L.F.                      |

SECTION 00050

AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called "OWNER") and XGD SYSTEMS, LLC, doing business as a Corporation, having a business address of 415 NW Flagler Ave, Unit 302, Stuart, Florida 34994 (hereinafter called "CONTRACTOR"), for the performance of the Work (as that terms is defined below) in connection with the construction of **Conservation Park - Trail Stabilization 2015 Project** ("**Project**"), to be located at 100 Conservation Drive, Panama City Beach, Florida, in accordance with the Drawings and Specifications prepared by the City of Panama City Beach, the Engineer of Record (hereinafter called "Engineer") and all other Contract Documents hereafter specified.

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 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 the Contract Documents within ten (10) calendar days after the date of the NOTICE TO PROCEED to be issued by OWNER in writing within 10 calendar days from the date of this Agreement and will achieve Substantial Completion of the Work within 60 consecutive calendar days of the required commencement date, except to the extent the period for Substantial Completion is extended pursuant to the terms of the Contract Documents ("Contract Time"). 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 \$150.00 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 Not-To-Exceed sum of \$300,000.00 for performing Work at the Unit Prices of \$11.58 per LF for Type I stabilization and \$7.83 per LF for Type II stabilization as shown in the BID SCHEDULE, included within the Bid Proposal Form.
5. The term "Contract Documents" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

|               |                         |
|---------------|-------------------------|
| Section 00010 | ADVERTISEMENT FOR BIDS  |
| Section 00020 | INFORMATION FOR BIDDERS |
| Section 00030 | BID PROPOSAL FORM       |
| Section 00040 | BID BOND                |
| Section 00050 | AGREEMENT               |

|               |  |
|---------------|--|
| Section 00060 | PERFORMANCE BOND   |
| Section 00070 | PAYMENT BOND   |
| Section 00080 | NOTICE OF AWARD  |
| Section 00090 | NOTICE TO PROCEED  |
| Section 00095 | STATEMENT UNDER SECTION 287.087, FLORIDA<br>STATUTES, ON PREFERENCE TO BUSINESSES<br>WITH DRUG-FREE WORKPLACE PROGRAMS |
| Section 00097 | PUBLIC ENTITY CRIMES STATEMENT   |
| Section 00099 | CERTIFICATE OF INSURANCE   |
| Section 00100 | GENERAL CONDITIONS   |
| Section 00800 | SUPPLEMENTAL CONDITIONS  |

DRAWINGS prepared by the City of Panama City Beach  
Numbered 1 through 2 and dated September 30, 2015.

SPECIFICATIONS prepared or issued by the City of Panama City Beach,  
dated October 2015.

ADDENDA

No. 1 , dated October 21, 2015

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 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) 233-5116



If to Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTENTION: \_\_\_\_\_.

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. 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.
11. 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 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.
12. 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.
13. 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.

14. 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 Mr. Al Shortt, Utilities Director, City of Panama City Beach.
  
15. 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 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.

16. INSURANCE - BASIC COVERAGES REQUIRED

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 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 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 exposures. Limits of coverage shall not be less than:

|   |   |
|---|---|
| Bodily Injury, Property Damage<br>& Personal Injury Liability | \$1,000,000 Combined Single Limit Each<br>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 |
|---------------------------------|---|

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 \$2,000,000,each occurrence and aggregate as required by OWNER.

ADDITIONAL INSURANCE

The OWNER requires the following additional types of insurance.

[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.

(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH,  
FLORIDA

ATTEST:

BY:

\_\_\_\_\_  
Diane Fowler, City Clerk

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

TITLE: City Manager

CONTRACTOR:

ATTEST:

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

\_\_\_\_\_

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

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

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

[END OF SECTION 00050]