

BOARD OF COUNTY COMMISSIONERS

GULF COUNTY, FLORIDA

AGENDA	APRIL 10, 2012	TIME / PAGE NO.
1. Meeting Called to Order		6:00 p.m.
2. Consent Agenda		1-149
3. Public Hearing – Ordinance – Tourist Development Council		150
4. County Staff Business		
5. Board Business		
6. Public Discussion		

F.S. 286.0105:

If a person decides to appeal any decision made by the board, agency or commission, with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

CONSENT AGENDA

April 10, 2012

1. Minutes – March 13, 2012 - Regular Meeting 1-15
- March 27, 2012 – Regular Meeting 16-25
2. Approval of Checks and warrants for March, 2012 which are incorporated
herein by reference, pursuant to Chapter 136.06 F.S.
3. Agreement – Florida Rural Broadband Alliance, LLC (Tower Lease Highland
View Water Tank – FRBA) 26-48
Agreement – Florida Rural Broadband Alliance, LLC (Tower Lease Port St. Joe
Water Tank – FRBA) 49-70
Agreement – Florida Rural Broadband Alliance, LLC (Tower Lease Wewahitchka
Tank – FRBA) 71-92
Agreement – Jordan & Associates - C.D.B.G.-D.R.I. (Grant Activity Delivery
Services – D.R.E.F.) 93-98
Agreement – Jordan & Associates – C.D.B.G.-D.R.I. (Grant Administrative
Services – D.R.E.F.) 99-102
Agreement – MRD Associates, Inc. (Sea Turtle Nesting Monitoring) 103-106
Agreement – MRD & Associates, Inc. (Shorebird Monitoring) 107-109
Agreement – St. Joseph Peninsula Beach Restoration (Beach Tilling and
Escarpment Leveling Services) 110-116
4. Bid Award#1112-08 – C.D.B.G. Housing Administration (Jordan & Associates
* \$94,500.00) 117
Bid Award #1112-11 – Beach Tilling and Escarpment Leveling Services
(GAC Contractors * \$20,650.00) 118
5. Change Order #1 – C.W. Roberts Contracting, Inc. (Cape San Blas Shared Use
Path, Phase IV * Increase \$17,934.00) 119
6. Grant Agreement / Resolution – Florida Department of Transportation
(Roadside Beautification Assistance) 120-135
7. Invoices – Bryan-Co Services, Inc. – C.D.B.G.-D.R.I. Affordable Rental
Housing (Liberty Manor * Application #3 * \$11,791.40
* Application #4 * \$5,873.22 * to be paid from Account
#113554-34000) 136-137

Invoices contd.

	- Bryan-Co Services, Inc. – C.D.B.G.-D.R.I. Affordable Rental Housing (Moss Creek * Application #4 * \$4,047.50 * Application #5 * \$3,389.18 * to be paid from Account #113554-34000)	138-139
	- Bryan-Co Services, Inc. – C.D.B.G.-D.R.I. Affordable Rental Housing (Pine Ridge * Application #5 * \$14,616.50 * Application #6 * \$5,166.72 * to be paid from Account #113554-34000)	140-141
	- C.W. Roberts Contracting, Inc. – Cape San Blas Shared Use Path, Phase IV (Application #2 * \$65,135.70 * to be paid from Account #40341-53000)	142-144
	- The Ferguson Group, LLC – Lobbying Services (Invoice #0512179 * \$6,500.00 * to be paid from Account #21111-31200)	145
8.	Purchase Request – T.D.C. (Advertising * Boating Magazine * \$11,000.00 * to be paid from B.P. Funds)	146
	- South Gulf County Fire Department (Two (2) Kawasaki Mules 610 4x4 * \$13,447.22)	147
9.	Travel – Commissioner Warren Yeager, Jr. (Six Pillars Caucus * St. Petersburg * April 10-11, 2012)	148-149

MARCH 13, 2012

PORT ST. JOE, FLORIDA

REGULAR MEETING

The Gulf County Board of County Commissioners met this date in regular session with the following members present: Chairman William C. Williams, III, Vice Chairman Tan Smiley, and Commissioners Carmen L. McLemore, Ward McDaniel, and Warren J. Yeager, Jr.

Others present were: County Attorney Jeremy Novak, Clerk Finance Officer Carla Hand, Deputy Clerk Kari Summers, Chief Administrator Don Butler, Assistant Administrator Michael Hammond, Deputy Administrator Brett Lowry, Building Official Lee Collinsworth, Chamber of Commerce/E.D.C. Director Barry Sellers, Emergency Management Director Marshall Nelson, Emergency Medical Services Director Houston Whitfield, Gulf County Extension Agent Roy Lee Carter, Grant Writer Towan Kopinsky, I.T. Director Dennis Barfield, Planner David Richardson, Preble-Rish Engineer Clay Smallwood, III, Public Works Director Joe Danford, Sheriff Joe Nugent, Sheriff's Office Major Bobby Plair, Interim T.D.C. Director Gail Alsobrook, and Assistant T.D.C. Director Kellee Novak.

Sheriff Nugent called the meeting to order at 6:00 p.m., E.T.

Rev. James Wiley opened the meeting with prayer, and Chairman Williams led the Pledge of Allegiance to the Flag.

CONSENT AGENDA

Upon motion by Commissioner McDaniel, second by Commissioner Smiley, and unanimous vote, the Board approved the Consent Agenda after removal of item #5 (page 37), and Chairman Williams requested that Form 8B Memorandum of Voting Conflict be added and approved with the minutes as follows:

1. Minutes – February 14, 2012 - Regular Meeting
2. Approval of Checks and warrants for February, 2012 which are incorporated herein by reference, pursuant to Chapter 136.06 F.S.
3. Fee Waiver – Honeyville Community Center (Florida Bass Federation)

- 4. Inventory – Gulf County Health Department (Junk * #130464 * Optiplex GX620, S/N 3Q9MC91 * #130467 * Optiplex GX620, S/N 9M1CP91 * #130479 * Optiplex GX620, S/N 5QQY1B1 * #130510 * Optiplex GX620, S/N 7GDM9B1 * #130529 * Optiplex GX620, S/N CTG7QC1 * #130530 * Optiplex GX620, S/N 5VL6QC1 * #130531 * Optiplex GX620, S/N 5TL6QC1 * #130549 * Optiplex GX620, S/N 5W52HD1 * Monitor E173FM CN-OU4931-466334B9-27LS * Monitor E173FM CN-OU4931-466334CQ-1G1M * Monitor E173FM CN-OD5428-72B72-55G-4P6S * Monitor E173FP CN-OMC040-64180-62N-3PWL * Monitor 1707FP CN-OFK945- 71618-76N-BHVP * #130468 * Optiplex GX620, S/N BM1CP91 * #130481 * Optiplex GX620, S/N 209H2B1 * #130484 * Optiplex GX 620, S/N CZ8H2B1 * #130485 Optiplex GX620, S/N FZ8H2B1 * 1702FP, CN-08G152-47606-32R-A6XU * 1702FP, MX-08G152-47605-331-DEL2 * 1702FP, MX-08G152-47605-331-DFHF * 1702FP, MX-08G152-47605-331-DEJJ * 1702FP, MX-08G152-47605-331-DEKU * 1702FP, MX-08G152-47605-331-DFL7 * E196FP, CN-OWH139-72872-731-23AH * E176FP, CN-ODC323-71618-687-BFL3* #130-109a and b * Exam Bed * #130-114 * NEC Phone * #130-121 * Exam Bed * #130-122 * Exam Bed * #130-128 * Audiometer * #130-129 * Audiometer * #130-206 * Dent Xray * #130-217 * HP Laser Jet 6 Printer * #130-218 * HP Laser Jet 6 Printer * #130-219 * HP Laser Jet 4000N Printer * #130-220 * AGFA Digital Camera * #130-224 * NEC Phone System * #130-236 * Olympus Camera * #130-238 * Olympus Camera * #130-239 * Panasonic VHS Camera * #130-421 * Markman II X-ray * #130-298 * X-ray Unit * #130-313 * HP 4550 DN Printer * #130-315 * HP 4550DN Printer * #130-326, #130-327, #130-328, #130-329, #130-336, #130-337, #130-339, #130-341, #130-342, #130-343, #130-375, #130-377, #130-378 * Dell Computers * #130-367 * TRIAD Light * #130-369 * Copier * #130-370 * Sharp Copier * #130-372 * Color Injet Printer * #130-379, #130-380, #130-381, #130-383, #130-384, #130-386, #130-387, #130-388, #130-389, #130-393, #130-395, #130-396,

Inventory Cont.

#130-416, #130-417, #130-419, #130-420, #130-422,
 #130-423, #130-424, #130-425, #130-427, #130-429,
 #130-461, #130-464 * Dell Computers *#130-449*,
 #130-451, #130-475, #130-476 * Dell Computers – no hard
 drive * #130-403 * HP Printer 2300DN * Toshiba Laptop –
 no hard drive * HP Laser Jet 2200d * HP Desk Jet 1220C
 * HP Desk Jet 1120 * Zebra P2101 * HP Desk Jet 930c
 * HP Desk Jet 930c * HP Scan Jet 5590 x4 * #130-489
 * Dell * Power Vault 132T * APC Smart-UPS 700XL * APC
 Battery Pack * Dell Monitor MX-0419TG-47801-25D-C335
 * Dell Monitor CN-04P121-47804-2A1-COAD * Dell Monitor
 MY-08G157-47603-321-B1JD * Dell Monitor MX-0419TG-
 47801-25D-C2ZH * Dell Monitor MX0419TG-47801-25D
 -C2Z4 * Dell Monitor MX-0418TG-47801- 25D-C2ZL * Dell
 Monitor MX-075UXR-47741-172-114G * Dell Monitor
 CN-095WUP-46633-378-20NS * Dell Monitor CN-04P121
 -47804-34T-C0A1 * Dell Monitor MX-0419TG-47801-25D-
 C2ZK * Dell Monitor CN-04P121-47804-34T-C0A9 * Dell
 Monitor CN-04P121-47804-34J-C21Q * Dell Monitor
 CN-04P121-47804-34I-C3MQ * Dell Monitor CN-04P121
 -47804-34T-C0A5 * Dell Monitor CN-04P121-47804-34T
 -C0AF * Dell Monitor CN-04P121-47804-34T-C3MN * Dell
 Monitor CN-04P121-47804-34J-C21G * Dell Monitor CN
 -04P121-47804-34J-C21C * Dell Monitor CN-04P121-47804
 -34T-C09V * Dell Monitor MX-0419TG-47801-25D-C33E
 * Dell Monitor CN-04P121-47804-34T-C0A3 * Dell Monitor
 CN-04P121-47804-34T-C0AD * Dell Monitor CN-04P121
 -47804-34J-C21L * Dell Monitor CN-04D025-47606-295
 -DOYF * Dell Monitor MY-08G157-47603-320-BBN5
 * Dell Monitor MY-08G157-47603-32N-B41Z * Dell Monitor
 MY-08G157-47603-329-BSJA * Dell Monitor MY-08G157
 -47603-329-BSHG * Dell Monitor 8500551 * Selina
 Mammogram Machine)

5. Invoices – County Attorney Jeremy Novak – Professional Services
 (2/1/12-2/29/12 * \$7,415.30 * to be paid from Account
 #21314-31100)

- Current Solutions of the Gulf Coast – Solar Lighting (Invoice #2792 * \$13,125.00 * to be paid from Account #33537-34000)
 - **DELETE** - C.W. Roberts Contracting, Inc. – Cape San Blas Bike Path Phase IV (Application #1 * \$73,358.81 * to be paid from Account #40341-53000)
 - Gulf County Sheriff (Butler * Missing & Abducted Children Training)
 - Gulf County Sheriff (Nugent * Criminal Intelligence for Police Executives Training)
 - Roberson & Associates, P.A. – Auditing Services (Invoice #PSJ9463 * \$30,000.00 * to be paid from Account #346513-32000)
 - St. Joseph Bay Humane Society – Animal Control (February, 2012 * \$2,981.00 * to be paid from Account #43262-82000)
6. Invoice Ratification – C.W. Roberts Contracting, Inc. – Cape San Blas Bike Path Phase 3 (Application #8 * \$118,974.59 * to be paid from Account #40341-53000)
 7. Letter Request – Department of Transportation (State Road 71)

(End)

RIPARIAN COUNTIES

Upon request by Chairman Williams, Homer Hirt appeared before the Board. Chairman Williams thanked Mr. Hirt for his hard work on the Riparian Counties for the Apalachicola, Chattahoochee, and Flint Rivers (ACF), stating that Commissioner McDaniel is now a sitting board member for the County. For public information, Mr. Hirt announced there is a meeting coming up for the Riparian Counties.

EIGHT COUNTY TOURISM ORGANIZATION

Mr. Homer Hirt discussed rural tourism on the river, stating this started with the State of Alabama and Georgia, and is called River Way South. He reported this was formed by a group of people that wanted to look at what we had on the three river system that would

appeal to people. Mr. Hirt reported they have formed a separate but similar group which is called River Way South Apalachicola Choctawhatchee, stating they took the six counties that are riparian counties and formed a group. He discussed the program, and reported he is appearing before Opportunity Florida this week to discuss this issue. Upon inquiry by Commissioner McLemore, Mr. Hirt reported he is representing eight (8) counties, and last year five (5) counties gave the \$5,000.00 from their T.D.C.'s; six (6) counties had T.D.C.'s. Commissioner Yeager motioned to allow additional time for Mr. Hirt to speak. Commissioner McDaniel seconded the motion, and it passed unanimously. Mr. Hirt continued, stating that Gulf County did not contribute last year. Upon inquiry by Commissioner McLemore, Chairman Williams suggested the funding come from the T.D.C. Commissioner Yeager stated that he supports this effort one-hundred percent (100%). Commissioner McLemore motioned to fund the Eight County Tourism Organization through the T.D.C., contingent upon Attorney and T.D.C. review. Commissioner Smiley seconded the motion, and it passed unanimously.

DAY OF DECLARATION

James Wiley, of Oak Grove Assembly of God Church appeared before the Board and presented an event which will take place in Port St. Joe on December 3, 2012, stating this is the anniversary date of the Constitution Convention, which is the birth place of the State of Florida. He reported he is also representing the Ministerial Association; noting they have an endorsement from the City of Port St. Joe and they are going to present a proclamation in support of this event. Pastor Wiley stated the event on December 3, 2012 will be a celebration rally to reaffirm our statement of faith in God as the foundation of our State and Nation. Mr. Wiley requested moral and verbal support from the Board of County Commissioners for this special event. Commissioner Yeager discussed that he is in full support of this event. Mr. Wiley showed a one-minute video for the Day of Declaration. Upon inquiry by Chairman Williams, Mr. Wiley reported there will be a proclamation from the City of Port St. Joe. Commissioner Yeager requested the Board draft a resolution to consider and adopt at the next Board meeting. Chairman Williams suggested for Mr. Wiley to work with Commissioner Yeager concerning this issue. Commissioner Yeager motioned to draft a resolution of support for adopt at the next Board meeting. Commissioner McDaniel seconded the motion, and it passed unanimously.

INVOICE - C.W. ROBERTS CONTRACTING, INC. – CAPE BIKE PATH PHASE IV

Grant Writer Kopinsky discussed Item #5 (page 37) which was pulled from the Consent Agenda, stating the invoice amount was incorrect and requested modification of application #1, in the amount of \$73,754.10. Commissioner Yeager motioned to approve this request. Commissioner Smiley seconded the motion, and it passed unanimously.

INVOICE – JBS ENGINEERING – CEI SERVICES CAPE BIKE PATH PHASE IV

Grant Writer Kopinsky discussed invoice #412681-01 from JBS Engineering for the CEI Services for Cape Bike Path Phase IV, and requested approval in the amount of \$9,736.01. Commissioner Yeager motioned to approve this request. Commissioner McDaniel seconded the motion, and it passed unanimously.

BUDGET MODIFICATION – FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY - D.R.I. GRANT

Grant Writer Kopinsky requested approval of a budget modification to D.E.O. and permission for the Chairman to execute the document. Commissioner Yeager motioned to approve this request. Commissioner McLemore seconded the motion, and it passed unanimously.

CHANGE ORDER – BRYAN-CO SERVICES – D.R.I. AFFORDABLE RENTAL HOUSING – BID #1011-23

Grant Writer Kopinsky requested approval of a change order for the affordable rental housing D.R.I., in the amount of \$48,648.60, to allow additional funds to be expended prior to the grant deadline. Commissioner Yeager motioned to approve this request. Commissioner McLemore seconded the motion, and it passed unanimously.

ADVERTISE FOR BIDS – STUMPHOLE REVETMENT (D.R.I. AND D.R.E.F.)

Grant Writer Kopinsky requested permission to advertise to receive sealed bids for the Stumphole Revetment D.R.I. and D.R.E.F. project. Commissioner Yeager motioned to approve this request. Commissioner McDaniel seconded the motion, and it passed unanimously.

TRAVEL – COMMISSIONERS – OPPORTUNITY FLORIDA RURAL SUMMIT

Grant Writer Kopinsky requested approval for Commissioners to travel to the Opportunity Florida Rural Summit, March 14-16, 2012 in Havana, Florida. Commissioner Yeager motioned to approve this request. Commissioner Smiley seconded the motion, and it passed unanimously. Chairman Williams reported that Commissioner Yeager has been appointed to work with D.E.O. to create a system of communication with the six pillars of economic development.

FLORIDA FISH & WILDLIFE – LANDS LANDING

Grant Writer Kopinsky reported she submitted another email to Florida Fish & Wildlife concerning Lands Landing boat ramp grant.

PUBLIC WORKS EQUIPMENT

Public Works Director Danford appeared before the Board and requested permission to sell three (3) dump trucks (inventory #100-586, #100-580, #70-738), and one (1) 1991 D4 Dozier (inventory #100-409), and to use the funds to purchase equipment for Public Works. He reported they have two (2) old fire trucks that have been previously junked (1973 Ford Fire Truck #100-587) to sell for metal, and to also use those funds for equipment purchase. Upon inquiry by Chairman Williams concerning selling the dump trucks, Public Works Director Danford stated this could impede operations in the future, but they have to have another motor grader; stating the front-end on the one they have is shot. Chairman Williams expressed his concern of what the impact of selling this equipment would do to their field work. Commissioner McLemore praised Mr. Danford and his staff for looking at this; stating these are hard times and Mr. Danford is just trying to survive. Commissioner Yeager commended Mr. Danford and inquired as to whether there was a buy-back option from the original vendor. Mr. Danford stated he would like to put it out there to see who gives the best offer. Commissioner McDaniel stated the County does not need six (6) trucks with only three (3) drivers. Commissioner McDaniel asked if he had any ballpark figures and Mr. Danford stated they are looking at approximately \$65,000.00 per truck, and will be pursuing getting it off State contract. Upon inquiry by Chairman Williams, Public Works Director Danford reported it will be approximately \$150,000.00 for a new grader. Public Works Director Danford requested permission to junk one (1) sway car. Commissioner McLemore motioned to approve these request as presented by Public Works Director Danford. Commissioner Yeager seconded the motion, and it passed unanimously.

BRITISH PETROLEUM – DEEPWATER HORIZON OIL SPILL

County Attorney Novak gave an update on the B.P. claim, stating Beasley Allen Law Firm is scheduled to be here on March 27, 2012 for a closed attorney-client session at 5:00 p.m., E.T.

LAWSUIT – JOHNSON VS. RISH

County Attorney Novak reported that a Dismissal with Prejudice has been filed in the Circuit Court Johnson vs. Rish case.

STATE HOUSING INITIATIVE PROGRAM

County Attorney Novak gave an update on S.H.I.P., stating the Board previously approved the contract for the Technical Advisor (Michael Chaney) to work with Gulf County. Mr. Novak reported that he, Chief Administrator Butler, and Deputy Administrator Lowry met with Mr. Chaney via telephone conference and set up a strategy on how to resolve the White City property. He requested permission to approve the strategy, memorialize it in the minutes, and move forward. County Attorney Novak

explained they propose to merge the two (2) parcels, begin with an advertisement for construction of a home on the property, seek out qualified S.H.I.P. applicants and through a hybrid of a deferred payment program and grant; provide that home to a qualified S.H.I.P. applicant. County Attorney Novak noted that S.H.I.P. funds will be used to construct the home on the merged parcel upon approval by the Commission of the S.H.I.P. strategy. Commissioner Yeager motioned to approve this strategy. Commissioner Smiley seconded the motion, and it passed unanimously.

HOUSE BILL 5301 – MEDICAID

County Attorney Novak reported that H.B. 5301 (Medicaid bill) passed and is now going for the Governor's review. He discussed the bill relative to how it will affect the County's Revenue Sharing, the appeal process, and how it takes the fiduciary review responsibility away from the County. Chairman Williams noted unfunded mandates the State requires, stating the Agency for Health Care Administration (A.H.C.A.) is giving the State a bill which is not correct, the way the law is set, because it has to be billed back to the place of residency of the Medicaid client. He reported they worked diligently to kill this bill; noting the Senate passed it 22 to 17. Chairman Williams noted Gulf County's price tag is approximately \$145,000.00; stating there is a 41% error rate with their billings. Chairman Williams stated there is an appeal to the Governor to veto House Bill 5301.

GULF COUNTY HEALTH DEPARTMENT UPDATE

Gulf County Health Department Administrator Marsha Lindeman appeared before the Board and discussed the D.O.H. reorganization, stating HB 5311 passed last year which gave the directive to the D.O.H. to reorganize and down size; focusing on core health. She stated they spent a better part of the year doing that and submitted the plan in the fall, which was approved. Ms. Lindeman reported that she has been elected to the Executive Board of the Florida Association of County Health Officers and gave a brief outline of what their mission is. Chairman Williams thanked Ms. Lindeman for her great job of running the Gulf County Health Department.

GULF COUNTY HEALTH DEPARTMENT – COMMUNITY HEALTH SERVICES MANAGER

Gulf County Health Department Administrator Marsha Lindeman introduced Sarah Hines (replacing Clarissa Herndon, who moved to Jacksonville) as the new Community Health Services Manager, and the Public Information Officer for the Health Department.

WILLIAMS VS. SCOTT RULING/FLORIDA RETIREMENT SYSTEM

County Attorney Novak reported that Judge Fulford in Leon County made her decision last week in the case of Williams v. Scott, finding the State was unconstitutionally taking

of State employees of the 3% (retirement); finding it an unconstitutional impairment of the plaintiff's contract with the State of Florida, and unconstitutional taking of private property without full compensation. He stated they anticipate an appeal to the First District. Chairman Williams stated this will not affect our current year budget because of the appellate process, noting this needs to be brought to the attention of the budget committee and requested Assistant Administrator Hammond keep a watch on this process. Assistant Administrator Hammond noted the budget committee discussed this matter at their first meeting. He brought to the Board's attention that there may be even greater concern due to these changes and cuts the (State) made to balance their budget which will result in being under funded.

TOURIST DEVELOPMENT COUNCIL – MARKETING/NEW MEMBER TRAINING/APPOINTMENT

County Attorney Novak reported on the time lines for T.D.C. and updated the Board on the status of the Marketing R.F.P. advertisement, and the new member training; stating there is still one vacancy on the T.D.C. Board. Commissioner McDaniel motioned to appoint David Warriner to the T.D.C. Board. Commissioner Yeager seconded the motion, and it passed 4 to 1, with Commissioner McLemore opposing.

PLANNING DEVELOPMENT REVIEW BOARD

County Attorney Novak reported the P.D.R.B. has a meeting notice scheduled for April 16th, and requested Planner Richardson to provide the members with the Sunshine Law training.

BID #1112-09 – VIDEOTAPING & AIRING COMMISSION MEETINGS

Chief Administrator Butler reported there was one bid received for Bid #1112-09 from Ken Murphy and recommended to schedule a workshop to discuss the needs for this bid. Discussion ensued concerning the needs of the County to air these meetings. Commissioner Yeager agreed with Chief Administrator Butler and suggested they hold a workshop. Chairman Williams agreed but voiced concerns that an RFP was sent out, a bid was received based on the terms and specifications of that RFP and for it to be modified could potentially be unfair to other potential bidders. County Attorney Novak discussed that he spoke with Chief Administrator Butler concerning this bid and there were possible technical flaws with this bid, and recommended to follow the direction of Chief Administrator Butler. Discussion followed. Commissioner Yeager motioned to workshop this with the bidder to see if the bid meets the specifications. Commissioner Smiley seconded the motion. Commissioner McDaniel stated there are a lot of gray areas in this. Commissioner Smiley agreed. County Attorney Novak requested that he and Chief Administrator Butler have the ability to meet with the bidder, review the bid to the specifications, and bring a recommendation back to the Board. Commissioner

Yeager modified his motion to allow County Attorney Novak and Chief Administrator Butler to meet with the bidder to make sure the bidder understood the RFP, and bring a recommendation back to this Board. Commissioner Smiley seconded the motion, and it passed 3 to 2, with Chairman Williams and Commissioner McDaniel voting no.

AGREEMENT - COUNTY ATTORNEY – PROFESSIONAL SERVICES

Chief Administrator Butler recommended approval of the Professional Services Agreement for County Attorney Novak and allow himself and Chairman Williams to execute the agreement. Commissioner McDaniel motioned to approve this recommendation. Commissioner Smiley seconded the motion, and it passed unanimously.

GULF COUNTY SHERIFF'S OFFICE FISHING TOURNAMENT

Sheriff Nugent reported on the upcoming Sheriff's Department fishing tournament, stating they have opened the tournament for pre-registration as of today; noting it will have a \$10,000.00 prize. Sheriff Nugent stated there is a 200 boat limit, with a registration fee of \$175.00 per boat, and registration forms can be found on his website at www.gcsotournament.com, or stop by the Sheriff's Department for the form. He reported the money was from T.D.C. last year, reporting they raised enough to fund the tournament for this year. Commissioner Yeager commended the Sheriff on the success of this tournament, noting the T.D.C. design should be to fund the function the first year to get them started; stating this is the way it should work.

GULF COUNTY SHERIFF'S OFFICE – SCHOLARSHIP

Sheriff Nugent reported they will be funding two \$500.00 scholarships; one senior in Port St. Joe, and one senior in Wewahitchka from the proceeds of the fishing tournament, stating the application deadline is May 15th.

SEARCH AND RESCUE/4-H RODEO/T.D.C. FUNDING

Sheriff Nugent reported that the Gulf County Search and Rescue and the 4H Club are tentatively looking at scheduling a rodeo for late September or October and are looking to request money from the T.D.C. He requested direction on their funding request. Chairman Williams commended everyone's efforts in Eco-Tourism.

GULF COUNTY SHERIFF'S OFFICE FISHING TOURNAMENT

Upon inquiry by Commissioner Smiley, Sheriff Nugent reported the gate at the White City Park will be opened for the tournament, and they will notify the residents located along the road.

RFP #1112-12 – T.D.C. MARKETING & ADVERTISING CONSULTING SERVICES

County Attorney Novak discussed RFP #1112-12 for T.D.C. Marketing & Advertising Consulting Services, stating there have been amendments to the RFP, and requested to extend the RFP for one week until Friday, March 23, 2012. Commissioner Yeager motioned to approve this recommendation. Commissioner McDaniel seconded the motion, and it passed unanimously.

AUBURN UNIVERSITY COLLEGE STUDENTS

Commissioner Smiley thanked the Auburn University college students for all their hard work in District 4 during their spring break. He also thanked WastePro for reaching out to help in this community effort by feeding approximately two hundred seventy-four (274) students from Auburn.

APPEAL – MCALPIN

Upon request by Commissioner Smiley, Attorney Patrick Floyd appeared before the Board, presented documentation and stated he is here today to quote the Gulf County Commission rules, which they wrote. He discussed the appeal process in section 2.06.08A of the Land Development Regulations (LDR), stating an appeal stays all proceedings in furtherance of the action appealed from. He reported there was an appeal to the P.D.R.B. which invoked this section, filed on February 7, 2012 with the Building Department appealing a building permit that was issued January 26, 2012. Attorney Floyd noted one exception to the stay and quoted from the LDR as follows, "Unless the Official from whom the appeal is taken certifies to the P.D.R.B. after Notice of Appeal is filed with him that by reason of facts stated in a Certificate of Stay would in his opinion cause immediate peril to life and property". Attorney Floyd stated, that is what is required, that's the only exception, and the stay stays everything until it is determined. Attorney Floyd informed the Board that a Certificate of Stay was never filed by the Building Department or the County Administrator. Commissioner Smiley motioned to allow additional time to speak. Chairman Williams stated this has gone through the appellate process with the P.D.R.B. and has not come back before this Board. The motioned failed for lack of second.

ORDINANCE – BEACH DRIVING

Commissioner Yeager discussed page #1 of the Information Packet, stating it is a letter pertaining to beach driving permits, and requested permission to work with County Attorney Novak to clear up the language in the ordinance #98-14, and referenced the ambiguity concerning the sixty-five (65) and older. Commissioner Yeager motioned to proceed with County Attorney Novak to clear up the language in the beach driving ordinance. Commissioner McLemore seconded the motion, and it passed unanimously.

POLICY-COUNTY ATTORNEY

Commissioner Yeager discussed County Attorney Novak's time, stating everything does not need to be put on him, and suggested everything go through Chief Administrator Butler before going to the County Attorney. He recommended adopting Board policy for the public to go through Chief Administrator Butler before going to the County Attorney. Chief Administrator Butler agreed and discussed further. Commissioner Yeager motioned to adopt a policy for everyone (the public) to go through the County Administrator before contacting the County Attorney. Chairman Williams stated that county staff should go through the same process and asked Commissioner Yeager to include that in his motion. At Chairman Williams' request, Commissioner Yeager agreed to add that to his motion, when applicable. Commissioner McDaniel seconded the motion, and it passed unanimously.

C.O.B.R.A.

Commissioner Yeager discussed the bill that Congressman Southerland filed for the County to remove C.O.B.R.A. from the Indian Pass and Cape San Blas areas, stating they had good meetings with F.E.M.A. and U.S. Fish and Wildlife. Commissioner Yeager stated C.O.B.R.A. was put on these areas in error and it was easy to explain to these agencies. Commissioner Yeager stated we should thank Congressman Southerland for his efforts on getting this legislation through for Gulf County. Chairman Williams thanked Commissioner Yeager for his efforts on this issue. Commissioner Yeager also thanked our Lobbyist Amanda Wood of The Ferguson Group for their work and assistance on this matter.

NATIONAL ASSOCIATION OF COUNTIES ANNUAL CONFERENCE

Commissioner McDaniel discussed their trip to Washington (NACo Conference) and how that benefits the County. He thanked Commissioner Yeager and Chairman Williams for their leadership.

DISTRICT 4 – AUBURN UNIVERSITY COLLEGE STUDENTS

Commissioner McDaniel discussed that he visited North Port St. Joe where the Auburn students have been working; stating this is amazing and they should be commended for their hard work.

RESTORE ACT/DEEPWATER HORIZON OIL SPILL

Chairman Williams discussed the Restore Act, stating it is a major piece of legislation. He stated British Petroleum (B.P.) will be fined billions of dollars in the process with eighty percent (80%) coming back to the affected counties. Chairman Williams thanked many for their efforts to move this forward, specifically Senator Bill Nelson and

Representative Steve Southerland. Chairman Williams noted there is one more stop for this bill.

FLORIDA ASSOCIATION OF COUNTIES

Chairman Williams encouraged everyone to go to the F.A.C. website to review the House Bills and Senate Bills passed by the Florida Legislature.

FLORIDA ASSOCIATION OF COUNTIES – SCHOLARSHIP

Chairman Williams discussed as the incoming President of the Florida Association of Counties he has the privilege of selecting a county employee from the home County of the new President to award a scholarship through the Florida Association of Counties. Chairman Williams requested permission for Emergency Management Director Nelson to travel to accept this scholarship which will be named in memory of his son Bryce Nelson. Commissioner Yeager motioned to approve this request. Commissioner McDaniel seconded the motion, and it passed unanimously.

APPOINTMENT - STATE 9-1-1 BOARD

Chairman Williams reported that E9-1-1 Coordinator Ben Guthrie has been appointed to the State 9-1-1 Board and congratulated him on this appointment.

GULF COUNTY PARKS

Chairman Williams complemented Building Official Collinsworth and Commissioner McLemore for the work on the park identifications, stating they have performed an inventory of all parks so park management can be prioritized.

DISTRICT 3 – RE-ELECTION

Chairman Williams announced he will seek re-election for Commissioner of District 3, thanking everyone for the opportunity to serve.

AUBURN UNIVERSITY COLLEGE STUDENTS

Commissioner Smiley reported there will be a block party for the Auburn students on Wednesday, March 14th from 4:00 p.m. to 6:00 p.m., E.T. at the Washington High Gym and invited everyone to attend. Chairman Williams stated Dianna Sealy Burkett has done a phenomenal job with this program.

RE-DISTRICTING

Commissioner McDaniel discussed re-districting and motioned to direct Supervisor of Elections Linda Griffin to revise the lines for District 2 and District 3 immediately. Commissioner Yeager seconded the motion, and it passed unanimously. Chairman Williams stated there may need to be a town hall meeting to inform the public.

Commissioner Yeager stated a letter needs to be sent to the Judge on the Consent Order concerning our district lines. Commissioner Yeager motioned to proceed with a letter to the Judge. Commissioner McDaniel seconded the motion, and it passed unanimously.

CINNAMON HILL

Clayton Studstill, Attorney at Law and Environmental Consultant appeared before the Board and discussed an item that was previously presented to the P.D.R.B. which was related to a tract of land (large parcel) located in the Beacon Hill area known as Cinnamon Hill (34 lots) owned by 22 individuals. He noted that he holds Powers of Attorney for all of those individuals. He reported they asked for the P.D.R.B. to approve, and recommend to the Board for approval the signing of an application, joining with those landowners, apply to the D.E.P. and Water Management District, to fill those parcels and open the right-of-ways so the area could be developed. Chief Administrator Butler reported that Mr. Studstill is asking the Board to jointly apply, with the landowners, for a permit to perform work. He stated his concern is the land will be sold and the County will be responsible for the storm water system on the roadway. Mr. Butler recommended the County abandon the roadway. Discussion followed about the roadways, abandonment, and storm water issues. Mr. Studstill reported there will be no financial penalty for the County in going forward, but a benefit in the future. Upon inquiry by Chairman Williams, County Attorney Novak warned of going down that path without first having something formalized to hard harmless and release the county of any obligations. Attorney Studstill stated it is conceptual permitting they are seeking and the hold harmless and indemnification are not a problem. Commissioner Yeager recommended Chairman Williams, Chief Administrator Butler and Attorney Clayton Studstill work together to bring something back to the Board for consideration.

BEACH BLAST TRIATHLON

Olga Cemore appeared before the Board and discussed she is having a problem with permitting for the Beach Blast Triathlon which is scheduled for April, stating she is having a problem with the Sheriff's Department in signing the permit. Chairman Williams stated this is a good event for Gulf County. Sheriff Nugent reported for this to be a safe event there will need to be eight officers on the highway working during the event, and she doesn't want to pay for it. Chairman Williams suggested for Commissioner Yeager, Ms. Cemore and Sheriff Nugent to work together and solve this issue.

ST. PADDY'S DAY ON THE BAY EVENT

Interim T.D.C. Director Alsobrook appeared before the Board and invited everyone to attend the all day St. Paddy's Day event starting at 8:00 a.m., E.T. on Saturday, March 17, 2012.

There being no further business, and upon motion by Commissioner Yeager, the meeting did then adjourn at 7:52 p.m., E.T.

WILLIAM C. WILLIAMS, III
CHAIRMAN

ATTEST:
REBECCA L. NORRIS
CLERK

MARCH 27, 2012

PORT ST. JOE, FLORIDA

REGULAR MEETING

The Gulf County Board of County Commissioners met this date in regular session with the following members present: Chairman William C. Williams, III, Vice Chairman Tan Smiley, and Commissioners Carmen L. McLemore, Ward McDaniel, and Warren J. Yeager, Jr.

Others present were: County Attorney Jeremy Novak, Clerk Rebecca L. Norris, Clerk Finance Officer Carla Hand, Deputy Clerk Kari Summers, Chief Administrator Don Butler, Assistant Administrator Michael Hammond, Deputy Administrator Lynn Lanier, Deputy Administrator Brett Lowry, Emergency Management Director Marshall Nelson, Emergency Medical Services Director Houston Whitfield, G.I.S. Coordinator Scott Warner, Mosquito Control Director Mark Cothran, Planner David Richardson, Preble-Rish Engineer Clay Smallwood, III, Public Works Director Joe Danford, Sheriff Joe Nugent, Sheriff's Office Major Bobby Plair, Health Department Administrator Marsha Lindeman, Interim T.D.C. Director Gail Alsobrook, Assistant T.D.C. Director Kellee Novak, and T.D.C. Secretary Crystal Follin.

Sheriff Nugent called the meeting to order at 6:00 p.m., E.T.

Clerk Norris opened the meeting with prayer, and Chairman Williams led the Pledge of Allegiance to the Flag.

CONSENT AGENDA

Upon motion by Commissioner McDaniel, second by Commissioner Smiley, and unanimous vote, the Board approved the Consent Agenda as follows:

1. Minutes – February 28, 2012 - Regular Meeting
2. Change Order #5 – Cape San Blas Bike Path Phase III (C.W. Roberts Contracting, Inc. * Time Extension Only – Rain Days (10) * Bid #1011-16)
3. Contract – Disaster Discovery Services (Ashbritt, Inc.)

4. Invoices – Agency for Healthcare Administration – Medicaid (3rd Quarter 2011-2012 * \$4,076.00 * to be paid from Account #42562-81000)
 - Agency for Healthcare Administration – Medicaid (3rd Quarter 2011-2012 * \$115,521.00 * to be paid from Account #51161-82000)
 - Current Solutions of the Gulf Coast, LLC – Solar Lighting (Final Invoice #2817 * \$7,000.00 * to be paid from Account #33537-34000)
 - MRD Associates, Inc. – St. Joseph Peninsula Post-Construction Shorebird Monitoring Services (Invoice #1546 * \$2,700.00 * to be paid from Account #28039-34000)
 - MRD Associates, Inc. – St. Joseph Peninsula – T.D.C. Consultation and Coordination Services (Invoice #1547 * \$4,814.50 * to be paid from Account #28039-31000)
 - The Ferguson Group, LLC – Federal Lobbying Services (Invoice #0412268 * \$6,500.00 * to be paid from Account #21111-31200)
5. Purchase Request – Emergency Management (Functional Exercise * April 4, 2012 * Invoice #1285 * \$263.00)
6. Request for Forfeiture Funds – Gulf County Sheriff's Office (\$8,457.00)

(End)

BRITISH PETROLEUM LITIGATION

Brantley Frye of Beasley Allen Law Firm appeared before the Board and thanked them for the closed session meeting today, stating they will provide an update in the coming weeks. Rick Stratton of Beasley Allen Law Firm appeared before the Board and reported that everything is progressing well on behalf of the County.

PUBLIC HEARING – ORDINANCE #2012-02 – COMPREHENSIVE PLAN

Pursuant to advertisement to hold a public hearing to consider adoption of a proposed ordinance amending the Comprehensive Plan of Gulf County, Florida for small-scale land use map amendment, County Attorney Novak read the proposed ordinance by title. Chairman Williams called for public comment. There being no public comment, Commissioner Yeager motioned to adopt the following ordinance. Commissioner McLemore seconded the motion and it passed unanimously.

ORDINANCE NO. 2012-02

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF GULF COUNTY, FLORIDA BY AND THROUGH PROCEDURES REQUIRED FOR SMALL-SCALE LAND USE MAP AMENDMENT PURSUANT TO AUTHORITY UNDER STATE STATUTES SECTION 163.3187 AND CHAPTER 125; SPECIFICALLY CHANGING; PARCEL ID #00683-000R, 4.05 ACRES OF LAND LYING AND BEING PART OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 9 WEST, GULF COUNTY, FLORIDA FROM CONSERVATION TO AGRICULTURE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3187 provides for the authority and procedure for the Board of County Commissioners of Gulf County, Florida to amend its land use map parcels under county control and that of its citizens; and

WHEREAS, the Gulf County Planning and Development Review Board voted to recommend to the Board of County Commissioners to change the land use of said parcels from Conservation to Agricultural at their February 20, 2012 meeting; then

WHEREAS, in accordance with Florida Statutes Section 163.3187(1)(c)(2) and Florida Statute Section 125.66(2)(a), specifically provides for the proper publication, notice and announcement of Gulf County's intent and consideration of any and all land use modification requested by the parcel owner and ordinance adoption; and such notice has been properly published for general circulation in the county; and

WHEREAS, Gulf County recognizes that numerous parcels were missed placed into an unfavorable land use category when the Comprehensive Plan was adopted; and

WHEREAS, Parcels with missed placed land use can cause undue financial hardship on said owners and Gulf County is committed to assisting said owners resolve the land use issues; and

WHEREAS, in accordance with Florida Statutes Section 163.3187(1)(c)(2) and Florida Statute Chapter 125, notice was provided to the public of a public hearing to be held March 27, 2012 to adopt the proposed land use changes by ordinance; and

NOW, THEREFORE BE IT ORDAINED, THAT IN EXERCISE OF ITS AUTHORITY, THE BOARD OF COUNTY COMMISSIONERS OF GULF COUNTY, FLORIDA HEREBY GRANTS THE LAND USE CHANGE AS FOLLOWS:

- Section 1) Changing Parcel ID #00683-000R from Conservation to Agricultural (Exhibit "A").
- Section 2) A certified copy of the enacting ordinance shall be on file with the Clerk of Court of Gulf County, Florida.
- Section 3) Effective date, this ordinance shall take effect as provided by law 31 days from adoption. Passed and duly adopted by the Gulf County Board of County Commissioners for Gulf County, Florida this March 27, 2012.

(End)

GULF COUNTY HEALTH DEPARTMENT TOBACCO PREVENTION-LETTER OF SUPPORT

Deputy Administrator Lanier presented for consideration and approval a letter of support for the Gulf County Health Department Tobacco Prevention Program. Commissioner Yeager motioned to approve this request. Commissioner Smiley seconded the motion, and it passed unanimously.

ROAD CLOSURES

Deputy Administrator Lanier reported that the recent road closures on CR 386 in Overstreet (woods fire) information from Emergency Management are being updated on the County website under Notices, as received.

V.O.I.P. TELEPHONE SYSTEM

Deputy Administrator Lanier reported that all of the phones have been transferred to the new system, stating they are in the process of closing out old phone numbers and she is working on a new directory that will soon be available on the county website. Commissioner Yeager commended Deputy Administrator Lanier for her hard work in getting the new phone system up and going. Upon inquiry by Commissioner McDaniel concerning the problem with the Wewahitchka line over the weekend, Clerk Norris reported she had problems with the Clerk's Office Wewa line on Friday (639-5068).

Sheriff Nugent commended Ms. Lanier but reported that the telephone system is a disaster; stating they had an emergency medical situation today and when talking on the phone and someone calls in it does not ring; the phone just flashes. Deputy Administrator Lanier reported they trained with A.T. & T. yesterday for a lot of the items that have been happening, stating she might be able to fix this problem. Chairman Williams requested Deputy Administrator Lanier to contact A.T. & T. to come on site and correct this problem. Upon inquiry by Commissioner McLemore concerning the Wewa lines, Deputy Administrator Lanier stated they are working to eliminate the \$.25 cent per call charge from Wewahitchka to Port St. Joe.

EMERGENCY MANAGEMENT TRAINING

Emergency Management Director Nelson reminded everyone of the training exercise (for staff assigned to the E.O.C.) is scheduled for next week on Wednesday, April 4th from 8:30 a.m. to 3:30 p.m., E.T. at the Emergency Operations Center, and invited the Commissioners to stop by.

BIKE FLORIDA

Chairman Williams thanked Mosquito Control Director Cothran for getting the signs up for the Bike Florida bikers.

INDUSTRIAL PARK

County Attorney Novak reported he submitted a letter to David Taunton, as instructed, concerning removal of his property at the Industrial Park site, stating he has received notice.

EASTERN COASTAL CONSTRUCTION – PUBLIC WORKS FENCING

County Attorney Novak reported he has been able to locate some corporate records through the Secretary of State's Office in Tallahassee, stating he contacted an attorney who states he represents the Company, and he will report back to the Board.

REVISED R.F.P. – NORTH FLORIDA TRI-COUNTY MAP DISPLAY

County Attorney Novak requested approval for 911 Coordinator Ben Guthrie to move forward with the revised R.F.P. and advertisement for the North Florida Tri-County Map Display System (Calhoun-Franklin-Gulf), stating this will be paid through grant funds. Commissioner Yeager motioned to proceed. Commissioner Smiley seconded the motion, and it passed unanimously.

P.D.R.B. – SUNSHINE LAW TRAINING

County Attorney Novak reported that the P.D.R.B. will be going through the Sunshine Law training, public records, and open public meeting review at their April meeting,

stating they will secure the same affidavit as used with all advisory committees and will be placed in their personnel files located in the Administrative office.

SIGN ORDINANCE

County Attorney Novak reported that on April 12th at 1:00 p.m., E.T. in the County Conference Room, they will work on completing the final sign ordinance subcommittee before it can be introduced to the P.D.R.B.; who will then review it and present to the Board in April for review.

ANIMAL CONTROL ORDINANCE

County Attorney Novak reported on the animal tethering and animal control ordinance, stating he met with the Humane Society Representatives and has language and a proposed ordinance that he will provide to the Commission in the next two weeks.

T.D.C. ORDINANCE

County Attorney Novak reported the T.D.C. ordinance has been published in the newspaper and a public hearing is scheduled at the April 10, 2012 Regular Board Meeting, stating the T.D.C. meeting will be on April 12, 2012, so the new members will have voting rights.

BID #1112-09 – VIDEOTAPING & AIRING OF COMMISSION MEETINGS

Chief Administrator Butler reported on bid #1112-09 for the videotaping and airing of the Commission meetings, stating that he, County Attorney Novak, Commissioner McDaniel, and Ken Murphy (sole proposal) met last week, stating that Mr. Murphy will report back to the Board within 60 days of the day of the bid to let them know if he can provide quality video County wide, and if not it needs to be re-bid. Upon inquiry by Commissioner Yeager concerning scheduling a workshop, Chief Administrator Butler stated it will be a good idea to workshop this issue, stating we have some cameras that are not the proper cameras (surveillance and motion cameras). Commissioner Yeager stated he has had some calls in regards to getting the meetings on Fairpoint; stating it is very important to the public to have clarity of these Board meetings. Chairman Yeager requested Chairman Williams and Chief Administrator Butler to meet and get the workshop meeting scheduled.

INVOICES - SOUTH GULF COUNTY FIRE DEPARTMENT

Chief Administrator Butler recommended approval of two invoices for South Gulf County Fire Department, (1) Bluewater Outriggers, in the amount of \$4,330.04, and (2) Gulf Coast Fabricators, in the amount of \$4,320.00, stating this is a fire rescue boat for South Gulf County (total improvements to the boat exceed county purchasing policy for Fire Departments; requiring bids). He reported on April 3rd that he, Fire Coordinator, and

other representatives from fire departments will meet to discuss procedures. Commissioner Yeager motioned to approve this recommendation. Commissioner Smiley seconded the motion, and it passed unanimously.

INTERIM T.D.C. DIRECTOR

Chief Administrator Butler reported they have done a lot of T.D.C. work for the past several weeks, stating they have reviewed a lot of invoices and many have been sent to the Clerk for payment. He noted they are going to wind down with Interim T.D.C. Director Alsobrook in the next few days.

LIFE QUEST – RESOLUTION – NATIONAL DONATE LIFE MONTH

Commissioner Yeager reported he received a letter from Life Quest, stating April is National Donate Life Month, and requested approval of a resolution supporting April as Donate Life Month for Gulf County. Commissioner Yeager read the proposed resolution for the record. Commissioner Yeager motioned to adopt the proposed resolution. Commissioner McLemore seconded the motion, and it passed unanimously.

GULF COUNTY RESOLUTION NO. 2012-05

ONE OF THE MOST MEANINGFUL GIFTS THAT A HUMAN BEING CAN BESTOW UPON ANOTHER IS THE GIFT OF LIFE.

WHEREAS, roughly 28,000 Americans receive a life-saving organ transplant every year; and

WHEREAS, a new patient is added to the national patient waiting list for an organ transplant every 10 minutes; and

WHEREAS, more than 113,000 men, women and children are currently on the national organ transplant waiting list, of which more than 3,900 are in Florida and 1,300 are in northern Florida; and

WHEREAS, an average of 18 people die every day awaiting an organ transplant that does not come in time; and

WHEREAS, one organ, tissue and eye donor can save or enhance the lives of as many as 60 people; and

WHERAS, everyone is a potential organ, eye and tissue donor and can register their intent to save lives through organ and tissue donation at www.DonateLifeFlorida.org or on their driver license.

Now, therefore, I, Warren J. Yeager, Jr., Commissioner of the County of Gulf, Florida do hereby proclaim the month of April, 2012 as

DONATE LIFE MONTH

in the County of Gulf and encourage all Gulf County residents to consider giving life through organ donation and to sign up on Florida's organ and tissue donor registry by visiting www.DonateLifeFlorida.org or when renewing their driver license or state identification card.

ADOPTED, in regular session, this 27th day of March, 2012.

(End)

AMERICAN LEGION – FISH FRY

Commissioner Yeager reported that the American Legion is giving a fish fry at the Beacon Hill Veterans' Memorial Park on April 6th at 11:30 a.m., E.T.

BIKE FLORIDA

Commissioner McDaniel discussed all the bikers from Bike Florida passing through Gulf County, stating it was a great success. He reported the Wewahitchka Search & Rescue cleared almost \$3,000.00 and the Wewahitchka Project Graduation cleared almost \$5,000.00. Commissioner McDaniel stated this was a community effort and thanked everyone for donating their time. Commissioner McLemore thanked Teddy Kemp from Maintenance for his hard work and Mark Moore who donated the fish. Commissioner McDaniel reported they cooked 650 pounds of fish for the bikers on Monday night, and served over 540 people for breakfast today. Chairman Williams stated he went to the Honeyville Community Center on Monday night and it was phenomenal, and thanked everyone that assisted. He discussed the impact to the Port St. Joe area.

HB 5301 - MEDICAID

Chairman Williams gave an update on HB 5301 (Medicaid) and requested everyone to visit the Governor's website and request he veto this bill.

ST. JOSEPH BAY HUMANE SOCIETY

Chairman Williams discussed the animal control policy, noting language that states there must be an approved kennel and requested County Attorney Novak review this issue.

SENATOR NELSON / CONGRESSMAN SOUTHERLAND

Chairman Williams reported that Senator Bill Nelson will be at the Chamber of Commerce on April 12, 2012 at 2:30 p.m., E.T, and Congressman Steve Southerland will be in Wewahitchka on Monday, April 2, 2012 at 1:00 p.m., E.T.

SIGN ORDINANCE

Toye Roberts appeared before the Board and reported he has a sign placed on 30-A, stating that 30-A is now a state road and has jurisdiction under F.D.O.T., and in order to obtain a permit from F.D.O.T. you have to have a local governing agency sign off on the F.D.O.T. permit. He reported he received calls on eight to ten different signs on 30-A that have to be permitted through the State. He noted his sign was located on the North side of Triple Tails and when the property was sold he had to remove the sign which is located now on the East side of Triple Tails. He reported that he has been contacted by F.D.O.T., stating he must have a local governing agency sign off on his permit. Mr. Roberts reported F.D.O.T will give you a citation and the fine is so much per day, and requested for the Board to sign off. Commissioner Yeager stated he has discussed this with Building Official Collinsworth and he is fine with this. Commissioner Yeager motioned to approve pursuant to Building Department review. Commissioner McDaniel seconded the motion, and it passed unanimously.

GULF COUNTY HEALTH DEPARTMENT

Marsha Lindeman, Gulf County Health Department Administrator appeared before the Board and reported she was prepared to introduce the new physician in Wewahitchka, but she will introduce him in two weeks. She reported they have two new dentist and they are working on getting their credentials for insurance purposes.

RABIES

Marsha Lindeman reported there was a rabid raccoon located in the Stone Mill Creek area and encouraged everyone to have their pets vaccinated.

DEPARTMENT OF HEALTH

Commissioner Yeager reported that Ms. Lindeman intervened with the Department of Health on an issue which saved the County a lot of money, and thanked her for her assistance in getting this resolved.

TOBACCO PREVENTION PROGRAM – LETTER OF SUPPORT

Marsha Lindeman thanked the Board for the letter of support on the Health Department Tobacco Prevention Program.

There being no further business, and upon motion by Commissioner McLemore, the meeting did then adjourn at 6:39 p.m., E.T.

**WILLIAM C. WILLIAMS, III
CHAIRMAN**

**ATTEST:
REBECCA L. NORRIS
CLERK**

**LICENSE AGREEMENT FOR
WIRELESS COMMUNICATION EQUIPMENT FACILITIES
(Gulf County Water Tank)**

This License Agreement is entered into this _____ day of _____, 2012 ("Agreement"), by and between Board of County Commissioners of Gulf County, Florida, a political subdivision of the State of Florida, whose address is 1000 Cecil G. Costin, Sr. Boulevard, Port St. Joe, Florida 32456 ("Licensor"), and the Florida Rural Broadband Alliance, LLC, a limited liability company, whose local business address is 4636 Highway 90 Suite K, Marianna, FL 32446 ("FRBA" or "Licensee") (collectively, the "Parties").

RECITALS

WHEREAS, Licensor is the fee simple owner of the real property located at 348 Marlin Street, Port St. Joe, Florida (see **Exhibit "A"**), Florida which includes tower(s) ("Tower") and other real property and improvements described in **Exhibit "A"** attached hereto and made a part hereof ("Premises").

WHEREAS, Licensee was created by and made up of two Florida not-for-profit corporations representing the Northwest Florida Rural Area of Critical Economic Concern, which includes Holmes, Washington, Jackson, Gadsden, Liberty, Franklin, Gulf, and Calhoun counties, and the South Central Florida Rural Area of Critical Economic Concern, which includes DeSoto, Hardee, Hendry, Glades, Highlands, and Okeechobee counties, and the community of Immokalee in unincorporated Collier County, for the purpose of applying for federal stimulus grant funding to design, deploy and operate a fixed wireless broadband middle mile network to serve the two regions (the "Network").

WHEREAS, Licensee obtained federal stimulus grant funding pursuant to award #NT10BIX5570122 from the BTOP program (the "Grant") and will use such funds to establish a fixed wireless broadband middle mile network to serve its 15 county service area.

WHEREAS, the federal grant program required all applicants to provide matching funds in the amount of 30% of the total project cost in the form of cash or "in kind" contributions.

WHEREAS, many of the local governments within the FRBA territory agreed to commit the use of towers, buildings and land owned by the members as in kind assets to Licensee to assist in satisfying the matching funds requirement.

WHEREAS, Licensor committed to provide use of space on the Tower for installation of communications facilities by Licensee for a 5 year term without charge, subject to renewal. Licensor is entering into this Agreement to document its intent to make space on the Tower available to Licensee as an in kind asset.

WHEREAS, Licensee desires to obtain a license to the Premises from Licensor in order to locate, install, operate, remove, replace and maintain thereon wireless data communications equipment and enclosures ("Equipment Facilities") as more fully described herein.

WHEREAS, Licensor is willing to license the herein described portion of the Premises to Licensee so that Licensee may install, locate, operate, remove, replace and maintain the Equipment Facilities pursuant to the terms and conditions set forth herein.

WHEREAS, in furtherance thereof, Licensee desires to enter into this Agreement with Licensor pursuant to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party to the other, the parties agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated into and made a part of this Agreement the same as if fully set forth herein.

2. **Premises**. Licensor hereby grants a license to Licensee and Licensee hereby accepts a license from Licensor, a portion of the Premises for use as follows:

- (a) 7 feet by 10 feet = 70 Total Sq. Ft. of ground space (the "Ground Space") for placement of an equipment cabinet or shelter
- (b) Together with space on the Tower for Equipment Facilities as follows:
 - up to four (4) panel antennas, each not to exceed 36" x 13" (L x W), plus one (1) feed line for each antenna, each not to exceed 1/2" in diameter
 - up to three (3) microwave dishes, with a combined diameter not to exceed 10', plus one (1) feed line for each dish, each not to exceed 1/2" in diameter
 - All tower-mounted equipment shall installed at the same centerline on the tower at approximately 110 feet as described in **Exhibit "B"**.
- (c) Tower space required for cable runs to connect equipment and antennas to one another and to ground facilities.
- (d) Together with a right of access over, across, through, and under the property and improvements for so long as this Agreement remains in existence.

3. **Term**. The initial term ("Initial Term") of this Agreement shall be five (5) years, commencing on the date hereof ("Commencement Date") and ending on January 31, 2017 ("Expiration Date"), unless sooner terminated, modified or extended under the terms of this Agreement or by the mutual consent of the parties.

Upon expiration of the Initial Term, by mutual written agreement of the parties, the Agreement may be renewed for an additional five year term subject to the terms, including any proposed fees or exchange of service, agreed upon by the parties at that time ("Renewal Term").

4. **Consideration.**

(A) **In-Kind Donation for Initial Term of Agreement.** The Parties acknowledge that for the Initial Term of this Agreement, Licensor has agreed to donate the use of the Ground Space and Tower Space on the Premises, as identified herein, to Licensee as an in-kind asset contribution (the "In Kind Contribution"). The Parties hereby agree that the current market value of the In Kind Contribution is valued at \$2,250 per month. The parties acknowledge that for the period from the Commencement Date through July 31, 2013 this Agreement shall be included within the Matching Inventory for the FRBA grant funded project and shall be subject to all restrictions associated with such grant.

(B) Licensee agrees to pay its pro-rata share of any common expenses shared by Licensor, Licensee, and any other entities leasing space on the Tower or adjacent grounds, such as common costs associated with operation of the Tower.

5. **Use of Premises.** Licensee is authorized to locate, install, replace, operate, repair, maintain, and remove all of Licensee's Equipment Facilities located within the Premises, both on the Ground Space and on the Tower, as provided herein:

(A) **Ground Space Facilities.** Licensee is authorized to construct, install, replace, upgrade, operate, repair, maintain, and remove Licensee's Equipment Facilities located on the Ground Space within the Premises for the transmission, reception and operation of Licensee's wireless communications system and uses incidental thereto. All Equipment Facilities located on the Ground Space shall be constructed or installed on a concrete pad to be constructed within the Premises at Licensee's sole cost and expense.

(B) **Tower Equipment Facilities.**

(i) Licensee is authorized to install, replace, upgrade, operate, repair, maintain, and remove such equipment and facilities as described and specified in Section 2, on the Tower for the purposes of transmitting and receiving wireless data communication signals.

(ii) Licensee's Equipment Facilities located on the Tower shall be installed on the Tower at the location agreed upon by the parties. If, however, installation at such location becomes impossible for any reason, the Parties may agree to an alternate, equivalent location, so long as such location is no less than 100 feet above the ground.

(iii) All Equipment Facilities located on the Tower shall be attached or installed in the same manner as other equipment installed on the Tower.

(C) All Equipment Facilities, whether installed on the Ground Space or on the Tower, shall be and remain Licensee's personal property throughout the Initial Term and any renewal Terms of this Agreement.

6. **Improvements.**

(A) Licensee shall improve the Premises by constructing on the Ground Space a concrete pad with dimensions of no more than 7 feet by 10 feet, upon which Licensee will locate its ground Equipment Facilities. In addition, Licensee shall have access to an additional area

necessary to provide installation of a grounding ring 10 inches around the concrete pad. As part of the construction and continuing maintenance of the Ground Space, Licensee shall ensure that such facilities are properly installed.

After completion of installation of the Equipment Facilities, should Licensee desire to make any material changes to the facilities, Licensee shall obtain the approval of Licensor. A material change does not include additions to, replacements, upgrades or alterations of, any Equipment Facilities in whole or in part (a) within the confines of the licensed space or (b) to the extent attached to the Tower, if the resulting replacement, upgrade or alteration is of substantially the same or lesser size, weight, wind and structural loading. All additions, replacements, upgrades, material and non-material alterations remain subject to all other provisions of this Agreement. Notice of any non-material alterations of any Equipment Facilities will be provided by Licensee to Licensor within 5 days of commencing installation or repair.

(B) Licensee shall obtain all licenses, permits, and approvals from applicable governmental and/or regulatory authorities having jurisdiction, as may be required for the construction, installation, and operation of its improvements and Equipment Facilities. In the event zoning approval is necessary from a governmental authority, Licensor agrees to work with Licensee as necessary to obtain such zoning approval.

(C) Licensee shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Licensee.

(D) Licensee may update or replace the Equipment Facilities from time to time, in accordance with the terms of the Agreement.

(E) Licensor shall not be required to make any repairs or improvements to the Premises. Licensee shall be responsible for all costs associated with its use and operation of the Premises.

7. **Fitness for Use.** Licensor makes no representations or warranties as to (i) the fitness of the Premises for the use intended by Licensee; (ii) the use or zoning of surrounding properties and its suitability for Licensee's use; or (iii) any other matters related to the use of the Premises.

8. **Interference.**

(A) **Interference by Licensee's Equipment Facilities.**

(i) Licensee's Equipment Facilities shall not cause interference with any of Licensor's communication facilities, including facilities used for providing public safety services, or any prior user's facilities. If Licensee or Licensor determines, using reasonable discretion based on standard and accepted engineering practices, that Licensee's Equipment Facilities are causing interference to the installations of Licensor or a prior user, Licensee shall, within 5 business days of notification from Licensor, commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing Licensee's operations, so long as such interference does not impact Licensor's communication systems, in which case Licensee shall immediately cease operations until the interference is resolved. If Licensee cannot mitigate or eliminate such interference within the 5 business-day period, Licensor may require that Licensee turn off or power down its interfering Equipment Facilities and only power up or

use such Equipment Facilities during off-peak hours specified by Licensor in order to test whether such interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such interference within 30 days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Equipment Facilities.

(B) Interference with Licensee's Equipment Facilities.

(i) Licensor agrees to take reasonable efforts to prohibit a subsequent user of the Tower from causing interference with the operations of Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a subsequent user's equipment is causing interference to the installations of Licensee, upon Licensee's request, Licensor shall within 48 hours commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing subsequent user's operations.

(ii) Notwithstanding the foregoing, if another user of the Tower is a governmental entity, Licensor shall give such governmental entity written notice of the interference within 5 business days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity 5 business days, or more as specified in the governmental site or occupancy agreement or as required by applicable law, from the receipt of such notice prior to Licensor being required to take any actions to cure such interference.

(C) Priority. The Parties acknowledge that priority with regard to protection from interference shall be based on priority of occupancy. Prior users of the Tower shall be protected from interference by Licensor subject to the terms of this section, whereas users in place subsequent to Licensee shall not be protected. Licensee recognizes that in the event it modifies, replaces, or upgrades its Equipment Facilities in such a manner that the frequencies authorized herein are modified, it shall lose its priority position with respect to other users in place as of the date it modifies, replaces, or upgrades the Equipment Facilities and frequencies.

(D) AM Detuning. The parties acknowledge that the FCC Rules and Regulations govern the obligations of Licensee with respect to the operation of the Equipment Facilities. Consequently, the provisions set forth in this Agreement are expressly subject to the FCC Rules and Regulations. Licensee agrees, at Licensee's sole cost, to comply with the foregoing as well as any and all other FCC Rules, Regulations and public guidance relating to AM detuning as such provisions currently exist or are hereafter modified. Licensee shall be fully responsible for any pre- or post-installation testing for AM interference at the Tower and for the installation of any new detuning apparatus or the adjustment of any existing detuning apparatus that may be necessary to prevent adverse effects on the radiation pattern of any AM station caused by the installation of the Equipment Facilities. Licensee shall provide Licensor with written proof of such compliance. In the event that Licensee determines that pre- or post-installation testing for AM interference is not required at the Tower, such a determination shall be at Licensee's sole risk. If Licensee or Licensor receive a complaint of interference from an AM broadcast station after the Equipment Facilities are added to the Tower or the Tower is modified to accommodate Licensee, Licensee shall eliminate such interference within 30 calendar days of the receipt of such complaint. Licensee's failure to eliminate the interference within such 30 day period shall constitute a default under this Agreement and Licensor shall have the right to eliminate the interference at Licensee's expense. Licensee further agrees to indemnify Licensor in the event that Licensee's failure to comply with the FCC Rules and Regulations prior to installation or

modification of the Equipment Facilities results in any administrative investigation, proceeding or adjudication with respect to Licensor.

9. **Emissions.** If antenna power output ("RF Emissions") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("MPE") limits, or if the Tower otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Equipment Facilities which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other Licensees of the Tower to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other Licensees of the Tower within 30 days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits. Modifications to Licensee's Equipment Facilities required to address RF Emission standards, shall have no effect on Licensee's priority with regard to interference.

10. **Repairs and Maintenance to Premises.**

(A) Except as otherwise provided herein, Licensee shall have sole responsibility for the maintenance, repair and security of the Equipment Facilities and Ground Space, and shall keep the same in good repair and condition during the Initial Term of the Agreement and any renewal terms.

(B) Licensee shall keep the Premises free of debris and any dangerous, noxious or offensive matter that would create a hazard or undue vibration, heat, noise or signal interference.

(C) In order to minimize disruption to the surrounding area, normal maintenance and repair to the Equipment Facilities shall be restricted to the hours of 7:00 a.m. to 8:00 p.m., Monday through Friday, excluding legal holidays. Emergency maintenance and repairs to the Equipment Facilities may be conducted at any reasonably necessary time. Licensee shall notify Licensor as soon as reasonably practicable regarding off-hour emergency maintenance and repair activities on the Premises.

11. **Replacement or Removal of Tower and Relocation or Removal of Equipment Facilities.**

(A) **Replacement of Tower.** Licensor may, in its sole discretion, replace or rebuild the Tower or a portion thereof. Such replacement will be at Licensor's cost and not result in an interruption of Licensee's wireless communications services beyond that which is necessary to replace the new Tower. If Licensee, in Licensee's reasonable discretion, cannot operate the Equipment Facilities from the existing Tower during such replacement or rebuild of the Tower, Licensee may establish, at Licensee's sole cost, a temporary facility on the Tower to provide such

services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. Rent due, if any, shall be abated for any period during which Licensee is prevented from broadcasting from the existing Tower due to such replacement or relocation. At the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of each Party to the new Tower Facility.

(B) Removal of Tower. If, during the term of this Agreement, Licensor determines based on engineering structural standards generally applied to communications towers that the Tower is or has become structurally unsound such that pursuant to generally accepted industry safety standards the Tower or a portion thereof must be removed, then, upon 90 days prior written notice to Licensee, Licensor may, in its sole discretion either remove the Tower and terminate this Agreement effective as of the date of such removal, or modify the Tower and relocate Licensee's Equipment Facilities to an alternate location on the modified Tower. If Licensee and Licensor are not able to agree on an alternate location on the modified Tower for the installation of Licensee's Equipment Facilities within the 90 day notice period, then Licensee or Licensor may elect to terminate the Agreement.

(C) Relocation of Equipment Facilities. In the event another Licensee of the Tower and adjacent real property desires to occupy the space on the ground or Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Equipment Facilities are then located, Licensor reserves the right to require Licensee to relocate the Equipment Facilities located on the Tower or adjacent real property to another mutually agreeable location, if available, at Licensee's cost and expense. If no mutually agreeable location is available, Licensor agrees that no relocation of Licensee's Equipment Facilities will be required, during the Initial Term of the Agreement. Subsequent to the Initial Term, Licensor may notify Licensee in writing that the relocation is necessary, and if other spaces on the ground or space or antenna mount heights on the Tower are available to accommodate Licensee's Equipment Facilities (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or antenna mount heights are available whether or not such spaces are agreeable to Licensee.

(D) Removal of Equipment Facilities upon Termination. Upon the expiration or earlier termination of this Agreement as provided herein Licensee shall remove the Equipment Facilities from the Premises and the licensed area on the Tower at its sole cost and expense. Upon Licensee's removal of the Equipment Facilities, Licensee shall restore the affected portion of the Premises to the condition as it existed prior to the Commencement Date, subject to normal wear and tear. In the alternate Licensor may request that Licensee leave the Equipment Facilities and Ground Space pad, less Licensee's personal property, including moveable equipment, "AS IS" for Licensor's use, in which case ownership of the Equipment Facilities and Ground Space area pad shall become the property of Licensor upon expiration of the Agreement, without further action on the part of either party.

12. Taxes and Fees.

(A) To the extent any utility fees, assessments, or other governmental charges related to the Premises and Equipment Facilities are validly imposed, Licensee will pay to the appropriate entity all such fees, assessments, or other charges that may arise or are incurred for or during the Initial Term and any renewal terms, in a timely manner, before they are delinquent.

(B) Licensee shall have the right to contest the validity or the amount of any charges, assessments, or fees by appellate or other proceedings as may be appropriate in the jurisdiction, and may, if applicable, defer payment of such obligations if payment would operate as a bar to contest, and, if applicable, pay same under protest, or take such other steps as Licensee may deem appropriate, provided, however, that Licensee indemnifies and holds harmless Licensor from any expense (including reasonable attorney's fees for trial, appellate, bankruptcy and administrative proceedings) liability and loss arising out of such contest and pursues such contest in good faith with due diligence, posting any bond or security required by law in connection with the contest, giving Licensor written notice of its intention to contest, taking no action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Premises or Equipment Facilities. Licensor shall cooperate in the institution and prosecution of any proceedings initiated by Licensee and shall execute any documents reasonably required to be executed and make any appearances, which Licensor may reasonably be required to make in connection with such proceedings. Licensee shall be entitled to receive all refunds from the appropriate governmental entities attributable to the Premises, the Ground Space or Equipment Facilities for any period for which Licensee has paid such fees, assessments, or charges. If no refund shall be secured in any proceeding, the party instituting the proceeding shall bear the entire cost, or if Licensor institutes the proceeding at Licensee's request, Licensee shall bear the entire cost.

(C) Should, during the Initial Term or any renewal term of this Agreement, a new or otherwise modified tax, fee, charge, or assessment be imposed on, or for the use of or otherwise related to the Premises or Equipment Facilities, or should Licensee's tax-exempt status change, Licensee shall also pay those taxes when due to the appropriate taxing authority, as required by law.

(D) Should Licensee fail, refuse or neglect to pay any required tax or other charges under this section, after receipt of written notice that same have not been paid, Licensor may pay them. On Licensor's demand, Licensee will repay Licensor all amounts thus paid, plus expenses and attorneys' fees reasonably incurred in connection with such payments, plus interest on all amounts at the highest rate allowed by law. On the day Licensor demands repayment or reimbursement from Licensee, Licensor is entitled to collect or enforce these payments in the same manner as a payment of Base Rent. Licensee's election to pay the taxes will not act as a waiver of a default for failure to pay same.

13. **Utilities.** Licensee shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its Equipment Facilities, and shall timely pay all costs associated therewith. Licensee shall have the right to obtain separate utility service from any licensed utility company that will provide such service to the Premises. Licensee may also provide power to the Premises through a standby power generator for Licensee's exclusive use. Licensee covenants that it shall use its best effort to cause the utilities to be installed underground. Licensor agrees to grant utility easements to such utility companies as may be needed to operate and maintain the utility facilities serving the Equipment Facilities.

14. **Permits.** Licensee's use of the Premises is contingent upon its obtaining all certificates, permits, zoning and other approvals that may be required by any federal, state or local authority. Licensor, as the owner of the Premises and not in its capacity as a governmental or regulatory body, agrees to cooperate with Licensee, at Licensee's expense, in applying for and obtaining all licenses, permits, and other necessary approvals required for Licensee's installation and operation of the Equipment Facilities on the Premises. Licensee shall erect, maintain and operate the Equipment Facilities in accordance with site standards, state statutes,

ordinances, rules and regulations issued by the FCC or any other governing bodies. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Licensee's responsibility.

15. **Signs/Graffiti.** Licensee may place signs on the Premises designating the owner of the improvements and wireless communication facilities within the Premises, subject to applicable governmental regulations, including any applicable signage requirements relating to Licensee's federal grant included in the Federal Grant Restrictions section of this Agreement. Licensee shall remove any unauthorized signs or graffiti within a reasonable time, but no later than five (5) days after receipt of written notice from Licensor requesting such removal. If Licensee fails to remove such signs or graffiti after such notice, then Licensor may enter the Premises and undertake any activities necessary to abate or remove graffiti or any unauthorized signage located therein. Licensee shall reimburse Licensor all costs incurred by Licensor for the abatement or renewal of such graffiti or unauthorized signage within thirty (30) days of Licensor's presenting Licensee with a statement of such costs.

16. **Access.** Beginning on the Commencement Date, subject to Licensee's faithful performance of Licensee's covenants and conditions herein contained, Licensor shall deliver to Licensee the right to enter the Premises, subject to the easements, covenants and restrictions of record. Licensor and Licensor's agents are entitled, however, to enter the Premises at all reasonable times to inspect and examine their condition and use.

17. **Default and Remedies.**

(A) Each of the following events shall be an event of default hereunder by Licensee ("Licensee's Default") and shall constitute a default of this Agreement:

(i) Whenever Licensee shall fail to pay any installment of a required payment, if any, within fifteen (fifteen) days after it comes due or whenever Licensee shall fail to pay any other sum payable by Licensee to Licensor or other appropriate governmental entity within fifteen (15) days after receipt of written notice from Licensor that same is due;

(ii) If Licensee fails to comply with the insurance requirements contained herein, and if such failure to pay or comply with the insurance requirements shall continue for fifteen (15) days after Licensor delivers to Licensee a written Notice of Licensee's Default specifying same;

(iii) Whenever Licensee shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensee herein contained or contrary to any of Licensee's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensee's obligations under this Agreement, and Licensee shall fail to remedy the same within thirty (30) days after Licensor shall have given Licensee a written Notice of Licensee's Default specifying same; provided, however, that if the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, Licensee shall have such time as is reasonably necessary to remedy the default, provided Licensee promptly takes and diligently pursues such actions as are necessary therefore;

(B) Upon the occurrence of any Licensee's Default, which is not cured within any applicable notice and cure period, Licensor shall have all remedies allowed by law or in equity,

from time to time during the Initial Term or any renewal term, and also Licensor may give to Licensee a notice of Licensor's intent to end the Term on a day not less than thirty (30) days after Licensee's receipt of such notice ("Licensor's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon Licensor's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensee under this Agreement shall expire and terminate, or in the alternative Licensor may take possession of the Premises without terminating the Agreement, in which event Licensee shall remain liable for damages as allowed by law.

(C) It shall be an event of default by Licensor ("Licensor's Event of Default") whenever Licensor shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensor herein contained or contrary to any of Licensor's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensor's obligations under this Agreement, which Licensor fails to remedy within thirty (30) days after Licensee has given Licensor written notice specifying the same.

(D) Upon the occurrence of a Licensor's Event of Default, which is not remedied within thirty (30) days of receipt of notice from Licensee, Licensee may (i) give to Licensor a notice of Licensee's intent to end the Term on a day not less than thirty (30) days after Licensor's receipt of such notice ("Licensee's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon the Licensee's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensor under this Agreement shall expire and terminate or Licensee may institute proceedings for specific performance of this Agreement.

18. Termination.

(A) In addition to the other termination rights of the parties otherwise provided herein, this Agreement may be terminated (i) by either Party if Licensee is unable to obtain or maintain any license, permit or other governmental approval necessary for the construction, installation or operation of the Equipment Facilities within one hundred eighty (180) days from the execution of this Agreement; (ii) by Licensee upon thirty (30) days prior, written notice to Licensor if the Premises are not appropriate for Licensee's operations for economic or technological reasons, including, but not limited to signal interference; (iii) by Licensee upon thirty (30) days prior, written notice to Licensor if Licensee is unable to operate the Equipment Facilities on the Premises either due to the action of any regulatory agency which results in Licensee's inability to utilize the Tower; (iv) by Licensee if it determines, in its sole discretion, that the Tower is structurally unsound or otherwise not suitable for Licensee's use, including, but not limited to, consideration of age of the structure, damage or destruction of all or part of the Tower from any source, or factors relating to condition of the Tower, however, Licensor shall first be afforded an opportunity to improve the Tower; (v) by Licensor if it determines, in its sole discretion, that continued use of the Tower by Licensee is a threat to the public health, safety or welfare or violates applicable laws or ordinances, or; (vi) as otherwise provided in this Agreement.

(B) Upon the termination of this Agreement, removal of the Equipment Facilities shall be governed by Section 7 hereof.

(C) Notice of termination pursuant to this section shall be given in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice. In the event of

termination, Licensor shall prorate and return to Licensee any unearned Rent paid prior to the Termination Date.

(D) The Parties acknowledge that the License granted pursuant to this Agreement is irrevocable for the term of the Agreement so long as both parties perform their obligations in accordance with the provisions herein.

19. **Condemnation or Destruction.**

(A) **Condemnation.** In the event the Premises are taken by eminent domain, this Agreement shall automatically terminate as of the date title to the Premises vests in the condemning authority. In the event of any taking under the power of eminent domain, Licensee shall not be entitled to any portion of the award paid for the taking, and Licensee hereby expressly waives any right or claim to any portion thereof and all such damages shall belong to Licensor. Although all damages, whether awarded as compensation for diminution in value of the license or to the fee of the Premises, shall belong to Licensor, Licensee shall have the right to claim and recover from the condemning authority, but not from Licensor, such compensation as may be separately awarded or recoverable by Licensee for diminution in value of the Equipment Facilities, any and all damage to Licensee's business and any costs or expenses incurred by Licensee in moving or removing the Equipment Facilities. Licensor will inform Licensee of the commencement of any eminent domain proceedings by any governmental authority.

(B) **Destruction.** In the event the Premises, including the Tower, are destroyed or damaged so as to materially interfere with Licensee's effective use thereof through no fault of the Licensee, Licensor shall have the option of restoring or repairing the damaged portions of the Premises. If Licensor fails to take steps to repair the damages within thirty (30) days or such other reasonable time, Licensee will be entitled to terminate this Agreement as of the date the Premises became unusable, and Licensee shall be entitled to a return of any unearned Basic Payments. If Licensor opts to repair or restore the Premises, any applicable Consideration due from Licensee shall be abated on a pro rata basis per day during such repair or reconstruction. Licensor shall have no obligation to reconstruct or repair any damage to the Equipment Facilities.

20. **Indemnification.**

(A) Neither Party shall be liable for injury or damage occurring to any person or property arising out of the other Party's use of the Premises.

(B) The following indemnification shall not apply to any claims, actions, damages, obligations, liabilities and liens arising from the sole negligence or intentional misconduct of either Party, and shall survive termination of this Agreement. The indemnifying Party shall, at its sole cost and expense, indemnify, defend and hold harmless the other Party, its representatives, agents, employees and elected and appointed officials from and against:

(i) Any and all liability, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the party being indemnified by reason of any act or omission of the indemnifying Party, its personnel, employees, agents, contractors or subcontractors, resulting in property damage, bodily injury or death to any person, or any other right of

any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises and Equipment Facilities, or any failure to comply with any federal, state, or local statute, ordinance or regulation.

(ii) Any and all liabilities, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the indemnified Party by reason of any claim or lien arising out of work, labor, materials, or supplies provided or supplied to the indemnifying Party, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises or Equipment Facilities, which the indemnified Party, upon written request, shall cause to be discharged within thirty (30) days following such request.

(C) Nothing in this Agreement shall be construed to affect in any way the Licensor's or Licensee's rights, privileges and immunities as set forth in Section 768.28, Florida Statutes. Provided, however, such rights shall only extend to Licensor and Licensee as political subdivisions of the State of Florida and shall not be extended to any non-governmental sub-Licensee, successor or assign of either Party.

(D) In the event any action or proceeding shall be brought against Licensor by reason of any matter for which Licensor is indemnified hereunder, Licensee shall, upon notice from Licensor, at Licensee's sole cost and expense, defend the same; provided however, that Licensee shall not admit liability in any such matter on behalf of Licensor without the written consent of Licensor and provided further that Licensor shall not admit liability for, nor enter into any compromise or settlement of, any claim for which it is indemnified hereunder, without the prior written consent of Licensee.

(E) Licensor shall give Licensee prompt notice of any claim or the commencement of any action, suit or other proceeding related to or described in paragraph (B) above. Nothing herein shall be deemed to prevent Licensor from participating in the defense of any litigation by Licensor's own counsel. Licensee shall pay all expenses incurred by Licensor in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Licensor's attorney, and the actual expenses of Licensor's agents, employees or expert witnesses, and disbursements and liabilities assumed by Licensor in connection with such suits, actions or proceedings but shall not include attorneys fees for services that are unnecessarily duplicative of services provided Licensor by Licensee.

21. **Insurance.** During the term of the Agreement, Licensee shall maintain in full force and effect and at its sole cost and expense, the following types and limits of insurance:

(A) Commercial general liability insurance with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability.

(B) Automobile liability insurance covering all owned, hired and non-owned vehicles in use by Licensee, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law.

(C) Workers' compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

(D) At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering the antennae facilities and other Equipment Facilities. Upon completion of the installation of the Equipment Facilities, Licensee shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance thereon. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(E) As an alternative to the foregoing liability insurance requirements, Licensee may provide such insurance through a self-insurance fund sufficient to cover the liabilities mentioned above provided that Licensee shall furnish Licensor with a copy of the self-insurance plan and an independent expert opinion that the self-insurance plan and funding are actuarially sound.

22. Insurance Administration.

(A) All policies other than those for Workers' Compensation shall be written on an occurrence and not on a claims-made basis.

(B) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

(C) Licensor shall be named as an additional insured on all Licensee insurance policies to the fullest extent allowed by the insurers.

(D) Certificates of insurance evidencing that all required insurance coverage shall be filed and maintained with Licensor annually during the Term of the Agreement, and must be received by Licensor at least fifteen (15) days prior to the Initial Term and any renewal terms. Licensee shall immediately advise Licensor of any claim or litigation that may result in liability to Licensor.

(E) All insurance shall be evidenced by valid and enforceable policies, issued by insurers licensed to do business by the State of Florida or surplus line carriers on the State of Florida Insurance Commissioner's approved list of companies qualified to do business in the State of Florida. All insurance carriers and surplus line carriers shall be rated A- or better by A.M. Best Company.

(F) The insurance certificates shall specify the deductibles for each type of insurance required by this Agreement, except Workers' Compensation insurance. Licensee agrees to indemnify and save harmless Licensor from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Agreement.

(G) Licensee shall require each and every contractor and its subcontractors who install the Equipment Facilities or any other components of its wireless communication facilities, or perform work thereon, to carry, in full force and effect, workers' compensation, commercial general liability and automobile liability insurance coverage of the types, which Licensee is

required to obtain under the terms of this section, with appropriate limits of insurance, and which name Licensor as an additional insured.

(H) If Licensee fails to obtain or maintain insurance coverage sufficient to meet the terms and conditions of this Agreement, then Licensor may immediately terminate this Agreement.

23. **Hazardous Material Indemnification.**

(A) Licensee represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

(B) "Hazardous Material" shall mean any petroleum or petroleum products, asbestos, any substance known to cause cancer and/or reproductive toxicity, and/or any substance, material, chemical or waste defined or designated as hazardous, toxic, dangerous, radioactive or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

(C) Licensor represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

24. **RF Exposure.** Licensee agrees to reduce power or suspend operation of its Equipment Facilities if necessary and upon reasonable notice to prevent exposure of workers or the public to RF radiation in excess of the then-existing regulatory standards.

25. **Acceptance of Premises.** By execution of this Agreement, Licensee accepts the Premises in the condition existing as of the Commencement Date. Licensor makes no representation or warranty with respect to the condition of the Premises and Licensor shall not be liable for any latent or patent defect in the Premises.

26. **Estoppel Certificate.** Either Party shall at any time and from time to time upon not less than ten (10) days prior request by the other party delivery to the requesting party a statement in writing certifying that (i) the Agreement is unmodified and in full force (or if there have been modifications, that the Agreement is in full force as modified and identifying the modifications); (ii) the dates to which any applicable Rent has been paid; (iii) the party requesting the estoppel certificate is not in default under any provisions of the Agreement; and (iv) such other matters as the party may reasonably request.

27. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Licensor, to:

Board of County Commissioners of Gulf County
1000 Cecil G. Costin, Sr. Boulevard
Port St. Joe, Florida 32456

with a copy to: Jeremy Novak, County Attorney
1000 Cecil G. Costin, Sr. Boulevard
Port St. Joe, Florida 32456

If to Licensee, to: Richard Marcum, Managing Member
Florida Rural Broadband Alliance, LLC
4636 Highway 90, Suite K
Marianna, Florida 32446

with a copy to: Crystalyn R. Carey, General Counsel
Jeff Goodman, P.A.
935 Main Street
Chipley, Florida 32428

28. **Assignment, Sublicensing and Third-Party Use.** Licensee shall not assign this Agreement in whole or in part, or sublicense all or any part of the Premises or otherwise allow any third parties to use any part of the Premises without Licensor's prior written consent, not to be unreasonably withheld, conditioned or delayed. If Licensor approves an assignment, sublicense, or third-party use, Licensor shall be a party to such assignment, sublicense, or use agreement between Licensee and third party.

29. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties, their respective heirs, successors and assigns.

30. **Force Majeure.** If a Party is delayed or prevented from the performance of its obligations under this Agreement by reason of earthquakes, landslides, strikes, lockouts, power failure, riots, war, acts of God or other reasons of similar nature, not the fault of the Party delayed in performing its obligations, such Party is excused from such performance of the period of delay. The period for the performance of any such act shall then be extended for the period of such delay.

31. **Holding Over.** Any holding over after the expiration of the final renewal term hereof, with the consent of Licensor, shall be construed to be an annual tenancy, rented at a rate equal to the annual rental rate provided for herein.

32. **Miscellaneous.**

(A) The Parties represent that each, respectively, has full right, power and authority to execute this Agreement.

(B) This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all offers, negotiations and other agreements of any kind. There are no representations or understandings of any kind not set forth herein with respect to the subject matter hereof. Any modification of or amendment to this Agreement must be in writing and executed by both parties.

(C) This Agreement shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising from this Agreement shall be Leon County, Florida. The prevailing party in any action to enforce the provisions of this Agreement shall be entitled to recover reasonable attorney's fees.

(D) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(E) Licensors warrants that it owns the Premises in fee simple free and clear of any liens, encumbrances and restrictions that would prevent Licensor from leasing the Premises to Licensee subject to the terms of this Agreement, and upon Licensee's compliance with all terms, conditions and obligations of this Agreement imposed upon Licensee, Licensee shall be entitled to quiet and peaceful enjoyment of the Premises.

(F) By execution of this Agreement, the parties acknowledge that this Agreement is subject to and agree to comply with all applicable terms and conditions of Grant #NT10BIX5570122. Licensor further acknowledges that it is subject to the special grant award conditions outlined herein.

33. Federal Grant Restrictions.

(A) **Debarment.** Licensor certifies that it is eligible to receive state and federally funded contracts. Licensor also certifies that no party, which is debarred from such contracts, will be subcontracted to perform services under this Agreement.

(B) **Signage.** As required by the terms of the Stimulus Act and the Grant, Licensee shall have the right to erect signage at the Site to comply with the stimulus act signage requirements.

(C) **Covenant of Purpose, Use and Ownership and UCC Filings.** In compliance with the requirements of the Grant, Licensor consents to the recording of a Covenant of Purpose, Use and Ownership for the Site in the Public Records of the County. The Covenant of Purpose, Use and Ownership will be in substantially the form of **Exhibit "C"** attached hereto. In addition, Licensee shall record any other documents, such as UCC Financing Statements as may be required to comply with the Grant. All such filings shall apply only to Equipment owned by Licensee and shall not be an encumbrance on the land or other equipment installed on the tower.

(D) **Federal Audits and Inspections.** Licensor will cooperate in any audit or inspection of Licensee's network, assets, equipment installation or operations required for or on behalf of Licensee, the Department of Commerce, the NTIA, NOAA, the Office of the Inspector General or any other state or federal agency with jurisdiction over the BTOP grant. Licensor understands that such audits and inspections may include contracts paid with grant funds such as the Agreement. Licensor understands it is responsible for maintaining documentation pursuant to this Agreement. All access rights to the Site granted to Licensee hereunder shall also extend to any such federal inspectors or auditors.

SIGNATURES APPEAR ON FOLLOWING PAGE

BOARD OF COUNTY COMMISSIONERS OF GULF COUNTY, FLORIDA **42**

William C. Williams III, Chair

Date:

Attest:

Clerk

Approved as to form and substance by:

County Attorney

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

WITNESSES:

Print Name: _____

Print Name: _____

Approved as to form and substance by:

Crystalyn R. Carey, General Counsel

EXHIBIT A

PROPERTY DESCRIPTION(s)
348 Marlin Street, Port St. Joe, Florida 32456

PARCEL ID: 04463-000R

**FOREHANDS FIRST ADDITION TO HIGHLAND VIEW PB 1 PG 44 LOTS 8 & 9 AS PER 1985 HB 1401 AMENDING
CHAPTER 61-2212 LAWS OF FLORIDA (BEING HIGHLANDVIEW WATER SYSTEM BLDG & TOWER) MAP# 49B
BLK 5**

EXHIBIT B

44

Tower and Equipment Detail

Latitude: 29.83859386

Longitude: -85.31462186

Frequency and dish sizes: 11 GHz 4' & 11 GHz 4'

Equipment Height: 110

44

EXHIBIT C

PREPARED BY AND RETURN TO:

Crystalyn Carey, Esq.
 Jeff Goodman, P.A.
 935 Main Street
 Chipley, Florida 32428

COVENANT OF PURPOSE, USE AND OWNERSHIP

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP dated this ____ day of _____ by and between the Florida Rural Broadband Alliance, LLC, a Florida limited liability corporation, whose address is 4636 Highway 90, Suite K, Marianna, Florida 32446 (hereinafter with its successors and assigns called "Recipient"); and the NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, UNITED STATES OF AMERICA DEPARTMENT OF COMMERCE, whose address is Herbert C. Hoover Building (HCHB), U.S. Department of Commerce / NTIA, 1401 Constitution Avenue, N.W., Washington, D.C. 20230 (hereinafter with successors and assigns called "NTIA"):

RECITALS:

WHEREAS, Recipient submitted an application, designated as BTOP Award No. #NT10BIX5570122, for financial assistance pursuant to the Broadband Technology Opportunities Program created pursuant to the American Recovery and Reinvestment Act of 2009 (hereinafter the "Act"); and

WHEREAS, by offer of Award, dated August 1, 2010, NTIA offered to Recipient a financial assistance award in the amount of \$23,693,665 (hereinafter called "Award Amount") to assist in financing the design and deployment of a broadband middle mile infrastructure network to serve counties throughout the Northwest Florida Rural Area of Critical Economic Concern and the South Central Rural (hereinafter called "Project"); and

WHEREAS, said Project included the contribution of licensed space on the communications tower located on the real property described in Exhibit "A" attached hereto and incorporated herein (hereinafter with all improvements called "Property") as an in kind asset by Board of County Commissioners of Gulf County, Florida, the owner of the Property through January 31, 2017 (the "In Kind Agreement"), subject to renewal; and

WHEREAS, said Project also included the purchase of wireless broadband communications equipment to be installed pursuant to the In Kind Agreement on the tower by Recipient (the "Equipment"); and

WHEREAS, Recipient accepted the Offer Of Award (hereinafter called "Award Agreement") subject to terms and conditions, pursuant to which Recipient covenanted and agreed to comply with the applicable requirements of 15 C.F.R. part 14; and

WHEREAS, the Award Agreement provides the purposes for which the Award Amount may be used and provides, inter alia, that Recipient will not sell, lease, mortgage, or otherwise alienate any right to or interest in the Equipment and In Kind Agreement, or use the Equipment or In Kind Agreement for purposes other than, and different from, those purposes set forth in the Award Agreement and the application made by Recipient therefore (hereinafter called "Project Purposes"), such alienation and use being prohibited by 15 C.F.R. part 14; and

WHEREAS, under the authority of the Act, NTIA is not authorized to permit Recipient to use the In Kind Agreement or Equipment for purposes other than Project Purposes or to lease, transfer, convey, mortgage or hypothecate the Project to any party without prior approval from NTIA, unless NTIA is repaid its share of the market value of the Project, as set forth below;

WHEREAS, Recipient, as Licensee pursuant to the In Kind Agreement and owner of the Equipment and Board of County Commissioners of Gulf County, as owner of the real property described in Exhibit "A", attached hereto, have agreed to record this Covenant in the appropriate office for the recording of public records affecting real property so as to constitute notice to all persons of any and all restrictions on title to and use of the Project and all or part of the real property described in Exhibit "A", attached hereto.

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by NTIA and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by both NTIA and Recipient, Recipient hereby covenants and agrees as follows:

1. The estimated useful life of the project is 10 years.

2. Recipient agrees that for the estimated useful life set forth above, Recipient will not sell, transfer, convey, or mortgage any interest in the In Kind Agreement or the Equipment acquired or improved in whole or in part with funds made available through this Award, nor shall Recipient use the In Kind Agreement or Equipment for purposes other than the Project Purposes without the prior written approval of the NTIA Grants Officer, or his/her designee or successor. Such approval may be withheld until such time as Recipient first pays to NTIA the Federal share of the Property as provided in 15 C.F.R. part 14. The Federal share of the value of the Property is that percentage of the current fair market value of the Property attributable to the NTIA's participation in the Project (after deducting actual and reasonable selling and fix-up expenses, if any, incurred to put the property into condition for sale). The Federal share excludes that value of the Property attributable to acquisition or improvements before or after NTIA's participation in the Project and not included in Project costs.

3. Recipient further covenants that in the event the In Kind Agreement or the Equipment is used for purposes other than Project Purposes, or is sold, leased, transferred, conveyed, or mortgaged without the prior written approval of the Grants

Officer, Recipient will compensate the Federal Government for the Federal share of the Property as described above and in 15 C.F.R. part 14.

4. Recipient further agrees that, as a prerequisite to accepting the disbursement of any Award funds by NTIA, Recipient shall execute and place on record against the In Kind Agreement and Equipment acquired or improved in whole or in part with the funds made available through this Award, this Covenant of Purpose, Use and Ownership. Recipient further agrees that whenever the property is sold, leased, or otherwise conveyed pursuant to 15 C.F.R. part 14, Recipient or the transferor shall add to the document conveying such interest a Covenant of Purpose, Use and Ownership. NTIA will in its sole discretion determine whether the Covenant is satisfactory. NTIA may require an opinion of counsel for recipient that the Covenant is valid and enforceable according to its terms and has been properly recorded.

5. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the In Kind Agreement and the Equipment given the Federal Interest expressed herein.

6. This covenant shall run with the land.

IN WITNESS WHEREOF, the recipient has hereunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded to NTIA. (The appropriate acknowledgment must be included for recording in Recipient's jurisdiction.)

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

Witnessed by:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of Florida Rural Broadband Alliance, LLC, a Florida limited liability company, who is known to me personally or provided _____ as proof of identification.

Notary Public: _____
Commission Expires: _____

**LICENSE AGREEMENT FOR
WIRELESS COMMUNICATION EQUIPMENT FACILITIES
(FRH-050 Gulf County Courthouse Tower)**

This License Agreement is entered into this ____ day of _____, 2012 ("Agreement"), by and between Gulf County Board of County Commissioners, Florida, a political subdivision of the State of Florida, whose address is 1000 Cecil G. Costin Sr. Blvd, Port St Joe, FL 32456, Florida ("Licensor"), and the Florida Rural Broadband Alliance, LLC, a limited liability company, whose local business address is 4636 Highway 90 Suite K, Marianna, FL 32446 ("FRBA" or "Licensee") (collectively, the "Parties").

RECITALS

WHEREAS, Licensor is the fee simple owner of the real property located at 222 N. 2nd Street, Wewahitchka, Florida (see **Exhibit "A"**), Florida which includes tower(s) ("Tower") and other real property and improvements described in **Exhibit "A"** attached hereto and made a part hereof ("Premises").

WHEREAS, Licensee was created by and made up of two Florida not-for-profit corporations representing the Northwest Florida Rural Area of Critical Economic Concern, which includes Holmes, Washington, Jackson, Gadsden, Liberty, Franklin, Gulf, and Calhoun counties, and the South Central Florida Rural Area of Critical Economic Concern, which includes DeSoto, Hardee, Hendry, Glades, Highlands, and Okeechobee counties, and the community of Immokalee in unincorporated Collier County, for the purpose of applying for federal stimulus grant funding to design, deploy and operate a fixed wireless broadband middle mile network to serve the two regions (the "Network").

WHEREAS, Licensee obtained federal stimulus grant funding pursuant to award #NT10BIX5570122 from the BTOP program (the "Grant") and will use such funds to establish a fixed wireless broadband middle mile network to serve its 15 county service area.

WHEREAS, the federal grant program required all applicants to provide matching funds in the amount of 30% of the total project cost in the form of cash or "in kind" contributions.

WHEREAS, many of the local governments within the FRBA territory agreed to commit the use of towers, buildings and land owned by the members as in kind assets to Licensee to assist in satisfying the matching funds requirement.

WHEREAS, Licensor committed to provide use of space on the Tower for installation of communications facilities by Licensee for a 5 year term without charge, subject to renewal. Licensor is entering into this Agreement to document its intent to make space on the Tower available to Licensee as an in kind asset.

WHEREAS, Licensee desires to obtain a license to the Premises from Licensor in order to locate, install, operate, remove, replace and maintain thereon wireless data communications equipment and enclosures ("Equipment Facilities") as more fully described herein.

WHEREAS, Licensor is willing to license the herein described portion of the Premises to Licensee so that Licensee may install, locate, operate, remove, replace and maintain the Equipment Facilities pursuant to the terms and conditions set forth herein.

BCC APPROVED

DATE _____ D.C. _____

WHEREAS, in furtherance thereof, Licensee desires to enter into this Agreement with Licensor pursuant to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party to the other, the parties agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated into and made a part of this Agreement the same as if fully set forth herein.

2. **Premises**. Licensor hereby grants a license to Licensee and Licensee hereby accepts a license from Licensor, a portion of the Premises for use as follows:

(a) 7 feet by 10 feet = 70 Total Sq. Ft. of ground space (the "Ground Space") for placement of an equipment cabinet or shelter

(b) Together with space on the Tower for Equipment Facilities as follows:

- up to four (4) panel antennas, each not to exceed 36" x 13" (L x W), plus one (1) feed line for each antenna, each not to exceed 1/2" in diameter
- up to three (3) microwave dishes, with a combined diameter not to exceed 10', plus one (1) feed line for each dish, each not to exceed 1/2" in diameter
- All tower-mounted equipment shall installed at the same centerline on the tower at approximately 145 feet as described in **Exhibit "B"**.

(c) Tower space required for cable runs to connect equipment and antennas to one another and to ground facilities.

(d) Together with a right of access over, across, through, and under the property and improvements for so long as this Agreement remains in existence.

3. **Term**. The initial term ("Initial Term") of this Agreement shall be five (5) years, commencing on the date hereof ("Commencement Date") and ending on January 31, 2017 ("Expiration Date"), unless sooner terminated, modified or extended under the terms of this Agreement or by the mutual consent of the parties.

Upon expiration of the Initial Term, by mutual written agreement of the parties, the Agreement may be renewed for an additional five year term subject to the terms, including any proposed fees or exchange of service, agreed upon by the parties at that time ("Renewal Term").

4. **Consideration.**

(A) **In-Kind Donation for Initial Term of Agreement.** The Parties acknowledge that for the Initial Term of this Agreement, Licensor has agreed to donate the use of the Ground Space and Tower Space on the Premises, as identified herein, to Licensee as an in-kind asset contribution (the "In Kind Contribution"). The Parties hereby agree that the current market value of the In Kind Contribution is valued at \$2,250 per month. The parties acknowledge that for the period from the Commencement Date through July 31, 2013 this Agreement shall be included within the Matching Inventory for the FRBA grant funded project and shall be subject to all restrictions associated with such grant.

(B) Licensee agrees to pay its pro-rata share of any common expenses shared by Licensor, Licensee, and any other entities leasing space on the Tower or adjacent grounds, such as common costs associated with operation of the Tower.

5. **Use of Premises.** Licensee is authorized to locate, install, replace, operate, repair, maintain, and remove all of Licensee's Equipment Facilities located within the Premises, both on the Ground Space and on the Tower, as provided herein:

(A) **Ground Space Facilities.** Licensee is authorized to construct, install, replace, upgrade, operate, repair, maintain, and remove Licensee's Equipment Facilities located on the Ground Space within the Premises for the transmission, reception and operation of Licensee's wireless communications system and uses incidental thereto. All Equipment Facilities located on the Ground Space shall be constructed or installed on a concrete pad to be constructed within the Premises at Licensee's sole cost and expense.

(B) **Tower Equipment Facilities.**

(i) Licensee is authorized to install, replace, upgrade, operate, repair, maintain, and remove such equipment and facilities as described and specified in Section 2, on the Tower for the purposes of transmitting and receiving wireless data communication signals.

(ii) Licensee's Equipment Facilities located on the Tower shall be installed on the Tower at the location agreed upon by the parties. If, however, installation at such location becomes impossible for any reason, the Parties may agree to an alternate, equivalent location, so long as such location is no less than 100 feet above the ground.

(iii) All Equipment Facilities located on the Tower shall be attached or installed in the same manner as other equipment installed on the Tower.

(C) All Equipment Facilities, whether installed on the Ground Space or on the Tower, shall be and remain Licensee's personal property throughout the Initial Term and any renewal Terms of this Agreement.

6. **Improvements.**

(A) Licensee shall improve the Premises by constructing on the Ground Space a concrete pad with dimensions of no more than 7 feet by 10 feet, upon which Licensee will locate its ground Equipment Facilities. In addition, Licensee shall have access to an additional area

necessary to provide installation of a grounding ring 10 inches around the concrete pad. As part of the construction and continuing maintenance of the Ground Space, Licensee shall ensure that such facilities are properly installed.

After completion of installation of the Equipment Facilities, should Licensee desire to make any material changes to the facilities, Licensee shall obtain the approval of Licensor. A material change does not include additions to, replacements, upgrades or alterations of, any Equipment Facilities in whole or in part (a) within the confines of the licensed space or (b) to the extent attached to the Tower, if the resulting replacement, upgrade or alteration is of substantially the same or lesser size, weight, wind and structural loading. All additions, replacements, upgrades, material and non-material alterations remain subject to all other provisions of this Agreement. Notice of any non-material alterations of any Equipment Facilities will be provided by Licensee to Licensor within 5 days of commencing installation or repair.

(B) Licensee shall obtain all licenses, permits, and approvals from applicable governmental and/or regulatory authorities having jurisdiction, as may be required for the construction, installation, and operation of its improvements and Equipment Facilities. In the event zoning approval is necessary from a governmental authority, Licensor agrees to work with Licensee as necessary to obtain such zoning approval.

(C) Licensee shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Licensee.

(D) Licensee may update or replace the Equipment Facilities from time to time, in accordance with the terms of the Agreement.

(E) Licensor shall not be required to make any repairs or improvements to the Premises. Licensee shall be responsible for all costs associated with its use and operation of the Premises.

7. **Fitness for Use.** Licensor makes no representations or warranties as to (i) the fitness of the Premises for the use intended by Licensee; (ii) the use or zoning of surrounding properties and its suitability for Licensee's use; or (iii) any other matters related to the use of the Premises.

8. **Interference.**

(A) **Interference by Licensee's Equipment Facilities.**

(i) Licensee's Equipment Facilities shall not cause interference with any of Licensor's communication facilities, including facilities used for providing public safety services, or any prior user's facilities. If Licensee or Licensor determines, using reasonable discretion based on standard and accepted engineering practices, that Licensee's Equipment Facilities are causing interference to the installations of Licensor or a prior user, Licensee shall, within 5 business days of notification from Licensor, commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing Licensee's operations, so long as such interference does not impact Licensor's communication systems, in which case Licensee shall immediately cease operations until the interference is resolved. If Licensee cannot mitigate or eliminate such interference within the 5 business-day period, Licensor may require that Licensee turn off or power down its interfering Equipment Facilities and only power up or

use such Equipment Facilities during off-peak hours specified by Licensor in order to test whether such interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such interference within 30 days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Equipment Facilities.

(B) Interference with Licensee's Equipment Facilities.

(i) Licensor agrees to take reasonable efforts to prohibit a subsequent user of the Tower from causing interference with the operations of Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a subsequent user's equipment is causing interference to the installations of Licensee, upon Licensee's request, Licensor shall within 48 hours commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing subsequent user's operations.

(ii) Notwithstanding the foregoing, if another user of the Tower is a governmental entity, Licensor shall give such governmental entity written notice of the interference within 5 business days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity 5 business days, or more as specified in the governmental site or occupancy agreement or as required by applicable law, from the receipt of such notice prior to Licensor being required to take any actions to cure such interference.

(C) Priority. The Parties acknowledge that priority with regard to protection from interference shall be based on priority of occupancy. Prior users of the Tower shall be protected from interference by Licensor subject to the terms of this section, whereas users in place subsequent to Licensee shall not be protected. Licensee recognizes that in the event it modifies, replaces, or upgrades its Equipment Facilities in such a manner that the frequencies authorized herein are modified, it shall lose its priority position with respect to other users in place as of the date it modifies, replaces, or upgrades the Equipment Facilities and frequencies.

(D) AM Detuning. The parties acknowledge that the FCC Rules and Regulations govern the obligations of Licensee with respect to the operation of the Equipment Facilities. Consequently, the provisions set forth in this Agreement are expressly subject to the FCC Rules and Regulations. Licensee agrees, at Licensee's sole cost, to comply with the foregoing as well as any and all other FCC Rules, Regulations and public guidance relating to AM detuning as such provisions currently exist or are hereafter modified. Licensee shall be fully responsible for any pre- or post-installation testing for AM interference at the Tower and for the installation of any new detuning apparatus or the adjustment of any existing detuning apparatus that may be necessary to prevent adverse effects on the radiation pattern of any AM station caused by the installation of the Equipment Facilities. Licensee shall provide Licensor with written proof of such compliance. In the event that Licensee determines that pre- or post-installation testing for AM interference is not required at the Tower, such a determination shall be at Licensee's sole risk. If Licensee or Licensor receive a complaint of interference from an AM broadcast station after the Equipment Facilities are added to the Tower or the Tower is modified to accommodate Licensee, Licensee shall eliminate such interference within 30 calendar days of the receipt of such complaint. Licensee's failure to eliminate the interference within such 30 day period shall constitute a default under this Agreement and Licensor shall have the right to eliminate the interference at Licensee's expense. Licensee further agrees to indemnify Licensor in the event that Licensee's failure to comply with the FCC Rules and Regulations prior to installation or

modification of the Equipment Facilities results in any administrative investigation, proceeding or adjudication with respect to Licensor.

9. **Emissions.** If antenna power output ("RF Emissions") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("MPE") limits, or if the Tower otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Equipment Facilities which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other Licensees of the Tower to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other Licensees of the Tower within 30 days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits. Modifications to Licensee's Equipment Facilities required to address RF Emission standards, shall have no effect on Licensee's priority with regard to interference.

10. **Repairs and Maintenance to Premises.**

(A) Except as otherwise provided herein, Licensee shall have sole responsibility for the maintenance, repair and security of the Equipment Facilities and Ground Space, and shall keep the same in good repair and condition during the Initial Term of the Agreement and any renewal terms.

(B) Licensee shall keep the Premises free of debris and any dangerous, noxious or offensive matter that would create a hazard or undue vibration, heat, noise or signal interference.

(C) In order to minimize disruption to the surrounding area, normal maintenance and repair to the Equipment Facilities shall be restricted to the hours of 7:00 a.m. to 8:00 p.m., Monday through Friday, excluding legal holidays. Emergency maintenance and repairs to the Equipment Facilities may be conducted at any reasonably necessary time. Licensee shall notify Licensor as soon as reasonably practicable regarding off-hour emergency maintenance and repair activities on the Premises.

11. **Replacement or Removal of Tower and Relocation or Removal of Equipment Facilities.**

(A) **Replacement of Tower.** Licensor may, in its sole discretion, replace or rebuild the Tower or a portion thereof. Such replacement will be at Licensor's cost and not result in an interruption of Licensee's wireless communications services beyond that which is necessary to replace the new Tower. If Licensee, in Licensee's reasonable discretion, cannot operate the Equipment Facilities from the existing Tower during such replacement or rebuild of the Tower, Licensee may establish, at Licensee's sole cost, a temporary facility on the Tower to provide such

services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. Rent due, if any, shall be abated for any period during which Licensee is prevented from broadcasting from the existing Tower due to such replacement or relocation. At the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of each Party to the new Tower Facility.

(B) Removal of Tower. If, during the term of this Agreement, Licensor determines based on engineering structural standards generally applied to communications towers that the Tower is or has become structurally unsound such that pursuant to generally accepted industry safety standards the Tower or a portion thereof must be removed, then, upon 90 days prior written notice to Licensee, Licensor may, in its sole discretion either remove the Tower and terminate this Agreement effective as of the date of such removal, or modify the Tower and relocate Licensee's Equipment Facilities to an alternate location on the modified Tower. If Licensee and Licensor are not able to agree on an alternate location on the modified Tower for the installation of Licensee's Equipment Facilities within the 90 day notice period, then Licensee or Licensor may elect to terminate the Agreement.

(C) Relocation of Equipment Facilities. In the event another Licensee of the Tower and adjacent real property desires to occupy the space on the ground or Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Equipment Facilities are then located, Licensor reserves the right to require Licensee to relocate the Equipment Facilities located on the Tower or adjacent real property to another mutually agreeable location, if available, at Licensee's cost and expense. If no mutually agreeable location is available, Licensor agrees that no relocation of Licensee's Equipment Facilities will be required, during the Initial Term of the Agreement. Subsequent to the Initial Term, Licensor may notify Licensee in writing that the relocation is necessary, and if other spaces on the ground or space or antenna mount heights on the Tower are available to accommodate Licensee's Equipment Facilities (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or antenna mount heights are available whether or not such spaces are agreeable to Licensee.

(D) Removal of Equipment Facilities upon Termination. Upon the expiration or earlier termination of this Agreement as provided herein Licensee shall remove the Equipment Facilities from the Premises and the licensed area on the Tower at its sole cost and expense. Upon Licensee's removal of the Equipment Facilities, Licensee shall restore the affected portion of the Premises to the condition as it existed prior to the Commencement Date, subject to normal wear and tear. In the alternate Licensor may request that Licensee leave the Equipment Facilities and Ground Space pad, less Licensee's personal property, including moveable equipment, "AS IS" for Licensor's use, in which case ownership of the Equipment Facilities and Ground Space area pad shall become the property of Licensor upon expiration of the Agreement, without further action on the part of either party.

12. Taxes and Fees.

(A) To the extent any utility fees, assessments, or other governmental charges related to the Premises and Equipment Facilities are validly imposed, Licensee will pay to the appropriate entity all such fees, assessments, or other charges that may arise or are incurred for or during the Initial Term and any renewal terms, in a timely manner, before they are delinquent.

(B) Licensee shall have the right to contest the validity or the amount of any charges, assessments, or fees by appellate or other proceedings as may be appropriate in the jurisdiction, and may, if applicable, defer payment of such obligations if payment would operate as a bar to contest, and, if applicable, pay same under protest, or take such other steps as Licensee may deem appropriate, provided, however, that Licensee indemnifies and holds harmless Licensor from any expense (including reasonable attorney's fees for trial, appellate, bankruptcy and administrative proceedings) liability and loss arising out of such contest and pursues such contest in good faith with due diligence, posting any bond or security required by law in connection with the contest, giving Licensor written notice of its intention to contest, taking no action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Premises or Equipment Facilities. Licensor shall cooperate in the institution and prosecution of any proceedings initiated by Licensee and shall execute any documents reasonably required to be executed and make any appearances, which Licensor may reasonably be required to make in connection with such proceedings. Licensee shall be entitled to receive all refunds from the appropriate governmental entities attributable to the Premises, the Ground Space or Equipment Facilities for any period for which Licensee has paid such fees, assessments, or charges. If no refund shall be secured in any proceeding, the party instituting the proceeding shall bear the entire cost, or if Licensor institutes the proceeding at Licensee's request, Licensee shall bear the entire cost.

(C) Should, during the Initial Term or any renewal term of this Agreement, a new or otherwise modified tax, fee, charge, or assessment be imposed on, or for the use of or otherwise related to the Premises or Equipment Facilities, or should Licensee's tax-exempt status change, Licensee shall also pay those taxes when due to the appropriate taxing authority, as required by law.

(D) Should Licensee fail, refuse or neglect to pay any required tax or other charges under this section, after receipt of written notice that same have not been paid, Licensor may pay them. On Licensor's demand, Licensee will repay Licensor all amounts thus paid, plus expenses and attorneys' fees reasonably incurred in connection with such payments, plus interest on all amounts at the highest rate allowed by law. On the day Licensor demands repayment or reimbursement from Licensee, Licensor is entitled to collect or enforce these payments in the same manner as a payment of Base Rent. Licensee's election to pay the taxes will not act as a waiver of a default for failure to pay same.

13. **Utilities.** Licensee shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its Equipment Facilities, and shall timely pay all costs associated therewith. Licensee shall have the right to obtain separate utility service from any licensed utility company that will provide such service to the Premises. Licensee may also provide power to the Premises through a standby power generator for Licensee's exclusive use. Licensee covenants that it shall use its best effort to cause the utilities to be installed underground. Licensor agrees to grant utility easements to such utility companies as may be needed to operate and maintain the utility facilities serving the Equipment Facilities.

14. **Permits.** Licensee's use of the Premises is contingent upon its obtaining all certificates, permits, zoning and other approvals that may be required by any federal, state or local authority. Licensor, as the owner of the Premises and not in its capacity as a governmental or regulatory body, agrees to cooperate with Licensee, at Licensee's expense, in applying for and obtaining all licenses, permits, and other necessary approvals required for Licensee's installation and operation of the Equipment Facilities on the Premises. Licensee shall erect, maintain and operate the Equipment Facilities in accordance with site standards, state statutes,

ordinances, rules and regulations issued by the FCC or any other governing bodies. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Licensee's responsibility.

15. **Signs/Graffiti.** Licensee may place signs on the Premises designating the owner of the improvements and wireless communication facilities within the Premises, subject to applicable governmental regulations, including any applicable signage requirements relating to Licensee's federal grant included in the Federal Grant Restrictions section of this Agreement. Licensee shall remove any unauthorized signs or graffiti within a reasonable time, but no later than five (5) days after receipt of written notice from Licensor requesting such removal. If Licensee fails to remove such signs or graffiti after such notice, then Licensor may enter the Premises and undertake any activities necessary to abate or remove graffiti or any unauthorized signage located therein. Licensee shall reimburse Licensor all costs incurred by Licensor for the abatement or renewal of such graffiti or unauthorized signage within thirty (30) days of Licensor's presenting Licensee with a statement of such costs.

16. **Access.** Beginning on the Commencement Date, subject to Licensee's faithful performance of Licensee's covenants and conditions herein contained, Licensor shall deliver to Licensee the right to enter the Premises, subject to the easements, covenants and restrictions of record. Licensor and Licensor's agents are entitled, however, to enter the Premises at all reasonable times to inspect and examine their condition and use.

17. **Default and Remedies.**

(A) Each of the following events shall be an event of default hereunder by Licensee ("Licensee's Default") and shall constitute a default of this Agreement:

(i) Whenever Licensee shall fail to pay any installment of a required payment, if any, within fifteen (fifteen) days after it comes due or whenever Licensee shall fail to pay any other sum payable by Licensee to Licensor or other appropriate governmental entity within fifteen (15) days after receipt of written notice from Licensor that same is due;

(ii) If Licensee fails to comply with the insurance requirements contained herein, and if such failure to pay or comply with the insurance requirements shall continue for fifteen (15) days after Licensor delivers to Licensee a written Notice of Licensee's Default specifying same;

(iii) Whenever Licensee shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensee herein contained or contrary to any of Licensee's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensee's obligations under this Agreement, and Licensee shall fail to remedy the same within thirty (30) days after Licensor shall have given Licensee a written Notice of Licensee's Default specifying same; provided, however, that if the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, Licensee shall have such time as is reasonably necessary to remedy the default, provided Licensee promptly takes and diligently pursues such actions as are necessary therefore;

(B) Upon the occurrence of any Licensee's Default, which is not cured within any applicable notice and cure period, Licensor shall have all remedies allowed by law or in equity,

from time to time during the Initial Term or any renewal term, and also Licensor may give to Licensee a notice of Licensor's intent to end the Term on a day not less than thirty (30) days after Licensee's receipt of such notice ("Licensor's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon Licensor's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensee under this Agreement shall expire and terminate, or in the alternative Licensor may take possession of the Premises without terminating the Agreement, in which event Licensee shall remain liable for damages as allowed by law.

(C) It shall be an event of default by Licensor ("Licensor's Event of Default") whenever Licensor shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensor herein contained or contrary to any of Licensor's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensor's obligations under this Agreement, which Licensor fails to remedy within thirty (30) days after Licensee has given Licensor written notice specifying the same.

(D) Upon the occurrence of a Licensor's Event of Default, which is not remedied within thirty (30) days of receipt of notice from Licensee, Licensee may (i) give to Licensor a notice of Licensee's intent to end the Term on a day not less than thirty (30) days after Licensor's receipt of such notice ("Licensee's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon the Licensee's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensor under this Agreement shall expire and terminate or Licensee may institute proceedings for specific performance of this Agreement.

18. Termination.

(A) In addition to the other termination rights of the parties otherwise provided herein, this Agreement may be terminated (i) by either Party if Licensee is unable to obtain or maintain any license, permit or other governmental approval necessary for the construction, installation or operation of the Equipment Facilities within one hundred eighty (180) days from the execution of this Agreement; (ii) by Licensee upon thirty (30) days prior, written notice to Licensor if the Premises are not appropriate for Licensee's operations for economic or technological reasons, including, but not limited to signal interference; (iii) by Licensee upon thirty (30) days prior, written notice to Licensor if Licensee is unable to operate the Equipment Facilities on the Premises either due to the action of any regulatory agency which results in Licensee's inability to utilize the Tower; (iv) by Licensee if it determines, in its sole discretion, that the Tower is structurally unsound or otherwise not suitable for Licensee's use, including, but not limited to, consideration of age of the structure, damage or destruction of all or part of the Tower from any source, or factors relating to condition of the Tower, however, Licensor shall first be afforded an opportunity to improve the Tower; (v) by Licensor if it determines, in its sole discretion, that continued use of the Tower by Licensee is a threat to the public health, safety or welfare or violates applicable laws or ordinances, or; (vi) as otherwise provided in this Agreement.

(B) Upon the termination of this Agreement, removal of the Equipment Facilities shall be governed by Section 7 hereof.

(C) Notice of termination pursuant to this section shall be given in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice. In the event of

termination, Licensor shall prorate and return to Licensee any unearned Rent paid prior to the Termination Date.

(D) The Parties acknowledge that the License granted pursuant to this Agreement is irrevocable for the term of the Agreement so long as both parties perform their obligations in accordance with the provisions herein.

19. **Condemnation or Destruction.**

(A) **Condemnation.** In the event the Premises are taken by eminent domain, this Agreement shall automatically terminate as of the date title to the Premises vests in the condemning authority. In the event of any taking under the power of eminent domain, Licensee shall not be entitled to any portion of the award paid for the taking, and Licensee hereby expressly waives any right or claim to any portion thereof and all such damages shall belong to Licensor. Although all damages, whether awarded as compensation for diminution in value of the license or to the fee of the Premises, shall belong to Licensor, Licensee shall have the right to claim and recover from the condemning authority, but not from Licensor, such compensation as may be separately awarded or recoverable by Licensee for diminution in value of the Equipment Facilities, any and all damage to Licensee's business and any costs or expenses incurred by Licensee in moving or removing the Equipment Facilities. Licensor will inform Licensee of the commencement of any eminent domain proceedings by any governmental authority.

(B) **Destruction.** In the event the Premises, including the Tower, are destroyed or damaged so as to materially interfere with Licensee's effective use thereof through no fault of the Licensee, Licensor shall have the option of restoring or repairing the damaged portions of the Premises. If Licensor fails to take steps to repair the damages within thirty (30) days or such other reasonable time, Licensee will be entitled to terminate this Agreement as of the date the Premises became unusable, and Licensee shall be entitled to a return of any unearned Basic Payments. If Licensor opts to repair or restore the Premises, any applicable Consideration due from Licensee shall be abated on a pro rata basis per day during such repair or reconstruction. Licensor shall have no obligation to reconstruct or repair any damage to the Equipment Facilities.

20. **Indemnification.**

(A) Neither Party shall be liable for injury or damage occurring to any person or property arising out of the other Party's use of the Premises.

(B) The following indemnification shall not apply to any claims, actions, damages, obligations, liabilities and liens arising from the sole negligence or intentional misconduct of either Party, and shall survive termination of this Agreement. The indemnifying Party shall, at its sole cost and expense, indemnify, defend and hold harmless the other Party, its representatives, agents, employees and elected and appointed officials from and against:

(i) Any and all liability, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the party being indemnified by reason of any act or omission of the indemnifying Party, its personnel, employees, agents, contractors or subcontractors, resulting in property damage, bodily injury or death to any person, or any other right of

any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises and Equipment Facilities, or any failure to comply with any federal, state, or local statute, ordinance or regulation.

(ii) Any and all liabilities, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the indemnified Party by reason of any claim or lien arising out of work, labor, materials, or supplies provided or supplied to the indemnifying Party, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises or Equipment Facilities, which the indemnified Party, upon written request, shall cause to be discharged within thirty (30) days following such request.

(C) Nothing in this Agreement shall be construed to affect in any way the Licensor's or Licensee's rights, privileges and immunities as set forth in Section 768.28, Florida Statutes. Provided, however, such rights shall only extend to Licensor and Licensee as political subdivisions of the State of Florida and shall not be extended to any non-governmental sub-Licensee, successor or assign of either Party.

(D) In the event any action or proceeding shall be brought against Licensor by reason of any matter for which Licensor is indemnified hereunder, Licensee shall, upon notice from Licensor, at Licensee's sole cost and expense, defend the same; provided however, that Licensee shall not admit liability in any such matter on behalf of Licensor without the written consent of Licensor and provided further that Licensor shall not admit liability for, nor enter into any compromise or settlement of, any claim for which it is indemnified hereunder, without the prior written consent of Licensee.

(E) Licensor shall give Licensee prompt notice of any claim or the commencement of any action, suit or other proceeding related to or described in paragraph (B) above. Nothing herein shall be deemed to prevent Licensor from participating in the defense of any litigation by Licensor's own counsel. Licensee shall pay all expenses incurred by Licensor in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Licensor's attorney, and the actual expenses of Licensor's agents, employees or expert witnesses, and disbursements and liabilities assumed by Licensor in connection with such suits, actions or proceedings but shall not include attorneys fees for services that are unnecessarily duplicative of services provided Licensor by Licensee.

21. **Insurance.** During the term of the Agreement, Licensee shall maintain in full force and effect and at its sole cost and expense, the following types and limits of insurance:

(A) Commercial general liability insurance with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability.

(B) Automobile liability insurance covering all owned, hired and non-owned vehicles in use by Licensee, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law.

(C) Workers' compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

(D) At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering the antennae facilities and other Equipment Facilities. Upon completion of the installation of the Equipment Facilities, Licensee shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance thereon. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(E) As an alternative to the foregoing liability insurance requirements, Licensee may provide such insurance through a self-insurance fund sufficient to cover the liabilities mentioned above provided that Licensee shall furnish Licensor with a copy of the self-insurance plan and an independent expert opinion that the self-insurance plan and funding are actuarially sound.

22. Insurance Administration.

(A) All policies other than those for Workers' Compensation shall be written on an occurrence and not on a claims-made basis.

(B) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

(C) Licensor shall be named as an additional insured on all Licensee insurance policies to the fullest extent allowed by the insurers.

(D) Certificates of insurance evidencing that all required insurance coverage shall be filed and maintained with Licensor annually during the Term of the Agreement, and must be received by Licensor at least fifteen (15) days prior to the Initial Term and any renewal terms. Licensee shall immediately advise Licensor of any claim or litigation that may result in liability to Licensor.

(E) All insurance shall be evidenced by valid and enforceable policies, issued by insurers licensed to do business by the State of Florida or surplus line carriers on the State of Florida Insurance Commissioner's approved list of companies qualified to do business in the State of Florida. All insurance carriers and surplus line carriers shall be rated A- or better by A.M. Best Company.

(F) The insurance certificates shall specify the deductibles for each type of insurance required by this Agreement, except Workers' Compensation insurance. Licensee agrees to indemnify and save harmless Licensor from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Agreement.

(G) Licensee shall require each and every contractor and its subcontractors who install the Equipment Facilities or any other components of its wireless communication facilities, or perform work thereon, to carry, in full force and effect, workers' compensation, commercial general liability and automobile liability insurance coverage of the types, which Licensee is

required to obtain under the terms of this section, with appropriate limits of insurance, and which name Licensor as an additional insured.

(H) If Licensee fails to obtain or maintain insurance coverage sufficient to meet the terms and conditions of this Agreement, then Licensor may immediately terminate this Agreement.

23. **Hazardous Material Indemnification.**

(A) Licensee represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

(B) "Hazardous Material" shall mean any petroleum or petroleum products, asbestos, any substance known to cause cancer and/or reproductive toxicity, and/or any substance, material, chemical or waste defined or designated as hazardous, toxic, dangerous, radioactive or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

(C) Licensor represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

24. **RF Exposure.** Licensee agrees to reduce power or suspend operation of its Equipment Facilities if necessary and upon reasonable notice to prevent exposure of workers or the public to RF radiation in excess of the then-existing regulatory standards.

25. **Acceptance of Premises.** By execution of this Agreement, Licensee accepts the Premises in the condition existing as of the Commencement Date. Licensor makes no representation or warranty with respect to the condition of the Premises and Licensor shall not be liable for any latent or patent defect in the Premises.

26. **Estoppel Certificate.** Either Party shall at any time and from time to time upon not less than ten (10) days prior request by the other party delivery to the requesting party a statement in writing certifying that (i) the Agreement is unmodified and in full force (or if there have been modifications, that the Agreement is in full force as modified and identifying the modifications); (ii) the dates to which any applicable Rent has been paid; (iii) the party requesting the estoppel certificate is not in default under any provisions of the Agreement; and (iv) such other matters as the party may reasonably request.

27. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Licensor, to: Gulf County Board of County Commissioners
1000 CG Costin Sr Blvd
Port St. Joe, Florida 32456

Leon County, Florida. The prevailing party in any action to enforce the provisions of this Agreement shall be entitled to recover reasonable attorney's fees.

(D) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(E) Licensor warrants that it owns the Premises in fee simple free and clear of any liens, encumbrances and restrictions that would prevent Licensor from leasing the Premises to Licensee subject to the terms of this Agreement, and upon Licensee's compliance with all terms, conditions and obligations of this Agreement imposed upon Licensee, Licensee shall be entitled to quiet and peaceful enjoyment of the Premises.

(F) By execution of this Agreement, the parties acknowledge that this Agreement is subject to and agree to comply with all applicable terms and conditions of Grant #NT10BIX5570122. Licensor further acknowledges that it is subject to the special grant award conditions outlined herein.

33. **Federal Grant Restrictions.**

(A) **Debarment.** Licensor certifies that it is eligible to receive state and federally funded contracts. Licensor also certifies that no party, which is debarred from such contracts, will be subcontracted to perform services under this Agreement.

(B) **Signage.** As required by the terms of the Stimulus Act and the Grant, Licensee shall have the right to erect signage at the Site to comply with the stimulus act signage requirements.

(C) **Covenant of Purpose, Use and Ownership and UCC Filings.** In compliance with the requirements of the Grant, Licensor consents to the recording of a Covenant of Purpose, Use and Ownership for the Site in the Public Records of the County. The Covenant of Purpose, Use and Ownership will be in substantially the form of **Exhibit "C"** attached hereto. In addition, Licensee shall record any other documents, such as UCC Financing Statements as may be required to comply with the Grant. All such filings shall apply only to Equipment owned by Licensee and shall not be an encumbrance on the land or other equipment installed on the tower.

(D) **Federal Audits and Inspections.** Licensor will cooperate in any audit or inspection of Licensee's network, assets, equipment installation or operations required for or on behalf of Licensee, the Department of Commerce, the NTIA, NOAA, the Office of the Inspector General or any other state or federal agency with jurisdiction over the BTOP grant. Licensor understands that such audits and inspections may include contracts paid with grant funds such as the Agreement. Licensor understands it is responsible for maintaining documentation pursuant to this Agreement. All access rights to the Site granted to Licensee hereunder shall also extend to any such federal inspectors or auditors.

SIGNATURES APPEAR ON FOLLOWING PAGE

GULF COUNTY, FLORIDA

Warren Yager Jr., Chair

Date:

Attest:

Clerk

Approved as to form and substance by:

Attorney

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

WITNESSES:

Print Name: _____

Print Name: _____

Approved as to form and substance by:

Crystalyn R. Carey, General Counsel

PROPERTY DESCRIPTION(s)

PARCEL ID: 02105-000R
222 N. 2nd Street Port St Joe, Florida.

**GULF COUNTY LAND CO. SUBD ALL OF BLK 12 PB 1 PG 11 (BEING OLD WEWA
COURTHOUSE & JAIL) MAP# 93D BLK 12**

EXHIBIT B

Tower and Equipment Detail

Latitude: 30.1150667
Longitude: -85.198225
Frequency and dish sizes: 11 GHz 6' & 11 GHz 6'
Equipment Height: 140

EXHIBIT C

PREPARED BY AND RETURN TO:
 Crystalyn Carey, Esq.
 Jeff Goodman, P.A.
 935 Main Street
 Chipley, Florida 32428

COVENANT OF PURPOSE, USE AND OWNERSHIP

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP dated this ____ day of _____ by and between the Florida Rural Broadband Alliance, LLC, a Florida limited liability corporation, whose address is 4636 Highway 90, Suite K, Marianna, Florida 32446 (hereinafter with its successors and assigns called "Recipient"); and the NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, UNITED STATES OF AMERICA DEPARTMENT OF COMMERCE, whose address is Herbert C. Hoover Building (HCHB), U.S. Department of Commerce / NTIA, 1401 Constitution Avenue, N.W., Washington, D.C. 20230 (hereinafter with successors and assigns called "NTIA");

RECITALS:

WHEREAS, Recipient submitted an application, designated as BTOP Award No. #NT10BIX5570122, for financial assistance pursuant to the Broadband Technology Opportunities Program created pursuant to the American Recovery and Reinvestment Act of 2009 (hereinafter the "Act"); and

WHEREAS, by offer of Award, dated August 1, 2010, NTIA offered to Recipient a financial assistance award in the amount of \$23,693,665 (hereinafter called "Award Amount") to assist in financing the design and deployment of a broadband middle mile infrastructure network to serve counties throughout the Northwest Florida Rural Area of Critical Economic Concern and the South Central Rural (hereinafter called "Project"); and

WHEREAS, said Project included the contribution of licensed space on the communications tower located on the real property described in Exhibit "A" attached hereto and incorporated herein (hereinafter with all improvements called "Property") as an in kind asset by Gulf County, Florida, the owner of the Property through January 31, 2017 (the "In Kind Agreement"), subject to renewal; and

WHEREAS, said Project also included the purchase of wireless broadband communications equipment to be installed pursuant to the In Kind Agreement on the tower by Recipient (the "Equipment"); and

WHEREAS, Recipient accepted the Offer Of Award (hereinafter called "Award Agreement") subject to terms and conditions, pursuant to which Recipient covenanted and agreed to comply with the applicable requirements of 15 C.F.R. part 14; and

WHEREAS, the Award Agreement provides the purposes for which the Award Amount may be used and provides, inter alia, that Recipient will not sell, lease, mortgage, or otherwise alienate any right to or interest in the Equipment and In Kind Agreement, or use the Equipment or In Kind Agreement for purposes other than, and different from, those purposes set forth in the Award Agreement and the application made by Recipient therefore (hereinafter called "Project Purposes"), such alienation and use being prohibited by 15 C.F.R. part 14; and

WHEREAS, under the authority of the Act, NTIA is not authorized to permit Recipient to use the In Kind Agreement or Equipment for purposes other than Project Purposes or to lease, transfer, convey, mortgage or hypothecate the Project to any party without prior approval from NTIA, unless NTIA is repaid its share of the market value of the Project, as set forth below;

WHEREAS, Recipient, as Licensee pursuant to the In Kind Agreement and owner of the Equipment and Gulf County, as owner of the real property described in Exhibit "A", attached hereto, have agreed to record this Covenant in the appropriate office for the recording of public records affecting real property so as to constitute notice to all persons of any and all restrictions on title to and use of the Project and all or part of the real property described in Exhibit "A", attached hereto.

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by NTIA and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by both NTIA and Recipient, Recipient hereby covenants and agrees as follows:

1. The estimated useful life of the project is 10 years.
2. Recipient agrees that for the estimated useful life set forth above, Recipient will not sell, transfer, convey, or mortgage any interest in the In Kind Agreement or the Equipment acquired or improved in whole or in part with funds made available through this Award, nor shall Recipient use the In Kind Agreement or Equipment for purposes other than the Project Purposes without the prior written approval of the NTIA Grants Officer, or his/her designee or successor. Such approval may be withheld until such time as Recipient first pays to NTIA the Federal share of the Property as provided in 15 C.F.R. part 14. The Federal share of the value of the Property is that percentage of the current fair market value of the Property attributable to the NTIA's participation in the Project (after deducting actual and reasonable selling and fix-up expenses, if any, incurred to put the property into condition for sale). The Federal share excludes that value of the Property attributable to acquisition or improvements before or after NTIA's participation in the Project and not included in Project costs.
3. Recipient further covenants that in the event the In Kind Agreement or the Equipment is used for purposes other than Project Purposes, or is sold, leased, transferred, conveyed, or mortgaged without the prior written approval of the Grants Officer, Recipient will compensate the Federal Government for the Federal share of the Property as described above and in 15 C.F.R. part 14.

4. Recipient further agrees that, as a prerequisite to accepting the disbursement of any Award funds by NTIA, Recipient shall execute and place on record against the In Kind Agreement and Equipment acquired or improved in whole or in part with the funds made available through this Award, this Covenant of Purpose, Use and Ownership. Recipient further agrees that whenever the property is sold, leased, or otherwise conveyed pursuant to 15 C.F.R. part 14, Recipient or the transferor shall add to the document conveying such interest a Covenant of Purpose, Use and Ownership. NTIA will in its sole discretion determine whether the Covenant is satisfactory. NTIA may require an opinion of counsel for recipient that the Covenant is valid and enforceable according to its terms and has been properly recorded.

5. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the In Kind Agreement and the Equipment given the Federal Interest expressed herein.

6. This covenant shall run with the land.

IN WITNESS WHEREOF, the recipient has hereunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded to NTIA. (The appropriate acknowledgment must be included for recording in Recipient’s jurisdiction.)

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

Witnessed by:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of Florida Rural Broadband Alliance, LLC, a Florida limited liability company, who is known to me personally or provided _____ as proof of identification.

Notary Public: _____
Commission Expires: _____

**LICENSE AGREEMENT FOR
WIRELESS COMMUNICATION EQUIPMENT FACILITIES
(FRH-053 Gulf County Administration Tower)**

This License Agreement is entered into this ____ day of _____, 2012 ("Agreement"), by and between Gulf County Board of County Commissioners, Florida, a political subdivision of the State of Florida, whose address is 1000 Cecil G. Costin Sr. Blvd, Port St Joe, FL 32456, Florida ("Licensor"), and the Florida Rural Broadband Alliance, LLC, a limited liability company, whose local business address is 4636 Highway 90 Suite K, Marianna, FL 32446 ("FRBA" or "Licensee") (collectively, the "Parties").

RECITALS

WHEREAS, Licensor is the fee simple owner of the real property located at 1000 Cecil G. Costin Sr. Blvd, Port St. Joe, Florida (see **Exhibit "A"**), Florida which includes tower(s) ("Tower") and other real property and improvements described in **Exhibit "A"** attached hereto and made a part hereof ("Premises").

WHEREAS, Licensee was created by and made up of two Florida not-for-profit corporations representing the Northwest Florida Rural Area of Critical Economic Concern, which includes Holmes, Washington, Jackson, Gadsden, Liberty, Franklin, Gulf, and Calhoun counties, and the South Central Florida Rural Area of Critical Economic Concern, which includes DeSoto, Hardee, Hendry, Glades, Highlands, and Okeechobee counties, and the community of Immokalee in unincorporated Collier County, for the purpose of applying for federal stimulus grant funding to design, deploy and operate a fixed wireless broadband middle mile network to serve the two regions (the "Network").

WHEREAS, Licensee obtained federal stimulus grant funding pursuant to award #NT10BIX5570122 from the BTOP program (the "Grant") and will use such funds to establish a fixed wireless broadband middle mile network to serve its 15 county service area.

WHEREAS, the federal grant program required all applicants to provide matching funds in the amount of 30% of the total project cost in the form of cash or "in kind" contributions.

WHEREAS, many of the local governments within the FRBA territory agreed to commit the use of towers, buildings and land owned by the members as in kind assets to Licensee to assist in satisfying the matching funds requirement.

WHEREAS, Licensor committed to provide use of space on the Tower for installation of communications facilities by Licensee for a 5 year term without charge, subject to renewal. Licensor is entering into this Agreement to document its intent to make space on the Tower available to Licensee as an in kind asset.

WHEREAS, Licensee desires to obtain a license to the Premises from Licensor in order to locate, install, operate, remove, replace and maintain thereon wireless data communications equipment and enclosures ("Equipment Facilities") as more fully described herein.

WHEREAS, Licensor is willing to license the herein described portion of the Premises to Licensee so that Licensee may install, locate, operate, remove, replace and maintain the Equipment Facilities pursuant to the terms and conditions set forth herein.

WHEREAS, in furtherance thereof, Licensee desires to enter into this Agreement with Licensor pursuant to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party to the other, the parties agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated into and made a part of this Agreement the same as if fully set forth herein.

2. **Premises**. Licensor hereby grants a license to Licensee and Licensee hereby accepts a license from Licensor, a portion of the Premises for use as follows:

(a) 7 feet by 10 feet = 70 Total Sq. Ft. of ground space (the "Ground Space") for placement of an equipment cabinet or shelter

(b) Together with space on the Tower for Equipment Facilities as follows:

- up to four (4) panel antennas, each not to exceed 36" x 13" (L x W), plus one (1) feed line for each antenna, each not to exceed 1/2" in diameter
- up to three (3) microwave dishes, with a combined diameter not to exceed 10', plus one (1) feed line for each dish, each not to exceed 1/2" in diameter
- All tower-mounted equipment shall installed at the same centerline on the tower at approximately 145 feet as described in **Exhibit "B"**.

(c) Tower space required for cable runs to connect equipment and antennas to one another and to ground facilities.

(d) Together with a right of access over, across, through, and under the property and improvements for so long as this Agreement remains in existence.

3. **Term**. The initial term ("Initial Term") of this Agreement shall be five (5) years, commencing on the date hereof ("Commencement Date") and ending on January 31, 2017 ("Expiration Date"), unless sooner terminated, modified or extended under the terms of this Agreement or by the mutual consent of the parties.

Upon expiration of the Initial Term, by mutual written agreement of the parties, the Agreement may be renewed for an additional five year term subject to the terms, including any proposed fees or exchange of service, agreed upon by the parties at that time ("Renewal Term").

4. **Consideration.**

(A) **In-Kind Donation for Initial Term of Agreement.** The Parties acknowledge that for the Initial Term of this Agreement, Licenser has agreed to donate the use of the Ground Space and Tower Space on the Premises, as identified herein, to Licensee as an in-kind asset contribution (the "In Kind Contribution"). The Parties hereby agree that the current market value of the In Kind Contribution is valued at \$2,250 per month. The parties acknowledge that for the period from the Commencement Date through July 31, 2013 this Agreement shall be included within the Matching Inventory for the FRBA grant funded project and shall be subject to all restrictions associated with such grant.

(B) Licensee agrees to pay its pro-rata share of any common expenses shared by Licenser, Licensee, and any other entities leasing space on the Tower or adjacent grounds, such as common costs associated with operation of the Tower.

5. **Use of Premises.** Licensee is authorized to locate, install, replace, operate, repair, maintain, and remove all of Licensee's Equipment Facilities located within the Premises, both on the Ground Space and on the Tower, as provided herein:

(A) **Ground Space Facilities.** Licensee is authorized to construct, install, replace, upgrade, operate, repair, maintain, and remove Licensee's Equipment Facilities located on the Ground Space within the Premises for the transmission, reception and operation of Licensee's wireless communications system and uses incidental thereto. All Equipment Facilities located on the Ground Space shall be constructed or installed on a concrete pad to be constructed within the Premises at Licensee's sole cost and expense.

(B) **Tower Equipment Facilities.**

(i) Licensee is authorized to install, replace, upgrade, operate, repair, maintain, and remove such equipment and facilities as described and specified in Section 2, on the Tower for the purposes of transmitting and receiving wireless data communication signals.

(ii) Licensee's Equipment Facilities located on the Tower shall be installed on the Tower at the location agreed upon by the parties. If, however, installation at such location becomes impossible for any reason, the Parties may agree to an alternate, equivalent location, so long as such location is no less than 100 feet above the ground.

(iii) All Equipment Facilities located on the Tower shall be attached or installed in the same manner as other equipment installed on the Tower.

(C) All Equipment Facilities, whether installed on the Ground Space or on the Tower, shall be and remain Licensee's personal property throughout the Initial Term and any renewal Terms of this Agreement.

6. **Improvements.**

(A) Licensee shall improve the Premises by constructing on the Ground Space a concrete pad with dimensions of no more than 7 feet by 10 feet, upon which Licensee will locate its ground Equipment Facilities. In addition, Licensee shall have access to an additional area

necessary to provide installation of a grounding ring 10 inches around the concrete pad. As part of the construction and continuing maintenance of the Ground Space, Licensee shall ensure that such facilities are properly installed.

After completion of installation of the Equipment Facilities, should Licensee desire to make any material changes to the facilities, Licensee shall obtain the approval of Licensor. A material change does not include additions to, replacements, upgrades or alterations of, any Equipment Facilities in whole or in part (a) within the confines of the licensed space or (b) to the extent attached to the Tower, if the resulting replacement, upgrade or alteration is of substantially the same or lesser size, weight, wind and structural loading. All additions, replacements, upgrades, material and non-material alterations remain subject to all other provisions of this Agreement. Notice of any non-material alterations of any Equipment Facilities will be provided by Licensee to Licensor within 5 days of commencing installation or repair.

(B) Licensee shall obtain all licenses, permits, and approvals from applicable governmental and/or regulatory authorities having jurisdiction, as may be required for the construction, installation, and operation of its improvements and Equipment Facilities. In the event zoning approval is necessary from a governmental authority, Licensor agrees to work with Licensee as necessary to obtain such zoning approval.

(C) Licensee shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Licensee.

(D) Licensee may update or replace the Equipment Facilities from time to time, in accordance with the terms of the Agreement.

(E) Licensor shall not be required to make any repairs or improvements to the Premises. Licensee shall be responsible for all costs associated with its use and operation of the Premises.

7. **Fitness for Use**. Licensor makes no representations or warranties as to (i) the fitness of the Premises for the use intended by Licensee; (ii) the use or zoning of surrounding properties and its suitability for Licensee's use; or (iii) any other matters related to the use of the Premises.

8. **Interference**.

(A) **Interference by Licensee's Equipment Facilities**.

(i) Licensee's Equipment Facilities shall not cause interference with any of Licensor's communication facilities, including facilities used for providing public safety services, or any prior user's facilities. If Licensee or Licensor determines, using reasonable discretion based on standard and accepted engineering practices, that Licensee's Equipment Facilities are causing interference to the installations of Licensor or a prior user, Licensee shall, within 5 business days of notification from Licensor, commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing Licensee's operations, so long as such interference does not impact Licensor's communication systems, in which case Licensee shall immediately cease operations until the interference is resolved. If Licensee cannot mitigate or eliminate such interference within the 5 business-day period, Licensor may require that Licensee turn off or power down its interfering Equipment Facilities and only power up or

use such Equipment Facilities during off-peak hours specified by Licensor in order to test whether such interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such interference within 30 days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Equipment Facilities.

(B) Interference with Licensee's Equipment Facilities.

(i) Licensor agrees to take reasonable efforts to prohibit a subsequent user of the Tower from causing interference with the operations of Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a subsequent user's equipment is causing interference to the installations of Licensee, upon Licensee's request, Licensor shall within 48 hours commence such actions as are necessary to mitigate or eliminate the interference, with the exception of ceasing subsequent user's operations.

(ii) Notwithstanding the foregoing, if another user of the Tower is a governmental entity, Licensor shall give such governmental entity written notice of the interference within 5 business days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity 5 business days, or more as specified in the governmental site or occupancy agreement or as required by applicable law, from the receipt of such notice prior to Licensor being required to take any actions to cure such interference.

(C) Priority. The Parties acknowledge that priority with regard to protection from interference shall be based on priority of occupancy. Prior users of the Tower shall be protected from interference by Licensor subject to the terms of this section, whereas users in place subsequent to Licensee shall not be protected. Licensee recognizes that in the event it modifies, replaces, or upgrades its Equipment Facilities in such a manner that the frequencies authorized herein are modified, it shall lose its priority position with respect to other users in place as of the date it modifies, replaces, or upgrades the Equipment Facilities and frequencies.

(D) AM Detuning. The parties acknowledge that the FCC Rules and Regulations govern the obligations of Licensee with respect to the operation of the Equipment Facilities. Consequently, the provisions set forth in this Agreement are expressly subject to the FCC Rules and Regulations. Licensee agrees, at Licensee's sole cost, to comply with the foregoing as well as any and all other FCC Rules, Regulations and public guidance relating to AM detuning as such provisions currently exist or are hereafter modified. Licensee shall be fully responsible for any pre- or post-installation testing for AM interference at the Tower and for the installation of any new detuning apparatus or the adjustment of any existing detuning apparatus that may be necessary to prevent adverse effects on the radiation pattern of any AM station caused by the installation of the Equipment Facilities. Licensee shall provide Licensor with written proof of such compliance. In the event that Licensee determines that pre- or post-installation testing for AM interference is not required at the Tower, such a determination shall be at Licensee's sole risk. If Licensee or Licensor receive a complaint of interference from an AM broadcast station after the Equipment Facilities are added to the Tower or the Tower is modified to accommodate Licensee, Licensee shall eliminate such interference within 30 calendar days of the receipt of such complaint. Licensee's failure to eliminate the interference within such 30 day period shall constitute a default under this Agreement and Licensor shall have the right to eliminate the interference at Licensee's expense. Licensee further agrees to indemnify Licensor in the event that Licensee's failure to comply with the FCC Rules and Regulations prior to installation or

modification of the Equipment Facilities results in any administrative investigation, proceeding or adjudication with respect to Licensor.

9. **Emissions.** If antenna power output ("RF Emissions") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("MPE") limits, or if the Tower otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Equipment Facilities which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other Licensees of the Tower to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other Licensees of the Tower within 30 days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits. Modifications to Licensee's Equipment Facilities required to address RF Emission standards, shall have no effect on Licensee's priority with regard to interference.

10. **Repairs and Maintenance to Premises.**

(A) Except as otherwise provided herein, Licensee shall have sole responsibility for the maintenance, repair and security of the Equipment Facilities and Ground Space, and shall keep the same in good repair and condition during the Initial Term of the Agreement and any renewal terms.

(B) Licensee shall keep the Premises free of debris and any dangerous, noxious or offensive matter that would create a hazard or undue vibration, heat, noise or signal interference.

(C) In order to minimize disruption to the surrounding area, normal maintenance and repair to the Equipment Facilities shall be restricted to the hours of 7:00 a.m. to 8:00 p.m., Monday through Friday, excluding legal holidays. Emergency maintenance and repairs to the Equipment Facilities may be conducted at any reasonably necessary time. Licensee shall notify Licensor as soon as reasonably practicable regarding off-hour emergency maintenance and repair activities on the Premises.

11. **Replacement or Removal of Tower and Relocation or Removal of Equipment Facilities.**

(A) **Replacement of Tower.** Licensor may, in its sole discretion, replace or rebuild the Tower or a portion thereof. Such replacement will be at Licensor's cost and not result in an interruption of Licensee's wireless communications services beyond that which is necessary to replace the new Tower. If Licensee, in Licensee's reasonable discretion, cannot operate the Equipment Facilities from the existing Tower during such replacement or rebuild of the Tower, Licensee may establish, at Licensee's sole cost, a temporary facility on the Tower to provide such

services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. Rent due, if any, shall be abated for any period during which Licensee is prevented from broadcasting from the existing Tower due to such replacement or relocation. At the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of each Party to the new Tower Facility.

(B) Removal of Tower. If, during the term of this Agreement, Licensor determines based on engineering structural standards generally applied to communications towers that the Tower is or has become structurally unsound such that pursuant to generally accepted industry safety standards the Tower or a portion thereof must be removed, then, upon 90 days prior written notice to Licensee, Licensor may, in its sole discretion either remove the Tower and terminate this Agreement effective as of the date of such removal, or modify the Tower and relocate Licensee's Equipment Facilities to an alternate location on the modified Tower. If Licensee and Licensor are not able to agree on an alternate location on the modified Tower for the installation of Licensee's Equipment Facilities within the 90 day notice period, then Licensee or Licensor may elect to terminate the Agreement.

(C) Relocation of Equipment Facilities. In the event another Licensee of the Tower and adjacent real property desires to occupy the space on the ground or Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Equipment Facilities are then located, Licensor reserves the right to require Licensee to relocate the Equipment Facilities located on the Tower or adjacent real property to another mutually agreeable location, if available, at Licensee's cost and expense. If no mutually agreeable location is available, Licensor agrees that no relocation of Licensee's Equipment Facilities will be required, during the Initial Term of the Agreement. Subsequent to the Initial Term, Licensor may notify Licensee in writing that the relocation is necessary, and if other spaces on the ground or space or antenna mount heights on the Tower are available to accommodate Licensee's Equipment Facilities (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or antenna mount heights are available whether or not such spaces are agreeable to Licensee.

(D) Removal of Equipment Facilities upon Termination. Upon the expiration or earlier termination of this Agreement as provided herein Licensee shall remove the Equipment Facilities from the Premises and the licensed area on the Tower at its sole cost and expense. Upon Licensee's removal of the Equipment Facilities, Licensee shall restore the affected portion of the Premises to the condition as it existed prior to the Commencement Date, subject to normal wear and tear. In the alternate Licensor may request that Licensee leave the Equipment Facilities and Ground Space pad, less Licensee's personal property, including moveable equipment, "AS IS" for Licensor's use, in which case ownership of the Equipment Facilities and Ground Space area pad shall become the property of Licensor upon expiration of the Agreement, without further action on the part of either party.

12. Taxes and Fees.

(A) To the extent any utility fees, assessments, or other governmental charges related to the Premises and Equipment Facilities are validly imposed, Licensee will pay to the appropriate entity all such fees, assessments, or other charges that may arise or are incurred for or during the Initial Term and any renewal terms, in a timely manner, before they are delinquent.

(B) Licensee shall have the right to contest the validity or the amount of any charges, assessments, or fees by appellate or other proceedings as may be appropriate in the jurisdiction, and may, if applicable, defer payment of such obligations if payment would operate as a bar to contest, and, if applicable, pay same under protest, or take such other steps as Licensee may deem appropriate, provided, however, that Licensee indemnifies and holds harmless Licensor from any expense (including reasonable attorney's fees for trial, appellate, bankruptcy and administrative proceedings) liability and loss arising out of such contest and pursues such contest in good faith with due diligence, posting any bond or security required by law in connection with the contest, giving Licensor written notice of its intention to contest, taking no action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Premises or Equipment Facilities. Licensor shall cooperate in the institution and prosecution of any proceedings initiated by Licensee and shall execute any documents reasonably required to be executed and make any appearances, which Licensor may reasonably be required to make in connection with such proceedings. Licensee shall be entitled to receive all refunds from the appropriate governmental entities attributable to the Premises, the Ground Space or Equipment Facilities for any period for which Licensee has paid such fees, assessments, or charges. If no refund shall be secured in any proceeding, the party instituting the proceeding shall bear the entire cost, or if Licensor institutes the proceeding at Licensee's request, Licensee shall bear the entire cost.

(C) Should, during the Initial Term or any renewal term of this Agreement, a new or otherwise modified tax, fee, charge, or assessment be imposed on, or for the use of or otherwise related to the Premises or Equipment Facilities, or should Licensee's tax-exempt status change, Licensee shall also pay those taxes when due to the appropriate taxing authority, as required by law.

(D) Should Licensee fail, refuse or neglect to pay any required tax or other charges under this section, after receipt of written notice that same have not been paid, Licensor may pay them. On Licensor's demand, Licensee will repay Licensor all amounts thus paid, plus expenses and attorneys' fees reasonably incurred in connection with such payments, plus interest on all amounts at the highest rate allowed by law. On the day Licensor demands repayment or reimbursement from Licensee, Licensor is entitled to collect or enforce these payments in the same manner as a payment of Base Rent. Licensee's election to pay the taxes will not act as a waiver of a default for failure to pay same.

13. **Utilities.** Licensee shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its Equipment Facilities, and shall timely pay all costs associated therewith. Licensee shall have the right to obtain separate utility service from any licensed utility company that will provide such service to the Premises. Licensee may also provide power to the Premises through a standby power generator for Licensee's exclusive use. Licensee covenants that it shall use its best effort to cause the utilities to be installed underground. Licensor agrees to grant utility easements to such utility companies as may be needed to operate and maintain the utility facilities serving the Equipment Facilities.

14. **Permits.** Licensee's use of the Premises is contingent upon its obtaining all certificates, permits, zoning and other approvals that may be required by any federal, state or local authority. Licensor, as the owner of the Premises and not in its capacity as a governmental or regulatory body, agrees to cooperate with Licensee, at Licensee's expense, in applying for and obtaining all licenses, permits, and other necessary approvals required for Licensee's installation and operation of the Equipment Facilities on the Premises. Licensee shall erect, maintain and operate the Equipment Facilities in accordance with site standards, state statutes,

ordinances, rules and regulations issued by the FCC or any other governing bodies. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Licensee's responsibility.

15. **Signs/Graffiti**. Licensee may place signs on the Premises designating the owner of the improvements and wireless communication facilities within the Premises, subject to applicable governmental regulations, including any applicable signage requirements relating to Licensee's federal grant included in the Federal Grant Restrictions section of this Agreement. Licensee shall remove any unauthorized signs or graffiti within a reasonable time, but no later than five (5) days after receipt of written notice from Licensor requesting such removal. If Licensee fails to remove such signs or graffiti after such notice, then Licensor may enter the Premises and undertake any activities necessary to abate or remove graffiti or any unauthorized signage located therein. Licensee shall reimburse Licensor all costs incurred by Licensor for the abatement or renewal of such graffiti or unauthorized signage within thirty (30) days of Licensor's presenting Licensee with a statement of such costs.

16. **Access**. Beginning on the Commencement Date, subject to Licensee's faithful performance of Licensee's covenants and conditions herein contained, Licensor shall deliver to Licensee the right to enter the Premises, subject to the easements, covenants and restrictions of record. Licensor and Licensor's agents are entitled, however, to enter the Premises at all reasonable times to inspect and examine their condition and use.

17. **Default and Remedies**.

(A) Each of the following events shall be an event of default hereunder by Licensee ("Licensee's Default") and shall constitute a default of this Agreement:

(i) Whenever Licensee shall fail to pay any installment of a required payment, if any, within fifteen (fifteen) days after it comes due or whenever Licensee shall fail to pay any other sum payable by Licensee to Licensor or other appropriate governmental entity within fifteen (15) days after receipt of written notice from Licensor that same is due;

(ii) If Licensee fails to comply with the insurance requirements contained herein, and if such failure to pay or comply with the insurance requirements shall continue for fifteen (15) days after Licensor delivers to Licensee a written Notice of Licensee's Default specifying same;

(iii) Whenever Licensee shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensee herein contained or contrary to any of Licensee's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensee's obligations under this Agreement, and Licensee shall fail to remedy the same within thirty (30) days after Licensor shall have given Licensee a written Notice of Licensee's Default specifying same; provided, however, that if the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, Licensee shall have such time as is reasonably necessary to remedy the default, provided Licensee promptly takes and diligently pursues such actions as are necessary therefore;

(B) Upon the occurrence of any Licensee's Default, which is not cured within any applicable notice and cure period, Licensor shall have all remedies allowed by law or in equity,

from time to time during the Initial Term or any renewal term, and also Licensor may give to Licensee a notice of Licensor's intent to end the Term on a day not less than thirty (30) days after Licensee's receipt of such notice ("Licensor's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon Licensor's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensee under this Agreement shall expire and terminate, or in the alternative Licensor may take possession of the Premises without terminating the Agreement, in which event Licensee shall remain liable for damages as allowed by law.

(C) It shall be an event of default by Licensor ("Licensor's Event of Default") whenever Licensor shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Licensor herein contained or contrary to any of Licensor's obligations under this Agreement, or shall fail in the keeping or performance of any of Licensor's obligations under this Agreement, which Licensor fails to remedy within thirty (30) days after Licensee has given Licensor written notice specifying the same.

(D) Upon the occurrence of a Licensor's Event of Default, which is not remedied within thirty (30) days of receipt of notice from Licensee, Licensee may (i) give to Licensor a notice of Licensee's intent to end the Term on a day not less than thirty (30) days after Licensor's receipt of such notice ("Licensee's Termination Date"), and this Agreement and the term and estate hereby granted shall expire and terminate upon the Licensee's Termination Date as fully and completely and with the same force and effect as if the day so specified were the Agreement Expiration Date, and all rights of Licensor under this Agreement shall expire and terminate or Licensee may institute proceedings for specific performance of this Agreement.

18. Termination.

(A) In addition to the other termination rights of the parties otherwise provided herein, this Agreement may be terminated (i) by either Party if Licensee is unable to obtain or maintain any license, permit or other governmental approval necessary for the construction, installation or operation of the Equipment Facilities within one hundred eighty (180) days from the execution of this Agreement; (ii) by Licensee upon thirty (30) days prior, written notice to Licensor if the Premises are not appropriate for Licensee's operations for economic or technological reasons, including, but not limited to signal interference; (iii) by Licensee upon thirty (30) days prior, written notice to Licensor if Licensee is unable to operate the Equipment Facilities on the Premises either due to the action of any regulatory agency which results in Licensee's inability to utilize the Tower; (iv) by Licensee if it determines, in its sole discretion, that the Tower is structurally unsound or otherwise not suitable for Licensee's use, including, but not limited to, consideration of age of the structure, damage or destruction of all or part of the Tower from any source, or factors relating to condition of the Tower, however, Licensor shall first be afforded an opportunity to improve the Tower; (v) by Licensor if it determines, in its sole discretion, that continued use of the Tower by Licensee is a threat to the public health, safety or welfare or violates applicable laws or ordinances, or; (vi) as otherwise provided in this Agreement.

(B) Upon the termination of this Agreement, removal of the Equipment Facilities shall be governed by Section 7 hereof.

(C) Notice of termination pursuant to this section shall be given in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice. In the event of

termination, Licensor shall prorate and return to Licensee any unearned Rent paid prior to the Termination Date.

(D) The Parties acknowledge that the License granted pursuant to this Agreement is irrevocable for the term of the Agreement so long as both parties perform their obligations in accordance with the provisions herein.

19. **Condemnation or Destruction.**

(A) **Condemnation.** In the event the Premises are taken by eminent domain, this Agreement shall automatically terminate as of the date title to the Premises vests in the condemning authority. In the event of any taking under the power of eminent domain, Licensee shall not be entitled to any portion of the award paid for the taking, and Licensee hereby expressly waives any right or claim to any portion thereof and all such damages shall belong to Licensor. Although all damages, whether awarded as compensation for diminution in value of the license or to the fee of the Premises, shall belong to Licensor, Licensee shall have the right to claim and recover from the condemning authority, but not from Licensor, such compensation as may be separately awarded or recoverable by Licensee for diminution in value of the Equipment Facilities, any and all damage to Licensee's business and any costs or expenses incurred by Licensee in moving or removing the Equipment Facilities. Licensor will inform Licensee of the commencement of any eminent domain proceedings by any governmental authority.

(B) **Destruction.** In the event the Premises, including the Tower, are destroyed or damaged so as to materially interfere with Licensee's effective use thereof through no fault of the Licensee, Licensor shall have the option of restoring or repairing the damaged portions of the Premises. If Licensor fails to take steps to repair the damages within thirty (30) days or such other reasonable time, Licensee will be entitled to terminate this Agreement as of the date the Premises became unusable, and Licensee shall be entitled to a return of any unearned Basic Payments. If Licensor opts to repair or restore the Premises, any applicable Consideration due from Licensee shall be abated on a pro rata basis per day during such repair or reconstruction. Licensor shall have no obligation to reconstruct or repair any damage to the Equipment Facilities.

20. **Indemnification.**

(A) Neither Party shall be liable for injury or damage occurring to any person or property arising out of the other Party's use of the Premises.

(B) The following indemnification shall not apply to any claims, actions, damages, obligations, liabilities and liens arising from the sole negligence or intentional misconduct of either Party, and shall survive termination of this Agreement. The indemnifying Party shall, at its sole cost and expense, indemnify, defend and hold harmless the other Party, its representatives, agents, employees and elected and appointed officials from and against:

(i) Any and all liability, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the party being indemnified by reason of any act or omission of the indemnifying Party, its personnel, employees, agents, contractors or subcontractors, resulting in property damage, bodily injury or death to any person, or any other right of

any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises and Equipment Facilities, or any failure to comply with any federal, state, or local statute, ordinance or regulation.

(ii) Any and all liabilities, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the indemnified Party by reason of any claim or lien arising out of work, labor, materials, or supplies provided or supplied to the indemnifying Party, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises or Equipment Facilities, which the indemnified Party, upon written request, shall cause to be discharged within thirty (30) days following such request.

(C) Nothing in this Agreement shall be construed to affect in any way the Licensor's or Licensee's rights, privileges and immunities as set forth in Section 768.28, Florida Statutes. Provided, however, such rights shall only extend to Licensor and Licensee as political subdivisions of the State of Florida and shall not be extended to any non-governmental sub-Licensee, successor or assign of either Party.

(D) In the event any action or proceeding shall be brought against Licensor by reason of any matter for which Licensor is indemnified hereunder, Licensee shall, upon notice from Licensor, at Licensee's sole cost and expense, defend the same; provided however, that Licensee shall not admit liability in any such matter on behalf of Licensor without the written consent of Licensor and provided further that Licensor shall not admit liability for, nor enter into any compromise or settlement of, any claim for which it is indemnified hereunder, without the prior written consent of Licensee.

(E) Licensor shall give Licensee prompt notice of any claim or the commencement of any action, suit or other proceeding related to or described in paragraph (B) above. Nothing herein shall be deemed to prevent Licensor from participating in the defense of any litigation by Licensor's own counsel. Licensee shall pay all expenses incurred by Licensor in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Licensor's attorney, and the actual expenses of Licensor's agents, employees or expert witnesses, and disbursements and liabilities assumed by Licensor in connection with such suits, actions or proceedings but shall not include attorneys fees for services that are unnecessarily duplicative of services provided Licensor by Licensee.

21. **Insurance.** During the term of the Agreement, Licensee shall maintain in full force and effect and at its sole cost and expense, the following types and limits of insurance:

(A) Commercial general liability insurance with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability.

(B) Automobile liability insurance covering all owned, hired and non-owned vehicles in use by Licensee, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law.

(C) Workers' compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

(D) At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering the antennae facilities and other Equipment Facilities. Upon completion of the installation of the Equipment Facilities, Licensee shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance thereon. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(E) As an alternative to the foregoing liability insurance requirements, Licensee may provide such insurance through a self-insurance fund sufficient to cover the liabilities mentioned above provided that Licensee shall furnish Licensor with a copy of the self-insurance plan and an independent expert opinion that the self-insurance plan and funding are actuarially sound.

22. Insurance Administration.

(A) All policies other than those for Workers' Compensation shall be written on an occurrence and not on a claims-made basis.

(B) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

(C) Licensor shall be named as an additional insured on all Licensee insurance policies to the fullest extent allowed by the insurers.

(D) Certificates of insurance evidencing that all required insurance coverage shall be filed and maintained with Licensor annually during the Term of the Agreement, and must be received by Licensor at least fifteen (15) days prior to the Initial Term and any renewal terms. Licensee shall immediately advise Licensor of any claim or litigation that may result in liability to Licensor.

(E) All insurance shall be evidenced by valid and enforceable policies, issued by insurers licensed to do business by the State of Florida or surplus line carriers on the State of Florida Insurance Commissioner's approved list of companies qualified to do business in the State of Florida. All insurance carriers and surplus line carriers shall be rated A- or better by A.M. Best Company.

(F) The insurance certificates shall specify the deductibles for each type of insurance required by this Agreement, except Workers' Compensation insurance. Licensee agrees to indemnify and save harmless Licensor from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Agreement.

(G) Licensee shall require each and every contractor and its subcontractors who install the Equipment Facilities or any other components of its wireless communication facilities, or perform work thereon, to carry, in full force and effect, workers' compensation, commercial general liability and automobile liability insurance coverage of the types, which Licensee is

required to obtain under the terms of this section, with appropriate limits of insurance, and which name Licensor as an additional insured.

(H) If Licensee fails to obtain or maintain insurance coverage sufficient to meet the terms and conditions of this Agreement, then Licensor may immediately terminate this Agreement.

23. **Hazardous Material Indemnification.**

(A) Licensee represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

(B) "Hazardous Material" shall mean any petroleum or petroleum products, asbestos, any substance known to cause cancer and/or reproductive toxicity, and/or any substance, material, chemical or waste defined or designated as hazardous, toxic, dangerous, radioactive or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

(C) Licensor represents and warrants that it will not generate, use, transport, store or dispose of any Hazardous Material, on or about the Premises in violation of any applicable statute, regulation, rule, law or ordinance.

24. **RF Exposure.** Licensee agrees to reduce power or suspend operation of its Equipment Facilities if necessary and upon reasonable notice to prevent exposure of workers or the public to RF radiation in excess of the then-existing regulatory standards.

25. **Acceptance of Premises.** By execution of this Agreement, Licensee accepts the Premises in the condition existing as of the Commencement Date. Licensor makes no representation or warranty with respect to the condition of the Premises and Licensor shall not be liable for any latent or patent defect in the Premises.

26. **Estoppel Certificate.** Either Party shall at any time and from time to time upon not less than ten (10) days prior request by the other party delivery to the requesting party a statement in writing certifying that (i) the Agreement is unmodified and in full force (or if there have been modifications, that the Agreement is in full force as modified and identifying the modifications); (ii) the dates to which any applicable Rent has been paid; (iii) the party requesting the estoppel certificate is not in default under any provisions of the Agreement; and (iv) such other matters as the party may reasonably request.

27. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Licensor, to:

Gulf County Board of County Commissioners
1000 CG Costin Sr. Blvd
Port St. Joe, Florida 32456

with a copy to: Jeremy Novak, County Attorney
1000 CG Costin Sr. Blvd
Port St. Joe, Florida 32456

If to Licensee, to: Richard Marcum, Managing Member
Florida Rural Broadband Alliance, LLC
4636 Highway 90, Suite K
Marianna, Florida 32446

with a copy to: Crystalyn R. Carey, General Counsel
Jeff Goodman, P.A.
935 Main Street
Chipley, Florida 32428

28. **Assignment, Sublicensing and Third-Party Use.** Licensee shall not assign this Agreement in whole or in part, or sublicense all or any part of the Premises or otherwise allow any third parties to use any part of the Premises without Licensor's prior written consent, not to be unreasonably withheld, conditioned or delayed. If Licensor approves an assignment, sublicense, or third-party use, Licensor shall be a party to such assignment, sublicense, or use agreement between Licensee and third party.

29. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties, their respective heirs, successors and assigns.

30. **Force Majeure.** If a Party is delayed or prevented from the performance of its obligations under this Agreement by reason of earthquakes, landslides, strikes, lockouts, power failure, riots, war, acts of God or other reasons of similar nature, not the fault of the Party delayed in performing its obligations, such Party is excused from such performance of the period of delay. The period for the performance of any such act shall then be extended for the period of such delay.

31. **Holding Over.** Any holding over after the expiration of the final renewal term hereof, with the consent of Licensor, shall be construed to be an annual tenancy, rented at a rate equal to the annual rental rate provided for herein.

32. **Miscellaneous.**

(A) The Parties represent that each, respectively, has full right, power and authority to execute this Agreement.

(B) This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all offers, negotiations and other agreements of any kind. There are no representations or understandings of any kind not set forth herein with respect to the subject matter hereof. Any modification of or amendment to this Agreement must be in writing and executed by both parties.

(C) This Agreement shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising from this Agreement shall be Leon County, Florida. The prevailing party in any action to enforce the provisions of this Agreement shall be entitled to recover reasonable attorney's fees.

(D) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(E) Licenser warrants that it owns the Premises in fee simple free and clear of any liens, encumbrances and restrictions that would prevent Licenser from leasing the Premises to Licensee subject to the terms of this Agreement, and upon Licensee's compliance with all terms, conditions and obligations of this Agreement imposed upon Licensee, Licensee shall be entitled to quiet and peaceful enjoyment of the Premises.

(F) By execution of this Agreement, the parties acknowledge that this Agreement is subject to and agree to comply with all applicable terms and conditions of Grant #NT10BIX5570122. Licenser further acknowledges that it is subject to the special grant award conditions outlined herein.

33. Federal Grant Restrictions.

(A) **Debarment.** Licenser certifies that it is eligible to receive state and federally funded contracts. Licenser also certifies that no party, which is debarred from such contracts, will be subcontracted to perform services under this Agreement.

(B) **Signage.** As required by the terms of the Stimulus Act and the Grant, Licensee shall have the right to erect signage at the Site to comply with the stimulus act signage requirements.

(C) **Covenant of Purpose, Use and Ownership and UCC Filings.** In compliance with the requirements of the Grant, Licenser consents to the recording of a Covenant of Purpose, Use and Ownership for the Site in the Public Records of the County. The Covenant of Purpose, Use and Ownership will be in substantially the form of **Exhibit "C"** attached hereto. In addition, Licensee shall record any other documents, such as UCC Financing Statements as may be required to comply with the Grant. All such filings shall apply only to Equipment owned by Licensee and shall not be an encumbrance on the land or other equipment installed on the tower.

(D) **Federal Audits and Inspections.** Licenser will cooperate in any audit or inspection of Licensee's network, assets, equipment installation or operations required for or on behalf of Licensee, the Department of Commerce, the NTIA, NOAA, the Office of the Inspector General or any other state or federal agency with jurisdiction over the BTOP grant. Licenser understands that such audits and inspections may include contracts paid with grant funds such as the Agreement. Licenser understands it is responsible for maintaining documentation pursuant to this Agreement. All access rights to the Site granted to Licensee hereunder shall also extend to any such federal inspectors or auditors.

SIGNATURES APPEAR ON FOLLOWING PAGE

GULF COUNTY, FLORIDA

Warren Yeager Jr., Chair

Date:

Attest:

Clerk

Approved as to form and substance by:

Attorney

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

WITNESSES:

Print Name: _____

Print Name: _____

Approved as to form and substance by:

Crystalyn R. Carey, General Counsel

EXHIBIT A

PROPERTY DESCRIPTION(s)

PARCEL ID: 04589-000R
1000 CG Costin Sr. Blvd. Post St. Joe. Florida

**S 1 T 8 R 11 44.706 ACRES REC'D ORB 24/808 (BEING COURT HOUSE & JAIL
MOSQUITO CONTROL BLDG, AMBULANCE BLDG, EMERGEN- CY COMMUNICATIONS
TOWER, LIBRARY, SEARCH & RESCUE (SHED & DOG POUND) MAP# 50A SITE LOC
FOR DOG POUND 1007 10TH ST**

EXHIBIT B

Tower and Equipment Detail

Latitude: 29.8145528

Longitude: -85.2885611

Frequency and dish sizes: 11 GHz 6' & 11 GHz 6'

Equipment Height: 145

EXHIBIT C

PREPARED BY AND RETURN TO:

Crystalyn Carey, Esq.
 Jeff Goodman, P.A.
 935 Main Street
 Chipley, Florida 32428

COVENANT OF PURPOSE, USE AND OWNERSHIP

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP dated this ____ day of _____ by and between the Florida Rural Broadband Alliance, LLC, a Florida limited liability corporation, whose address is 4636 Highway 90, Suite K, Marianna, Florida 32446 (hereinafter with its successors and assigns called "Recipient"); and the NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, UNITED STATES OF AMERICA DEPARTMENT OF COMMERCE, whose address is Herbert C. Hoover Building (HCHB), U.S. Department of Commerce / NTIA, 1401 Constitution Avenue, N.W., Washington, D.C. 20230 (hereinafter with successors and assigns called "NTIA"):

RECITALS:

WHEREAS, Recipient submitted an application, designated as BTOP Award No. #NT10BIX5570122, for financial assistance pursuant to the Broadband Technology Opportunities Program created pursuant to the American Recovery and Reinvestment Act of 2009 (hereinafter the "Act"); and

WHEREAS, by offer of Award, dated August 1, 2010, NTIA offered to Recipient a financial assistance award in the amount of \$23,693,665 (hereinafter called "Award Amount") to assist in financing the design and deployment of a broadband middle mile infrastructure network to serve counties throughout the Northwest Florida Rural Area of Critical Economic Concern and the South Central Rural (hereinafter called "Project"); and

WHEREAS, said Project included the contribution of licensed space on the communications tower located on the real property described in Exhibit "A" attached hereto and incorporated herein (hereinafter with all improvements called "Property") as an in kind asset by Gulf County, Florida, the owner of the Property through January 31, 2017 (the "In Kind Agreement"), subject to renewal; and

WHEREAS, said Project also included the purchase of wireless broadband communications equipment to be installed pursuant to the In Kind Agreement on the tower by Recipient (the "Equipment"); and

WHEREAS, Recipient accepted the Offer Of Award (hereinafter called "Award Agreement") subject to terms and conditions, pursuant to which Recipient covenanted and agreed to comply with the applicable requirements of 15 C.F.R. part 14; and

WHEREAS, the Award Agreement provides the purposes for which the Award Amount may be used and provides, inter alia, that Recipient will not sell, lease, mortgage, or otherwise alienate any right to or interest in the Equipment and In Kind Agreement, or use the Equipment or In Kind Agreement for purposes other than, and different from, those purposes set forth in the Award Agreement and the application made by Recipient therefore (hereinafter called "Project Purposes"), such alienation and use being prohibited by 15 C.F.R. part 14; and

WHEREAS, under the authority of the Act, NTIA is not authorized to permit Recipient to use the In Kind Agreement or Equipment for purposes other than Project Purposes or to lease, transfer, convey, mortgage or hypothecate the Project to any party without prior approval from NTIA, unless NTIA is repaid its share of the market value of the Project, as set forth below;

WHEREAS, Recipient, as Licensee pursuant to the In Kind Agreement and owner of the Equipment and Gulf County, as owner of the real property described in Exhibit "A", attached hereto, have agreed to record this Covenant in the appropriate office for the recording of public records affecting real property so as to constitute notice to all persons of any and all restrictions on title to and use of the Project and all or part of the real property described in Exhibit "A", attached hereto.

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by NTIA and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by both NTIA and Recipient, Recipient hereby covenants and agrees as follows:

1. The estimated useful life of the project is 10 years.
2. Recipient agrees that for the estimated useful life set forth above, Recipient will not sell, transfer, convey, or mortgage any interest in the In Kind Agreement or the Equipment acquired or improved in whole or in part with funds made available through this Award, nor shall Recipient use the In Kind Agreement or Equipment for purposes other than the Project Purposes without the prior written approval of the NTIA Grants Officer, or his/her designee or successor. Such approval may be withheld until such time as Recipient first pays to NTIA the Federal share of the Property as provided in 15 C.F.R. part 14. The Federal share of the value of the Property is that percentage of the current fair market value of the Property attributable to the NTIA's participation in the Project (after deducting actual and reasonable selling and fix-up expenses, if any, incurred to put the property into condition for sale). The Federal share excludes that value of the Property attributable to acquisition or improvements before or after NTIA's participation in the Project and not included in Project costs.
3. Recipient further covenants that in the event the In Kind Agreement or the Equipment is used for purposes other than Project Purposes, or is sold, leased, transferred, conveyed, or mortgaged without the prior written approval of the Grants Officer, Recipient will compensate the Federal Government for the Federal share of the Property as described above and in 15 C.F.R. part 14.

4. Recipient further agrees that, as a prerequisite to accepting the disbursement of any Award funds by NTIA, Recipient shall execute and place on record against the In Kind Agreement and Equipment acquired or improved in whole or in part with the funds made available through this Award, this Covenant of Purpose, Use and Ownership. Recipient further agrees that whenever the property is sold, leased, or otherwise conveyed pursuant to 15 C.F.R. part 14, Recipient or the transferor shall add to the document conveying such interest a Covenant of Purpose, Use and Ownership. NTIA will in its sole discretion determine whether the Covenant is satisfactory. NTIA may require an opinion of counsel for recipient that the Covenant is valid and enforceable according to its terms and has been properly recorded.

5. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the In Kind Agreement and the Equipment given the Federal Interest expressed herein.

6. This covenant shall run with the land.

IN WITNESS WHEREOF, the recipient has hereunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded to NTIA. (The appropriate acknowledgment must be included for recording in Recipient's jurisdiction.)

FLORIDA RURAL BROADBAND ALLIANCE, LLC

Name: _____
Title: _____

Witnessed by:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of Florida Rural Broadband Alliance, LLC, a Florida limited liability company, who is known to me personally or provided _____ as proof of identification.

Notary Public: _____
Commission Expires: _____

**Amendment 1
to
AGREEMENT FOR CDBG-DRI ACTIVITY DELIVERY SERVICES
GULF COUNTY, FLORIDA**

Gulf County, Florida, and Jordan & Associates agree to the following amendment of the AGREEMENT FOR CDBG-DRI ACTIVITY DELIVERY SERVICES FOR GULF COUNTY, FLORIDA dated July 27, 2010, concerning Grant Activity Delivery Services for Gulf County's Disaster Recovery Community Development Block Grant:

As allowed under Article VI of the above contract, Amendment 1 shall increase the scope of Grant Activity Delivery Services provided by Jordan & Associates, in consideration for additional compensation, in connection with project accomplishments under Gulf County's CDBG Disaster Recovery Enhancement Fund (DREF). Articles I, II, IV and VIII are amended as follows:

Under Article I, the Scope of Services is increased to include Grant Activity Delivery Services relevant to the DEO CDBG DREF Contract No. 12DB-P5-02-33-01-K46. Additional services are listed in Attachment "B-1" to this Amendment.

Under Article II, Compensation for the additional DREF Activity Delivery services as identified in Attachment "B-1". The Client will pay Jordan & Associates the sum of **\$40,000.00**, which is derived from Activity Delivery Services in the following areas: \$26,900.00 for Service Area 1 (Rock Revetment Project) and \$13,100.00 for Service Area 2 (Rehabilitation of Affordable Rental Housing). After the Client's release of funds, the compensation will be paid as invoiced according to the Project progress in each of the Service Areas.

BCC APPROVED
DATE _____ D.C. _____

2012 APR -3 PM 4:50

Under Article IV, the term of contract services provided by Jordan & Associates under DREF shall begin upon the execution of the DREF grant agreement between the Client and the Florida Department of Economic Opportunity (DEO) and shall be completed upon Close Out of the DREF grant contract with DEO.

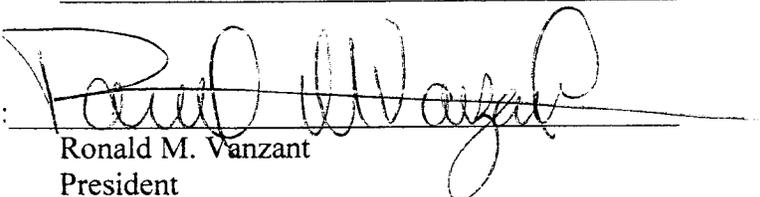
Under Article VIII B, the representative of Jordan & Associates responsible for the administration of this contract is Mr. Ronald M. Vanzant, President.

In all other respects, the terms of the original contract and any earlier amendments remain in effect. If there is a conflict between this amendment and the original contract or any earlier amendment, the terms of this amendment will prevail.

Dated: _____

By: _____
William C. Williams, III
Chairman, Gulf County BOCC

Dated: _____

By: 
Ronald M. Vanzant
President

ATTACHMENT "B-1"

DREF ACTIVITY DELIVERY SERVICES

Jordan & Associates will work with all Project Staff as necessary to accomplish the following **Activity Delivery Services** as part of Gulf County's 2008 CDBG Disaster Recovery Program:

1. Assist with Procurement of Services by establishing and following procedures relating to the procurement and implementation of contractor services pursuant to DEO and HUD requirements and regulations.
2. Request a wage decision for the project.
3. Coordinate with and support engineering firm in the following:
 - A. Request and receive bids.
 - B. Review and evaluate construction bids with Project Staff for eligibility and compliance. Make recommendation for approval to local officials.
 - C. Notify DEO of amount of bid and receive approval from DEO prior to bid award.
 - D. Assist with Contractor Eligibility Verification and contract development if necessary. Supervise execution.
4. Attend pre-construction conference to provide DEO, Section 3, and Davis-Bacon requirements to all parties.
5. During construction review Contractor Pay Requests to insure that all Davis/Bacon Act Federal requirements are met.
6. Review any change orders and make recommendations to the County on each.
7. Conduct and document Contractor Employee Interviews during construction.
8. Coordinate to resolve any problems between the engineer, contractor, and community.
9. Develop or review the Housing Assistance Plan to ensure compliance with DEO requirements for Affordable Housing Rehabilitation (ARH).
10. Identify and qualify Affordable Rental Housing units.
11. Review required eligibility documentation. Assist residents in completing the required eligibility documentation.
12. Review the completed applications. Prioritize the applicants according to the local policy guidelines.
13. Conduct an inspection of the potentially approved units. If suitable for assistance, develop a work write-up and cost estimate for each unit.
14. As cases are developed, obtain owner approval of plans, specifications, and bidders list.
15. Solicit contractors and prequalify for inclusion on the program bidders list. Process will include review of licensure, insurance, credit references, federal eligibility and conflict of interest.
16. Notify bidders of available projects. Conduct a pre-bid walkthrough for each unit.

17. Accept and review bids. Recommend approval.
18. Develop contract documents and owner agreements. Supervise their execution. Record the owner agreements.
19. Coordinate temporary relocation of households, according to the local policy.
20. Issue the notice to proceed to contractors.
21. Monitor contractor performance and compliance with contract requirements. This includes permitting, compliance with federal and state requirements and construction. Inspections of work will be performed on an as needed basis.
22. Assure the owner is satisfied with the construction. Require the contractor to take all reasonable actions to resolve complaints.
23. Issue change orders as necessary.
24. Respond to questions and complaints from citizens, including follow-up on housing rehabilitation workmanship issues.
25. Obtain closeout documents from contractors and owners. Insure that all Release of Liens are properly executed and all documents are in hand before final payment is made.
26. Perform close out activities, including the submission of reports and follow-up.

Gulf County CDBG DREF Activity Delivery Cost Analysis

Based on Lump Sum Fee

Service Area 1 (Rock Revetment)

1. Assist with Procurement of Services by establishing and following procedures relating to the procurement and implementation of contractor services pursuant to DEO and HUD requirements and regulations.
2. Request a wage decision for the project.
3. Coordinate with and support engineering firm in the following:
 - A. Request and receive bids.
 - B. Review and evaluate construction bids with Project Staff for eligibility and compliance. Make recommendation for approval to local officials.
 - C. Notify DEO of amount of bid and receive approval from DEO prior to bid award.
 - D. Assist with Contractor Eligibility Verification and contract development if necessary. Supervise execution.
4. Attend pre-construction conference to provide DEO, Section 3, and Davis-Bacon requirements to all parties.
5. During construction review Contractor Pay Requests to insure that all Davis/Bacon Act Federal requirements are met.
6. Review any change orders and make recommendations to the County on each.
7. Conduct and document Contractor Employee Interviews during construction.
8. Coordinate to resolve any problems between the engineer, contractor, and community.
9. Perform close out activities, including the submission of reports and follow-up.

Total for Service Area 1

\$ 26,900.00

Service Area 2 (Rehabilitation of Affordable Rental Housing)

1. Develop or review the Housing Assistance Plan to ensure compliance with DEO requirements for Affordable Housing Rehabilitation (ARH).
2. Identify and qualify Affordable Rental Housing units.
3. Review required eligibility documentation. Assist residents in completing the required eligibility documentation.
4. Review the completed applications. Prioritize the applicants according to the local policy guidelines.
5. Conduct an inspection of the potentially approved units. If suitable for assistance, develop a work write-up and cost estimate for each unit.
6. As cases are developed, obtain owner approval of plans, specifications, and bidders list.
7. Solicit contractors and prequalify for inclusion on the program bidders list. Process will include review of licensure, insurance, credit references, federal eligibility and conflict of interest.

- 8. Notify bidders of available projects. Conduct a pre-bid walkthrough for each unit.
- 9. Accept and review bids. Recommend approval.
- 10. Develop contract documents and owner agreements. Supervise their execution. Record the owner agreements.
- 11. Coordinate temporary relocation of households, according to the local policy.
- 12. Issue the notice to proceed to contractors.
- 13. Monitor contractor performance and compliance with contract requirements. This includes permitting, compliance with federal and state requirements and construction. Inspections of work will be performed on an as needed basis.
- 14. Assure the owner is satisfied with the construction. Require the contractor to take all reasonable actions to resolve complaints.
- 15. Issue change orders as necessary.
- 16. Respond to questions and complaints from citizens, including follow-up on housing rehabilitation workmanship issues.
- 17. Obtain closeout documents from contractors and owners. Insure that all Release of Liens are properly executed and all documents are in hand before final payment is made.
- 18. Perform close out activities, including the submission of reports and follow-up.

Total for Service Area 2	\$ 13,100.00
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Total Lump Sum Fee for All Service Areas	\$ 40,000.00
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Estimated profit is \$3,300.00

Profit is based on 2 year contract therefore; profit percentage (6-10%) fluctuates according to length of actual project.

Amendment 1
to
AGREEMENT FOR CDBG-DRI ADMINISTRATION SERVICES
GULF COUNTY, FLORIDA

Gulf County, Florida, and Jordan & Associates agree to the following amendment of the AGREEMENT FOR CDBG-DRI ADMINISTRATION SERVICES GULF COUNTY, FLORIDA dated July 27, 2010, concerning Grant Administrative Services for Gulf County's Disaster Recovery Community Development Block Grant:

As allowed under Article VI of the above contract, Amendment 1 shall increase the scope of administrative services provided by Jordan & Associates, in consideration for additional compensation, in connection with project accomplishments under Gulf County's CDBG Disaster Recovery Enhancement Fund (DREF). Articles I, II, IV and VIII are amended as follows:

Under Article I, the Scope of Services is increased to include Administrative Services relevant to the DEO CDBG DREF Contract No. 12DB-P5-02-33-01-K46. Additional services are listed in Attachment "B-1" to this Amendment.

Under Article II, Compensation for the additional DREF Administrative Services as identified in Attachment "B-1". The client agrees to pay Jordan & Associates the sum of \$18,050.00. Not more than \$2,050.00 shall be paid by the Client for Jordan & Associates services performed prior to the release of funds. This payment is for the Environmental Review process. The Client will pay the cost of advertisement associated with the review. After the release of funds, the remaining compensation will be paid in 20 equal monthly payments of \$800.00 or multiple months as invoiced.

BCC APPROVED

DATE _____ D.C. _____

2012 APR -3 PM 1:45
Page 2 of 2 **99**
4-10-12 LL

Under Article IV, the term of contract services provided by Jordan & Associates under DREF shall begin upon the execution of the DREF grant agreement between the Client and the Florida Department of Economic Opportunity (DEO) and shall be completed upon Close Out of the DREF grant contract with DEO.

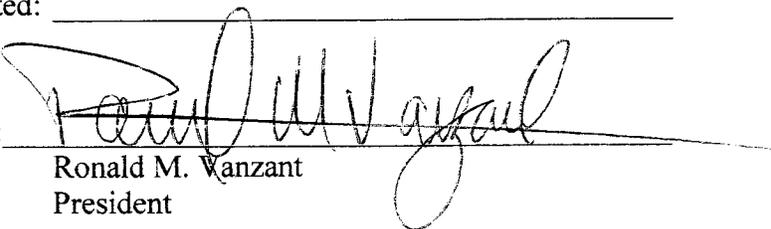
Under Article VIII B, the representative of Jordan & Associates responsible for the administration of this contract is Mr. Ronald M. Vanzant, President.

In all other respects, the terms of the original contract and any earlier amendments remain in effect. If there is a conflict between this amendment and the original contract or any earlier amendment, the terms of this amendment will prevail.

Dated: _____

By: _____
William C. Williams, III
Chairman, Gulf County BOCC

Dated: _____

By: 
Ronald M. Vanzant
President

ATTACHMENT "B-1"**DREF ADMINISTRATIVE SERVICES**

Jordan & Associates will work with all Project Staff as necessary to accomplish the following **Administrative Services** as part of Gulf County's 2008 CDBG Disaster Recovery Program:

1. Establish liaison with Department of Economic Opportunity on the community's behalf.
2. Prepare Environmental Review documents including all mail outs and advertisements for submission to DEO.
3. Review the local government's compliance with state and federal regulations/requirements concerning procurement, employment, personnel and property management, records retention, fair housing ethics, etc. and make recommendations for modifications, if necessary.
4. Financial Management Compliance: Coordinate, monitor and evaluate the direct costs of the overall program, including, but not limited to, the multiple activities outlined in the contract with DCA.
5. Prepare Request for Funds - to be submitted in a manner that will insure reimbursement of funds to the local government in compliance with regulations.
6. Maintain all files for project according to CDBG Record keeping requirements.
7. Prepare written reports that may be required for submission to DEO. (i.e., Civil Rights Profile, Monitoring report response, financial reports, quarterly reports, MBE reports, HUD 2880, etc.)
8. Ensure that yearly Single Audits are submitted to DEO/HUD by due date (if required).
9. Ensure compliance with yearly Fair Housing Activity.
10. Assist the Citizens' Advisory Task Force and other interested community organizations in providing required program information and technical assistance to those who request such information to ensure compliance with active citizen participation.
11. Assist the County in responding to any written Citizen's Complaints (if necessary) according to the County's CDBG Complaint Procedure.
12. Be present to represent the local government during DEO monitoring visits. Respond to the monitoring reports as required.
13. Assist in the monitoring of the Project regarding DEO and HUD regulations. Meet with the local government to keep them updated on the progress of the Project.
14. Support the local government in receiving an extension in the grant period that may be required as a result of unforeseen circumstances.
15. Prepare program closeout documents, including submission of reports to DEO.

Gulf County Administrative Cost Analysis

CDBG DREF Administrative Services Based on Lump Sum Fee

Environmental Review Process	<u>\$</u>	<u>2,050.00</u>
Maintain/Update Policies for Grant Recordkeeping/Monitoring with DEO Estimate includes two monitorings and potential for one amendment in recordkeeping	<u>\$</u>	<u>6,300.00</u>
Attend CATF Meetings/Commission Meetings <i>(when necessary)</i>	<u>\$</u>	<u>2,000.00</u>
Fair Housing Activities	<u>\$</u>	<u>1,000.00</u>
Financial Management Request for Funds Project Cost Tracking Budget Reports & Amendments	<u>\$</u>	<u>4,700.00</u>
Closeout Documents	<u>\$</u>	<u>2,000.00</u>
Total	\$	18,050.00

Estimated profit is \$1,750.00

*Profit is based on 2 year contract therefore, profit percentage (6-10%)
fluctuates according to length of actual project.*

St. Joseph Peninsula, Gulf County, Florida

Sea Turtle and Escarpment Monitoring 2011

February 28, 2012

SCOPE OF WORK

The last load of sand was placed within the limits of the 7.5-mile "St. Joseph Peninsula Beach Restoration Project" [PROJECT] on January 03, 2009. Pursuant to the State of Florida Joint Coastal Permit 0266819, the USFWS Biological Opinion FWS Log 4-P-07-056, and the terms of the Gulf County Habitat Conservation Plan (HCP), Sea Turtle and Escarpment Monitoring is required to be conducted on an annual basis. These are to supply all personnel, labor, materials and incidentals required to conduct the required monitoring surveys and reporting, including supervision, equipment and tools, and all services and responsibilities prescribed or implied, which are necessary for complete performance of these services and obligations. The following services will be provided by the Gulf County Turtle Patrol [Turtle Patrol], the University of Florida IFAS Unit Wildlife Ecology and Conservation, and MRD ASSOCIATES, INC. [MRD] to GULF COUNTY [COUNTY]:

1.0. MONITORING SERVICES

1.1. Survey Limits and Timeframes

The surveys shall be conducted daily between May 1st and October 31st, and shall cover the entire 5.9-mile length of the "County Beach Segment" [PROJECT] that extends from the southern boundary of the St. Joseph Peninsula State Park (R-74.8) south to the Stumphole Revetment at R-105.5 (south). The nesting surveys shall be conducted daily between sunrise and 09:00 a.m. and consist of one round-trip "sweep" of the PROJECT. The Florida Park Service will be responsible for conducting daily monitoring, relocation services, data collection and reporting for the 1.6 mile "State Park Beach Segment".

1.2. Monitoring, Relocation and Data Collection

Crawl and nesting activity data shall be obtained. Data collected during surveys will include number and type of false crawls, number of nests, and location of nests. Crawl and nest locations will be marked with a hand-held sub-meter GPS and will be recorded in latitude and longitude. Any abnormalities in crawls or nests will be documented as well as any signs of disorientation in the nesting female. The following measurements will be taken and recorded: crawl width, crawl length, height of crawl (and/or nest) above the mean high water mark, distance from nest to nearby structures (natural or man-made), number of eggs, and depth to top of clutch. The nest will be marked with four stakes, flagging tape, and a FWC turtle sign. Additional stakes will be placed in the dune in case the nesting stakes are removed.

All nests will be checked daily during the morning "sweep" for signs of disturbance, depredation or erosion. The number of nests inundated, lost to erosion, disturbed or depredated will be recorded. Beginning at 45 days incubation, nests will be observed for signs of hatching. Hatching inventories will be conducted following all standard FWC protocols. Hatchling emergences will be observed for signs of disorientation. Data collected will include the number of: un-hatched eggs, depredated eggs, live pipped eggs, dead

pipped eggs, live hatchlings in the nest, dead hatchlings in the nest, hatchlings emerged, hatchlings disoriented and hatchlings depredated.

1.3. Reports

Reports on all nesting activity shall be prepared for the nesting season and shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), names of all personnel involved in nest surveys and relocation activities, and any other information or data listed in Task 1.2 above. Data should be reported separately for the restored areas (R-74.8 to R-105.5) and for the un-restored length of adjacent southern beach (R-105.5 to R-109, if available). Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted to the COUNTY by December 15th of the same year.

1.4. Dead, Injured or Threatened Sea Turtle

Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

1.5. Weekly Escarpment Surveys

Weekly escarpment surveys of the PROJECT (R-74.8 to R-105.5) shall be conducted during the sea turtle monitoring (May 1st to October 31st), and shall include the following:

The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher) as well as the maximum height of all escarpments.

Weekly escarpment survey results shall be submitted to the COUNTY or their representative within three (3) days of survey completion. An annual summary of escarpment surveys and actions taken must be submitted to the COUNTY by December 15th of the same year.

2.0. MONITORING PROGRAM OVERSIGHT AND REPORTING

The services under Section 2.0 are to supply all personnel and labor required to provide oversight and reporting services of the daily monitoring surveys. Monitoring oversight services will extend from April 1st through December 15th upon completion of the annual monitoring report. Daily services will extend from May 1st to October 31st (sea turtle nesting season). These oversight services include, but not limited to:

SUPPLEMENTAL AGREEMENT 2012
St. Joseph Peninsula, Gulf County, Florida

Sea Turtle and Escarpment Monitoring 2012

- 2.1. Provide oversight, direction and monitor the progress of the Turtle Patrol members on FWC/USFWS methods and procedures in conducting, reporting and nest monitoring and relocation services (Task 1.2 above) to ensure that the permit conditions are met. This shall include escarpment monitoring and reporting.
- 2.2. Coordinate with the Turtle Patrol to ensure that daily survey schedules are met;
- 2.3. Coordinate with the Turtle Patrol and COUNTY on the weekly escarpment survey and reporting. These reports shall be submitted by the Turtle Patrol to the COUNTY or their representative within three (3) days of survey completion;
- 2.4. Compile and review the data collected by the Turtle Patrol to ensure the information and format requirements are met;
- 2.5. Review the annual monitoring report. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted to the COUNTY by December 15th of the same year; and,
- 2.6. Oversee the relocation of turtle nests – only if relocation is required.

DELIVERABLES

Refer to individual tasks.

PROJECT SCHEDULE AND COMPENSATION

This Scope of Work will commence on April 1, 2012 and end on March 31, 2013. The COUNTY shall pay MRD the lump sum fees and expenses of \$49,535.00 for this work.

Michael R. Dombrowski

 Michael R. Dombrowski, President
 MRD Associates, Inc.

 Warren Yeager, Jr., Chairman
 Gulf County Board of County Commissioners

Lynn Lanier

From: Michael Dombrowski, P.E. [md@mrd-associates.com]
Sent: Tuesday, April 03, 2012 11:49 AM
To: Lynn Lanier
Cc: Don Butler; Kellee Novak
Subject: MRD Associates - Scope of Work
Attachments: 2012-03-01 SJP Shorebird Monitoring Scope of Work for 2012 Submitted to County.pdf;
 2012-02-28 SJP Marine Turtle Monitoring Scope of Work for 2012 Submitted to County.pdf

Importance: High

Lynn,

Attached are the Scopes of Work for: 1) Sea Turtle Nesting Monitoring, and 2) Shorebird Monitoring. **Please place them on the next BOCC agenda (April 10th) for consideration.** These tasks are required by the permits for the Beach Restoration Projects and are cost-shared with DEP Beaches and Coastal Systems. Both of these Scopes have been reviewed and approved by DEP staff.

Sea Turtle Nesting Monitoring:

Services are performed by local professionals and volunteers of the Gulf County Turtle Patrol. Based on cost share percentages contained in the State of Florida Department of Environmental Protection Contract, the COUNTY's share is \$27,051.06 and the State of Florida's share is \$22,483.94. These costs are consistent with last year's monitoring costs.

Shorebird Monitoring:

Services are being performed by Barbara Ells of St. Joe Beach. She is in her 4th year of providing these services. Based on cost share percentages contained in the State of Florida Department of Environmental Protection Contract 01GU10, the COUNTY's share is \$3,003.55 and the State of Florida's share is \$2,496.45.

Thank you

Should you have any questions please feel free to contact me at 850.654.1555. Thank you.



Michael R. Dombrowski, P.E.
 President
 543 Harbor Boulevard, Suite 204
 Destin, Florida 32541
 (850) 654-1555 • fax (850) 654-0860
 md@mrd-associates.com
 www.mrd-associates.com

St. Joseph Peninsula Beach Restoration Project

Post-Construction Shorebird Monitoring Services

March 01, 2012

SCOPE OF WORK

Pursuant to Florida Department of Environmental Protection [DEP] Coastal Permit Number 0266819 annual shorebird surveys are required between February 15, 2012 and February 14, 2013. MRD ASSOCIATES, INC. [ENGINEER] will provide the following services along the 7.5 mile St. Joseph Peninsula Beach Restoration Project [PROJECT] for GULF COUNTY [COUNTY].

Task 5.0. SHOREBIRD MONITORING PROGRAM

Surveys for nesting and non-breeding shorebirds will be conducted by trained, dedicated individuals (Shorebird Monitor) with proven shorebird identification skills and avian survey experience. The surveys will be conducted by Ms. Barbara Ells and will use the following survey protocols:

- a) Bi-monthly (once every two weeks) surveys shall be conducted between February 15, 2012 and February 14, 2013 under this authorization.
 1. At Least one of the bi-monthly surveys April through October shall occur on a weekend to document the amount of recreational pressure potentially occurring along the PROJECT shoreline.
- b) Nesting shorebird surveys of the PROJECT limits shall continue through August or through fledgling or loss of identified nests or hatchlings, whichever is later. Non-breeding surveys shall be conducted concurrently with nesting surveys and extend to February 2013.
- c) Surveys will be conducted by traversing the length of the PROJECT area and visually inspecting, using binoculars or spotting scope, for the presence of shorebirds exhibiting breeding behavior.
- d) An ATV will be used to cover large project areas and will be operated at a speed of less than 6 mph, shall be run at or below the high-tide line, and the Shorebird Monitor will stop at no greater than 200 meter intervals to visually inspect for nesting activity.
- e) Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor will notify the Regional Non-game Biologist of the FWC at (561) 648-3205 within 24 hours.
 1. All breeding activity will be reported to the FWC Beach-Nesting Bird website (<http://myfwc.com/shorebirds/BNB/default.asp>) within one week of data collection.
 2. Observations of breeding and non-breeding shorebirds should be reported to the Shorebird- Seabird Occurrence Database within one month of collection.
- f) Surveys of the Gulf beaches for piping plover use within the PROJECT limits shall be documented bi-monthly and concurrently with nesting and non-breeding surveys. Information shall be maintained in a database (i.e., Access or Excel). Negative survey data and the amount and type of recreational pressures will also be documented. Locations of piping plovers shall be recorded using a Global Positioning System (GPS) and incorporated into the database. When piping plovers are seen, the habitat type (intertidal area, mid-beach etc.) and behavior (foraging, roosting, etc.) should also be recorded into the spreadsheet.

SUPPLEMENTAL AGREEMENT 2012
St. Joseph Peninsula Beach Restoration Project

Shorebird Survey Services

- g) Data collected on non-breeding shorebirds will be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/shorebirds/Obs/default.asp>). Surveys for non-breeding shorebirds will be conducted once every 2 weeks until the end of construction. The purpose of this data collection is to provide valuable information on the use of restored beaches to shorebirds.

FINAL DELIVERABLES

Refer to individual Task Descriptions.

PROJECT SCHEDULE

Bi-monthly (once every two weeks) surveys shall be conducted for a one-year period between February 15, 2012 and February 14, 2013.

COMPENSATION AND METHOD OF PAYMENT

The COUNTY shall pay MRD the "Not-To-Exceed" fees and expenses of \$5,500.00 for this work. MRD will invoice the COUNTY for one-half of the fees and expenses in June 2012 and the balance (one-half) upon completion of the work in February 2013.

Michael R. Dombrowski

 Michael R. Dombrowski, President
 MRD Associates, Inc.

 Warren Yeager, Jr., Chairman
 Gulf County Board of County Commissioners

Lynn Lanier

From: Michael Dombrowski, P.E. [md@mrd-associates.com]
Sent: Tuesday, April 03, 2012 11:49 AM
To: Lynn Lanier
Cc: Don Butler; Kellee Novak
Subject: MRD Associates - Scope of Work
Attachments: 2012-03-01 SJP Shorebird Monitoring Scope of Work for 2012 Submitted to County.pdf;
 2012-02-28 SJP Marine Turtle Monitoring Scope of Work for 2012 Submitted to County.pdf

Importance: High

Lynn,

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Thank you

Should you have any questions please feel free to contact me at 850.654.1555. Thank you.



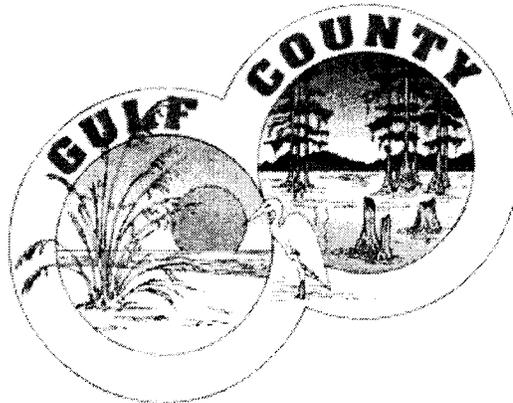
Michael R. Dombrowski, P.E.
 President
 543 Harbor Boulevard, Suite 204
 Destin, Florida 32541
 (850) 654-1555 • fax (850) 654-0880
 md@mrd-associates.com
 www.mrd-associates.com

AGREEMENT

FOR

ST. JOSEPH PENINSULA BEACH RESTORATION

2012 BEACH TILLING AND ESCARPMENT LEVELING SERVICES



GULF COUNTY BOARD OF COUNTY COMMISSIONERS

1000 Cecil G. Costin, Sr. Boulevard
Port St. Joe, Florida 32456
(850) 229-6111

February 14, 2012

2012 APR -4 AM 10:50
Faint, illegible text, possibly a stamp or signature.

AGREEMENT

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AGREEMENT

BETWEEN GULF COUNTY BOARD OF COUNTY COMMISSIONERS OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between the **GULF COUNTY BOARD OF COUNTY COMMISSIONERS** ("OWNER")

and _____ ("CONTRACTOR").

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the CONTRACT DOCUMENTS. The Work is generally described as follows:

The Work consist of the tilling of St. Joseph Peninsula between DEP Monuments R-68 and R-105 (approximately 70 acres) between the wrack line and the seaward edge of the dune avoiding all vegetated areas 3 square feet or greater. The area shall be tilled to a depth of 36 inches and all ruts and divots shall be smoothed to the natural contours. Any existing escarpments greater in 18 inches in height and extend for more than 100 feet shall also be smoothed and regraded to natural contours. Final payment on the Contract will be a LUMP SUM based upon the CONTRACTOR's BID (Attached) for a total area of 70 Acres.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the CONTRACT DOCUMENTS may be the whole or only a part is generally described as follows:

ST. JOSEPH PENINSULA BEACH RESTORATION 2012 BEACH TILLING AND ESCARPMENT LEVELING SERVICES

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by:

MRD Associates, Inc.
543 Harbor Boulevard, Suite 204
Destin, Florida 32541
(850) 654-1555

(ENGINEER), who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the CONTRACT DOCUMENTS in connection with the completion of the Work in accordance with the CONTRACT DOCUMENTS.

ARTICLE 4 – CONTRACT TIMES

4.01 Time is of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the CONTRACT DOCUMENTS are of the essence of the Contract.

4.02 Dates for Completion and Final Payment

A. The Work will be completed and Substantially Complete no later than **April 15, 2012**.

4.03 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence of this AGREEMENT and that OWNER will suffer financial loss if the Work is not substantially complete within the times specified in Paragraph 4.02 above. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$ 500.00 if the Work is not substantially complete by April 15, 2012.

ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work at the prices stated in CONTRACTOR's BID, attached hereto as an exhibit (9.01.A.2.a.).

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. CONTRACTOR shall submit Invoice for Payment upon completion of said work. Application for Payment will be processed by the ENGINEER.

B. Immediately after completion of the work, the ENGINEER will review the work by visual means and taking sediment compaction measurements utilizing a calibrated cone penetrometer at 1,000 feet intervals to assess that a tilled penetration depth of 36 inches has been met within the work area. The CONTRACTOR may be present during the review if so inclined.

C. Upon satisfactory review of the work, the ENGINEER shall forward acceptance and recommendation for Final Payment to the OWNER.

6.02 Final Payment

A. Upon final completion and acceptance of the Work as provided by the ENGINEER, OWNER shall pay the Contract Price as recommended by ENGINEER as provided in the attached CONTRACTOR's BID (Exhibit 9.01.A.2.a) within 30 days of receiving ENGINEERS recommendation for Final Payment.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due shall bear interest at the rate of 0% percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this AGREEMENT CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the CONTRACT DOCUMENTS.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the CONTRACT DOCUMENTS.

E. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the CONTRACT DOCUMENTS.

F. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the CONTRACT DOCUMENTS, and all additional examinations, investigations, explorations, tests, studies, and data with the CONTRACT DOCUMENTS.

G. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the CONTRACT DOCUMENTS, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

H. The CONTRACT DOCUMENTS are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The CONTRACT DOCUMENTS consist of the following:

1. This AGREEMENT (pages 1 to 5, inclusive).
2. Exhibits to this AGREEMENT (enumerated as follows):
 - a. CONTRACTOR's BID (pages 1 to 1, inclusive).

B. The documents listed in Paragraph 9.01.A are attached to this AGREEMENT (except as expressly noted otherwise above).

C. There are no CONTRACT DOCUMENTS other than those listed above in this Article 9.

ARTICLE 10 – MISCELLANEOUS

10.01 Rut Removal

A. During tilling, the beach shall be graded smooth and dressed so as to eliminate any undrained pockets, ridges, ruts, depression and/or berms in the beach and dune template and surfaces. The manner of smoothing may be by a pipe or beam dragged behind a bulldozer of similar equipment, acceptable to the ENGINEER. The smoothing operation shall be undertaken so as to avoid re-compaction of the tilled beach, to as great a degree as practical. Smoothing activities which result in a significant re-compaction of the tilled beach shall be re-tilled and re-smoothed at the direction of the ENGINEER, and at no additional expense to the OWNER

10.02 Environmental Protection

A. The CONTRACTOR shall keep construction activities under continued surveillance, management, and control to minimize interference with, disturbance to, and damage of fish and wildlife.

B. Sea Turtle Protection - Any signs of turtle nesting activity observed by the CONTRACTOR shall be reported immediately to the ENGINEER. No construction activity shall occur in the vicinity of nesting turtles, turtle nests or hatching turtles until the nests have been satisfactorily protected. The CONTRACTOR shall instruct all personnel associated with the construction of the project, including subCONTRACTORS, about the presence of sea turtles and sea turtle nests in the area, stressing the need to avoid disturbance of nesting sea turtles, nests or hatchlings.

C. Shore Bird Nesting - Any signs of shorebird nesting activity observed by the CONTRACTOR shall be reported immediately to the ENGINEER. No construction activity shall occur in the vicinity of nesting

shorebirds, nests or fledglings until an avoidance zone has been established. The CONTRACTOR shall instruct all personnel associated with the construction of the project, including subCONTRACTORS, about the presence of shorebirds and shorebird nests in the area, stressing the need to avoid disturbance of nesting shorebirds, nests or fledglings.

D. The CONTRACTOR shall not store fuel oil and/or lubricants (motor oil, hydraulic greases and oils, etc.) on the beach, or equipment that is not required for daily construction activities. All lubricants and other potential liquid pollutants shall be stored in sealed, non-corrosive containers at an approved storage site located upland of the beach and dune. Individual containers shall be stored in metal pans with borders banded up and welded at the corners right below the bibb. Pans shall be deep enough to prevent contamination of the ground. Pans shall be kept clean of all spillage or leakage.

10.03 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the AGREEMENT will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the CONTRACT DOCUMENTS.

10.04 Successors and Assigns

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the CONTRACT DOCUMENTS.

10.05 Severability

A. Any provision or part of the CONTRACT DOCUMENTS held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the CONTRACT DOCUMENTS shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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10.06 Other Provisions

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this AGREEMENT in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the CONTRACT DOCUMENTS have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This AGREEMENT will be effective on the _____ day of _____, 2012 (which is the Effective Date of the AGREEMENT)

OWNER:

CONTRACTOR:

**GULF COUNTY
BOARD OF COUNTY COMMISSIONERS**

By: _____

By: _____

Title: _____

Title: _____

{CORPORATE SEAL}

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

1000 Cecil G. Costin, Sr. Boulevard
Port St. Joe, Florida 32456

License Number and State:

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**BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA**

117

Towan Kopinsky, Grant Writer/Coordinator

1000 CECIL G. COSTIN SR. BLVD., ROOM 312, PORT ST. JOE, FLORIDA 32456
PHONE: (850) 229-6144 / FAX (850) 229-9252 / EMAIL: tkopinsky@gulfcounty-fl.gov

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS
FROM: TOWAN, GRANT COORDINATOR
DATE: MARCH 29, 2012
TOPIC: BID AWARD #1112-08 / CDBG HOUSING ADMINISTRATION

The Bid Review Committee has ranked the proposals received for the 2011 Housing CDBG Administration Services, and recommends that the Board award the proposal/bid to Jordan & Associates, Inc., in the amount of \$94,500.00.

2012 APR -3 PM 4:52

BCC APPROVED

DATE _____ D.C. _____

RECEIVED
DATE 4-10-12 LL

Lynn Lanier

From: Michael Dombrowski, P.E. [md@mrd-associates.com]
Sent: Tuesday, April 03, 2012 10:14 AM
To: Lynn Lanier
Cc: Don Butler
Subject: RE: Beach Tilling

By the way ... these services qualify for DEP Reimbursement through the Erosion Control Program and this year is the last year we need to till

From: Michael Dombrowski, P.E.
Sent: Monday, April 02, 2012 1:56 PM
To: 'Lynn Lanier'
Cc: Don Butler
Subject: RE: Beach Tilling

We recommend approval of GAC Contractors at a BID of \$20,650.00. Please place on the next BOCC agenda for approval.

The DRAFT Agreement was sent to Mr. Novak for his review the following was Don's suggested approach in his February 15, 2012 email ... I assume the contract would be included in the agenda? Thank you!

Michael

The schedule looks fine. Once the BOCC awards and signs the contract, an approved invoice can be paid without the need to placed back before the BOCC. It would be nice to have the contract ready for the BOCC when awarded, but the county attorney will need to review prior to the Chair signing.

*Thanks
db*

From: Lynn Lanier [mailto:llanier@gulfcounty-fl.gov]
Sent: Friday, March 30, 2012 6:32 PM
To: Michael Dombrowski, P.E.
Cc: Don Butler
Subject: Beach Tilling

Michael,
 I didn't hear from you on the bids for the beach tilling. Did you look at these and determine if the low bidder was compliant with the specifications of the bid? If so, when do you want to get this to the board.

If we need to evaluate, please let me know.

Thanks,

Lynn Lanier
 Deputy Administrator
 Gulf County Board of County Commissioners
 1000 Cecil G. Costin Sr., Blvd.
 Port St. Joe, FL 32456

CONTRACT CHANGE ORDER

ORDER NO. 1	119
DATE	04/03/12
STATE	FLORIDA
COUNTY	GULF

CONTRACT FOR **CAPE SAN BLAS SHARED-USE (BIKE) PATH, PHASE IV**

OWNER **GULF COUNTY BOARD OF COUNTY COMMISSIONERS**

To **C.W. ROBERTS CONTRACTING, INC.**

Bid #1011-30

(Contractor)

You are hereby requested to comply with the following changes from the contract plans and specifications:

Description of Changes (Supplemental Plans and Specifications Attached)	DECREASE in Contract Price	INCREASE in Contract Price
1. Additional Borrow Material (1,126 CY @ \$9.00/CY)		\$ 10,134.00
2. Additional Pipe (80 LF @ \$50.00/LF)		\$ 4,000.00
3. Additional MS (4 @ \$950.00 each)		\$ 3,800.00
Net Change		
TOTALS	\$.00	\$ 17,934.00
NET CHANGE IN CONTRACT PRICE	\$.00	\$ 17,934.00

JUSTIFICATION:

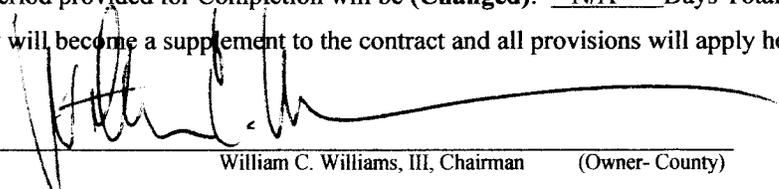
The quantities of borrow material in the specs were not sufficient due to a high number of roots/debris removed, and the additional pipe and MES are for 2 driveways that have been constructed since the plans and documents were approved. The Engineer of Record has recommended these changes and FDOT has concurred.

The amount of the Contract will be (Increased) by the Sum of Seventeen thousand nine hundred thirty-four & no/100 Dollars (\$ 17,934.00).

The Contract Total including this and previous Change Orders will be: Three hundred ninety-eight thousand two hundred ninety & 20/100 Dollars (\$ 398,290.20).

The Contract Period provided for Completion will be (**Changed**): N/A Days Total.

This Document will become a supplement to the contract and all provisions will apply hereto.

Requested  William C. Williams, III, Chairman (Owner- County) _____ (Date)

Recommended _____ Glenn Bridges, Project Manager (Owner's Architect/Engineer) _____ (Date)

Accepted _____ Rebekah Justice, Project Manager (Contractor) _____ (Date)

2012 APR 11 7:30

BCC APPROVED

DATE _____ D.C. _____

119

4/10/12 

Financial Project No.: 416533-8-58-17

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ROADSIDE BEAUTIFICATION ASSISTANCE
JOINT PARTICIPATION AGREEMENT**

This Agreement is between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, "DEPARTMENT," and GULF COUNTY, "COUNTY."

1. The DEPARTMENT has the authority, under Section 334.044(26), Florida Statutes, to enter into this Agreement; and
2. A Roadside Beautification Assistance Program has been created by Section 334.044(26), Florida Statutes, to "provide for the conservation of natural roadside growth and scenery and for the implementation and maintenance of roadside beautification programs"; and
3. The COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of said Section 334.044(26), Florida Statutes; and
4. The DEPARTMENT shall reimburse the COUNTY for direct costs under FP ID: **416533-8-58-17** for costs directly related to landscape along SR 71, White City Bridge, at the Northern and Southern bridge approaches, hereinafter referred to as the "PROJECT"; and
5. The COUNTY has authorized the Mayor or COUNTY Official to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

6. The recitals in paragraphs 1-5 above are true and correct and are made a part of this Agreement.

7-SERVICES AND PERFORMANCE

A. The COUNTY shall furnish the services with which to undertake and complete the PROJECT. Said PROJECT consists of Landscaping, Irrigation and other related materials to establish and maintain the project, as further described in Exhibit A (Scope of Services), attached hereto and made a part hereof.

B. The COUNTY agrees to undertake and complete the PROJECT in accordance with all applicable statutes, rules and regulations, including DEPARTMENT standards and specifications. The COUNTY shall take the necessary steps to insure the PROJECT is completed within state or COUNTY right-of-way, or an appropriate easement has been acquired for off right-of-way actions. The COUNTY shall be responsible for obtaining clearances/permits required for the PROJECT from the appropriate permitting authorities.

i). The parties agree that this Agreement shall act as the COUNTY'S permit from the DEPARTMENT to perform the PROJECT. However, if the PROJECT requires bore work to be performed, the COUNTY shall obtain a permit from the DEPARTMENT prior to performing the bore work.

ii). The COUNTY shall notify the DEPARTMENT field office responsible for overseeing the PROJECT at least 48 hours prior to beginning work on the PROJECT.

C. Upon completion of the PROJECT, the appropriate COUNTY representative shall certify to the DEPARTMENT the project has been completed in accordance with the "Project Concept Report" (if applicable) and project plans and specifications.

D. The DEPARTMENT will be entitled at all times to be advised as to the status of work being done by the COUNTY and of the details thereof. Therefore, the COUNTY shall provide a monthly report to the DEPARTMENT project manager.

E. If the COUNTY hires a consultant, it must certify that its consultant has been selected in accordance with the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes).

F. The COUNTY shall not sublet, assign or transfer this Agreement without prior written consent of the DEPARTMENT.

G. The COUNTY shall have sole responsibility for maintaining the subject landscaping according to state standards, as well as stipulations outlined in Exhibit "B" both during and after completion of the PROJECT.

H. The COUNTY:

i). Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the COUNTY during the term of the contract; and

ii). Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

8-TERM

A. The COUNTY shall commence the project activities subsequent to the execution of this Agreement and said activities shall be performed in accordance with the following schedule:

i). The PROJECT is to be completed on or before December 31, 2012.

B. This Agreement shall not be renewed. This Agreement shall expire on the date of which the **PROJECT** is to be completed unless the **COUNTY** submits a written request for an extension of time and the **DEPARTMENT's** District Secretary or Designee grants a written extension prior to expiration of the Agreement.

9-COMPENSATION AND PAYMENT

A. i) The **DEPARTMENT** shall reimburse the **COUNTY** for direct costs of the **PROJECT**. The parties agree that **DEPARTMENT's** maximum participation is One HUNDRED THOUSAND and 00/100 DOLLARS (\$100,000.00). Any additional costs, such as design of the project or other items not covered by this Agreement, shall be the **COUNTY's** sole responsibility.

ii) The **COUNTY** shall submit one invoice (3 copies) plus supporting documentation required by the **DEPARTMENT** to Production Management, 1074 Highway 90, Chipley, FL, 32428, for approval and processing.

iii) The **DEPARTMENT** shall reimburse the **COUNTY** upon receipt of a properly submitted invoice and supporting documentation. Supporting documentation shall include a copy of the cancelled check tendered by the **COUNTY** to the consultant/contractor who performed the work under the **PROJECT**. Supporting documentation shall also include dates of services and items of work performed on the **PROJECT**.

iv) Invoices shall be submitted by the **COUNTY** in detail sufficient for a proper pre-audit and post-audit thereof, based on quantifiable, measurable and verifiable deliverables as established in Exhibit "A," Scope of Services and Project Plans when approved by the **DEPARTMENT**. Deliverables must be received and accepted in writing by the **DEPARTMENT's** Project Manager or designee prior to reimbursements.

v) Supporting documentation must establish that the deliverables were received and accepted in writing by the **COUNTY** and must also establish that the required minimum level of service to be performed as specified in Section 7.B. was met, and that the criteria for evaluating successful completion as specified in Section 7.B. was met.

vi) The **COUNTY** may receive progress payments for deliverables based on the contractor's Schedule of Values and on a percentage of services that have been completed, approved and accepted to the satisfaction of the **DEPARTMENT** when properly supported by detailed invoices and acceptable evidence of payment. The final balance due under this Agreement will be reimbursed upon completion of all **PROJECT** services, receipt of final construction cost documentation and proper submission of a detailed invoice and when the **PROJECT** has been inspected, approved and accepted to the satisfaction of the **DEPARTMENT** in writing.

vii) If the schedule for performance exceeds 30 days the **COUNTY** shall submit invoices to the **DEPARTMENT** at the end of each calendar month. The **COUNTY** shall

prepare and submit monthly invoices to the **DEPARTMENT** in a format acceptable to the **DEPARTMENT**. Optionally, in an extended performance as referred to in this item, the **COUNTY** may submit one complete invoice in the form and in accordance with the method required in items i), ii), iii), iv), v) and vi) above.

viii) If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

ix) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

x) Travel costs will not be reimbursed.

B. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of costs incurred includes the **COUNTY**'s general accounting records and the project records, together with supporting documents and records of the **COUNTY** and all subcontractors performing work on the project, and all other records of the **COUNTY** and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

C. The **DEPARTMENT** during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

10 – TERMINATION AND DEFAULT

A. If the **DEPARTMENT** determines the performance of the **COUNTY** is not satisfactory, the **DEPARTMENT** shall have the option of (a) immediately terminating the Agreement, or (b) notifying the **COUNTY** of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or the **DEPARTMENT** will take whatever action is deemed appropriate by the **DEPARTMENT**.

B. The **DEPARTMENT** may cancel this Agreement in whole or in part at any time the interest of the **DEPARTMENT** requires such termination. The **DEPARTMENT** also reserves the right to terminate or cancel this Agreement in the event the **COUNTY** shall be

placed in either voluntary or involuntary bankruptcy. The **DEPARTMENT** further reserves the right to terminate or cancel this Agreement in the event of an assignment being made for the benefit of creditors. This Agreement may be canceled by the **COUNTY** upon (60) sixty days written notice to the **DEPARTMENT**.

C. If the **DEPARTMENT** requires termination of the Agreement for reasons other than unsatisfactory performance of the **COUNTY**, the **DEPARTMENT** shall notify the **COUNTY** of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the **COUNTY** shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the **DEPARTMENT** and will be turned over promptly by the **COUNTY**.

11 - MISCELLANEOUS

A. Participants (in this document identified as **COUNTY**) providing goods and services to the **DEPARTMENT** should be aware of the following time frames. Upon receipt, the **DEPARTMENT** has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The **DEPARTMENT** has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved

B. If a warrant in payment of an invoice is not issued within forty (40) days after receipt of the invoice and receipt, inspection, and approval of the goods and services, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount to the **COUNTY**. Interest penalties of less than one (1) dollar will not be enforced unless the **COUNTY** requests payment. Invoices which have to be returned to a **COUNTY** because of **COUNTY** preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the **DEPARTMENT**.

C. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Participants who may be experiencing problems in obtaining timely payment(s) from the **DEPARTMENT**. The Vendor Ombudsman may be contacted at (850) 413-5517.

D. The **COUNTY** shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **COUNTY** in conjunction with this Agreement. Failure by the **COUNTY** to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the **DEPARTMENT**.

E. The **COUNTY** shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof. The **COUNTY** shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Agreement.

F. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

G. The **COUNTY** and the **DEPARTMENT** agree that the **COUNTY**, its employees, and subcontractors are not agents of the **DEPARTMENT** as a result of this Agreement.

H. It is understood between the parties hereto that any part of or the entire **PROJECT** may be removed, relocated or adjusted at any time in the future as determined to be necessary by the **DEPARTMENT** in order that the associated state road be widened, altered or otherwise changed to meet with the future criteria or planning of the **DEPARTMENT**. The **DEPARTMENT** shall give the **COUNTY** notice regarding such removal, relocation or adjustment and the **COUNTY** shall be allowed sixty (60) calendar days to remove all or part of the **PROJECT** at its own cost. The **COUNTY** shall own that part of the **PROJECT** it removes. After the sixty (60) calendar day's removal period, the **DEPARTMENT** may remove, relocate or adjust the **PROJECT** as it deems best. Wherever the **COUNTY** removes a **PROJECT** pursuant to this Agreement, the **COUNTY** shall restore the surface of the affected portion of the **PROJECT'S** premises to the same safe and trafficable condition as existed prior to installation of such **PROJECT**.

I. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.

J. **PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for **CATEGORY TWO** for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public

work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

K. All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

DEPARTMENT

Florida Department of Transportation
 Program Development
 1074 Highway 90
 Chipley, FL 32428

COUNTY

12 - The administration of resources awarded by the **DEPARTMENT** to the **COUNTY** may be subject to audits and/or monitoring by the **DEPARTMENT**, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by **DEPARTMENT** staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the **COUNTY** agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the **DEPARTMENT**. In the event the **DEPARTMENT** determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the **DEPARTMENT** staff to the **COUNTY**, regarding such audit. The **COUNTY** further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

Audits

PART I: FEDERALLY FUNDED – NOT APPLICABLE TO THIS AGREEMENT

Recipients of federal funds (i.e. state, local government, or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB circular A-133, as revised. EXHIBIT 1 to this Agreement indicated Federal resources awarded through the **DEPARTMENT** by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the **DEPARTMENT**. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from Non-Federal resources (i.e., the cost of such an audit must be paid from the recipient resources obtained from other than Federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal Agency.

PART II: STATE FUNDED THIS IS A STATE FUNDED PROJECT (CFSA 55.023)

Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2)(1), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local government entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT I to the Agreement indicates state financial assistance awarded through the **DEPARTMENT** by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the **DEPARTMENT**, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient

shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

PART III: OTHER AUDIT REQUIREMENTS

The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the **DEPARTMENT** to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133 as revised, and required by PART I of this Agreement shall be submitted, when Required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient directly to each of the following:

- A. The **DEPARTMENT** at each of the following addresses:

Florida Department of Transportation
Production Management
1074 Highway 90
Chipley, FL, 32428

- B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the Number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as Revised, should be submitted to the Federal Audit Clearinghouse), at the

following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

- C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. In the event that a copy of the reporting package for an audit required by PART I of this agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the **DEPARTMENT** for reasons pursuant to section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation
Production Management
1074 Highway 90
Chipley, FL, 32428

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the **DEPARTMENT** at the following address:

Florida Department of Transportation
Production Management
1074 Highway 90
Chipley, FL, 32428

3. Copies of financial reporting packages required by PART II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:
- A. The **DEPARTMENT** at the following address:

Florida Department of Transportation
Production Management
1074 Highway 90
Chipley, FL, 32428

- B. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building

111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or the management letter required by PART III of this Agreement shall be submitted by or on behalf of the recipient directly to:

A. The **DEPARTMENT** at the following address:

Florida Department of Transportation
Production Management
1074 Highway 90
Chipley, FL, 32428

5. Any reports, management letter, or other information required to be submitted to the **DEPARTMENT** pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the **DEPARTMENT** for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental Entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five (5) years from the date the audit report is issued, and shall allow the **DEPARTMENT**, or its designee, CFO, or Auditor General access to such records upon request for a period of at least five (5) years from the date the audit report is issued, unless extended in writing by the **DEPARTMENT**.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this ____ day of _____, 20__, by the COUNTY Official, authorized to enter into and execute same by the COUNTY Council by Resolution Number _____ of the Council on the ____ day of _____, 2012, and the DEPARTMENT has executed this Agreement through its Director of Transportation Development for District Three, Florida Department of Transportation, on the date set forth below.

GULF COUNTY, FLORIDA

ATTEST: _____ (SEAL)
CLERK

BY: _____
TITLE: _____

COUNTY ATTORNEY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: _____ (SEAL)
EXECUTIVE SECRETARY

BY: _____
DIRECTOR OF
TRANSPORTATION
DEVELOPMENT
DATE: _____

LEGAL REVIEW:

OFFICE OF GENERAL COUNSEL

Exhibit "A"
SCOPE OF SERVICES

FP ID: 416533-8-58-17

Gulf County Landscape Beautification Project

Project Description: Landscape design shall be located along SR 71, for the northern and southern bridge abutment slopes for the White City Bridge on SR 71 in Gulf County. Project length is approximately .65 miles long and will begin at the intersection of SR 71 and Old Dynamite Dock Road. Project end point is at the intersection of SR 71 and Stebel Drive.

Estimated Cost: \$82,090.00

Budget Projection:

• Mobilization (Bonding, etc.)	10,500
• Landscape (Plant material, installation, warranty)	33,550
Sabal Palms (54@325ea. = 17,550)	
Crape Myrtles (18@250ea. = 4,500)	
Pine Trees (10@150ea. = 1,500)	
Live Oak Trees (16@625ea. = 10,000)	
• Temporary Irrigation (Equipment, installation)	7,400
Piping & other equipment	
Installation Labor	
• Establishment Period	<u>30,640</u>
Mowing, weeding, etc.	
Watering	
	<u><u>82,090</u></u>

The project design, set-backs, tree heights, etc. are subject to change pending FDOT design approval. Proposed plantings are also subject to change during construction based on availability, and are subject to FDOT approval.

Exhibit "B"
MAINTENANCE PLAN

SR 71 White City Bridge
Gulf County, Florida

Maintaining the subject landscaped area both during and after completion of the project includes, at a minimum, the following:

1. Mowing, cutting and/or trimming grass or turf within the landscaped project.
2. Fertilization of the landscaped project.
3. Weeding and edging (by means of manual, mechanical or chemical) of landscaped project. When using herbicides, formulas, rates, methods of application, special instructions and precautions should be applied.
4. Pruning of landscaped project in order to have healthy and vigorously growing plants and to maintain sight clearance in areas within the landscaped project.
5. Irrigation and maintenance of equipment and any other amenities (lighting, signage, benches, etc.).
6. A work zone traffic control plan (if necessary) for the installation and maintenance of the landscaped project.
7. Annual replenishment of mulch materials.
8. The project shall be maintained in accordance with FDOT Design Standards 546 and 700 as well as the FDOT Maintenance Rating Program.

EXHIBIT - 1

The COUNTY shall comply with all requirements of Florida Statute 344.044 and Department specifications and guidelines in constructing the before mentioned project.

FEDERAL RESOURCES Not Applicable to this agreement

STATE RESOURCES (CSFA 55.023)

Florida Department of Transportation Florida Statute 344.044

Landscape Grant Amount **\$100,000.00**

Compliance Requirements

Compliance Requirements

1. Project and/or material must be competitively bid.
2. Per Florida Statute 334.044 (26), to the extent practical, 50 percent of the funds shall be used for large plant materials.
3. Local agency must agree to maintain project permanently.
4. Funds are to be expended for construction only.
5. Plants must be purchased from FL based nursery stocks.

Matching Resources for Federal Programs Not Applicable to this agreement

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.

RESOLUTION NO. 2012-**A RESOLUTION OF THE GULF COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE CHAIRMAN OF THE BOARD TO ENTER INTO A ROADSIDE BEAUTIFICATION ASSISTANCE JOINT PARTICIPATION AGREEMENT (J.P.A.) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION.**

WHEREAS, the Roadside Beautification Assistance Program has been created by Section 334.044(26), Florida Statutes, to “provide for the conservation of natural roadside growth and scenery and for the implementation and maintenance of roadside beautification programs”; and

WHEREAS, the Florida Department of Transportation (F.D.O.T.) has the authority under Section 334.044(26), Florida Statutes, to enter into an Agreement with Gulf County; and

WHEREAS, Gulf County has certified to F.D.O.T. that eligibility requirements have been met of said Section 334.044(26), Florida Statutes; and

WHEREAS, FDOT is willing to provide Gulf County with financial assistance under Financial Management Number 416533-8-58-17 for costs directly related to **landscape along S.R. 71, White City Bridge, at the Northern and Southern bridge approaches**, hereinafter referred to as the “**PROJECT**”;

NOW, THEREFORE, BE IT RESOLVED by the Gulf County Board of County Commissioners that the Chairman of the Board is authorized to sign the Joint Participation Agreement (J.P.A.) with F.D.O.T. for landscaping along S.R. 71, White City Bridge, at the Northern and Southern bridge approaches, and for the Chairman, Chief Administrator or Grant Coordinator to sign any and all documents relating to this Project and Funding.

ADOPTED this ____ day of March, 2012.

**BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA**

ATTEST:

**WILLIAM C. WILLIAMS, III
CHAIRMAN**

CLERK / DEPUTY CLERK

APPLICATION AND CERTIFICATION FOR PAYMENT

PROJECT:

CDBG-DR1 Affordable Rental Housing
Liberty Manor Apartments
Port St. Joe, FL 32456

LOCAL GOVERNMENT:
Gulf County BOCC
1000 Cecil G. Costin Sr. Boulevard
Port St. Joe, FL 32456

APPLICATION NO: 3

CONTRACTOR:
Bryan-Co Services, Inc.
15037 SW 351 Highway
Horseshoe Beach, FL 32648

ADMINISTRATOR:
Jordan & Associates
580 Wells Road, Suite #2
Orange Park, FL 32073

PROJECT COMPLETION
Contracts Executed: 09/22/11
NTP Issued: 09/27/11
To Be Completed By: 04/24/12
Calendar Days: 210

BCC APPROVED
DATE _____ D.C. _____

CONTRACTOR'S APPLICATION FOR PAYMENT

MODIFICATION SUMMARY

Approved Change Orders To Date	ADDITIONS	DELETIONS
Number		
1	160.00 \$	-
2	5,692.00 \$	-
3	484.00 \$	-
4	1,505.00 \$	-
5	2,072.00 \$	-
6	9,060.00 \$	-
7	2,125.00 \$	-
8	2,028.00 \$	-
9	2,074.00 \$	-
10	960.00 \$	-
11	2,078.00 \$	-
12	-	-
13-A	6,525.80 \$	-
TOTAL	34,763.80 \$	-
Net Change by Change Orders		34,763.80

Application is made for Payment, as shown below, in accordance with the Contract Documents

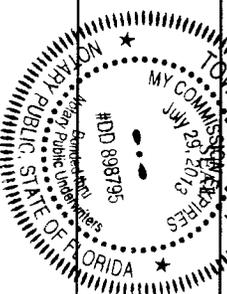
- 1. ORIGINAL CONTRACT SUM \$ 89,676.00
- 2. Net Change by Change Orders \$ 34,763.80
- 3. ADJUSTED CONTRACT SUM TO DATE \$ 124,439.80
- 4. TOTAL COMPLETED AND STORED TO DATE \$ 117,914.00
- 5. RETAINAGE: \$ -
- 6. TOTAL EARNED LESS RETAINAGE \$ 117,914.00
- 7. LESS PREVIOUS APPLICATIONS FOR PAYMENTS \$ 106,122.60
- 8. CURRENT PAYMENT DUE \$ 11,791.40
- 9. BALANCE TO FINISH, PLUS RETAINAGE \$ 6,525.80

The undersigned Contractor certifies to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received by the Local Government, and that current payment shown herein is now due.

APPROVED FOR PAYMENT
ADMINISTRATOR: *[Signature]* JORDAN & ASSOCIATES
Date: 11/21/12
113554-34000
DR1 - Liberty Manor

CERTIFYING CONTRACTOR: BRYAN-CO SERVICES, INC.
By: *[Signature]* Phillip C. Bryan, as its Vice President
Date: 11/21/12

State of: Florida
County of: Gulf
Commission Expires: 7/29/13
Notary Public: *[Signature]* Donna Repinsky



APPLICATION AND CERTIFICATION FOR PAYMENT

PROJECT: CDBG-DRI Affordable Rental Housing
Liberty Manor Apartments
Port St. Joe, FL 32456

CONTRACTOR: Bryan-Co Services, Inc.
15037 SW 351 Highway
Horseshoe Beach, FL 32648

BCC APPROVED
DATE _____ D.C. _____

LOCAL GOVERNMENT: Gulf County BOCC
1000 Cecil G. Costin Sr. Boulevard
Port St. Joe, FL 32456

ADMINISTRATOR: Jordan & Associates
580 Wells Road, Suite #2
Orange Park, FL 32073

2012 APR - 3 PM 0:53

APPLICATION NO: 4

PROJECT COMPLETION
Contracts Executed: 09/22/11
NTP Issued: 09/27/11
To Be Completed By: 04/24/12
Calendar Days: 210

CONTRACTOR'S APPLICATION FOR PAYMENT

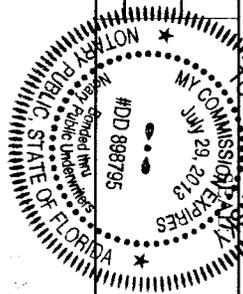
MODIFICATION SUMMARY		
Approved Change Orders To Date	ADDITIONS	DELETIONS
Number	Date Approved	
1	11/22/11	\$ 160.00
2	11/22/11	\$ 5,692.00
3	11/22/11	\$ 484.00
4	11/22/11	\$ 1,505.00
5	11/22/11	\$ 2,072.00
6	12/13/11	\$ 9,060.00
7	12/13/11	\$ 2,125.00
8	12/13/11	\$ 2,028.00
9	12/13/11	\$ 2,074.00
10	12/13/11	\$ 960.00
11	12/13/11	\$ 2,078.00
12	01/10/12	\$ -
13-A	03/12/12	\$ 6,525.80
TOTAL		\$ 34,763.80
Net Change by Change Orders		\$ 34,763.80

The undersigned Contractor certifies to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received by the Local Government, and that current payment shown herein is now due.

CERTIFYING CONTRACTOR: BRYAN-CO SERVICES, INC.
BY: *Philip C. Bryan* Date: *4/2/12*
Philip C. Bryan as his Vice President

- 1. ORIGINAL CONTRACT SUM \$ 89,676.00
- 2. Net Change by Change Orders \$ 34,763.80
- 3. ADJUSTED CONTRACT SUM TO DATE \$ 124,439.80
- 4. TOTAL COMPLETED AND STORED TO DATE \$ 124,439.80
- 5. RETAINAGE: 10% of TOTAL COMPLETED AND STORED TO DATE (CO #13-A) \$ 652.58
- 6. TOTAL EARNED LESS RETAINAGE \$ 123,787.22
- 7. LESS PREVIOUS APPLICATIONS FOR PAYMENTS \$ 117,914.00
- 8. CURRENT PAYMENT DUE \$ 5,873.22
- 9. BALANCE TO FINISH, PLUS RETAINAGE *4/3/12* \$ *652.58*

APPROVED FOR PAYMENT: *Jordan & Associates*
ADMINISTRATOR: *Jordan & Associates*
By: *Jordan Kopinsky* Date: *4/2/12*
State of: Florida County of: Gulf
Subscribed and sworn to before me this date: *4/1/12*
Notary Public: *Jordan Kopinsky* Commission Expires: *7/19/13*



APPLICATION AND CERTIFICATION FOR PAYMENT

PROJECT:
 CDBG-DR1 Affordable Rental Housing
 Pine Ridge Apartments
 Port St. Joe, FL 32456

CONTRACTOR:
 Bryan-Co Services, Inc.
 15037 SW 351 Highway
 Horseshoe Beach, FL 32648

BCC APPROVED
 DATE _____ D.C. _____

LOCAL GOVERNMENT:
 Gulf County BOCC
 1000 Cecil G. Costin Sr. Boulevard
 Port St. Joe, FL 32456

ADMINISTRATOR:
 Jordan & Associates
 580 Wells Road, Suite #2
 Orange Park, FL 32073

2012 APR - 3 PM 4:53

APPLICATION NO: _____ S
 PROJECT COMPLETION
 Contracts Executed: 09/22/11
 NTP Issued: 09/27/11
 To Be Completed By: 04/24/12
 Calendar Days: 210

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in accordance with the Contract Documents.

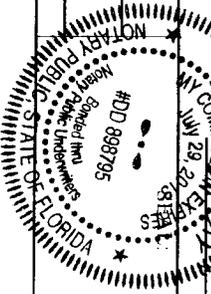
MODIFICATION SUMMARY		
Approved Change Orders To Date	ADDITIONS	DELETIONS
Number	Date Approved	
1	11/22/11	\$ 2,142.00 \$ -
2	11/22/11	\$ 1,575.00 \$ -
3	11/22/11	\$ 225.00 \$ -
4	11/22/11	\$ 250.00 \$ -
5	11/22/11	\$ 525.00 \$ -
6	01/10/12	\$ - \$ -
7-A	03/12/12	\$ 5,740.80 \$ -
TOTAL		\$ 10,457.80 \$ -
Net Change by Change Orders		\$ 10,457.80 \$ 10,457.80

- 1. ORIGINAL CONTRACT SUM \$ 141,448.00
- 2. Net Change by Change Orders \$ 10,457.80
- 3. ADJUSTED CONTRACT SUM TO DATE \$ 151,905.80
- 4. TOTAL COMPLETED AND STORED TO DATE \$ 146,165.00
- 5. RETAINAGE:
 0% of TOTAL COMPLETED AND STORED TO DATE (Line 4) \$ -
- 6. TOTAL EARNED LESS RETAINAGE \$ 146,165.00
- 7. LESS PREVIOUS APPLICATIONS FOR PAYMENTS \$ 131,548.50
- 8. CURRENT PAYMENT DUE \$ 14,616.50
- 9. BALANCE TO FINISH, PLUS RETAINAGE \$ 5,740.80

The undersigned Contractor certifies to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received by the Local Government, and that current payment shown herein is now due.

CERTIFYING CONTRACTOR: BRYAN-CO SERVICES, INC.
 By: *[Signature]* Date: 4/2/12
 Phillip C. Bryan, its Vice President

APPROVED FOR PAYMENT
 ADMINISTRATOR: *[Signature]* JORDAN & ASSOCIATES
 State of Florida
 Notary Public: *[Signature]* Jovan Kopinsky
 Subscribed and sworn to before me this date
 County of Gulf 4/1/12
 Commission Expires: 7/29/13



4/1/12 CC

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE 1 OF 2 PAGES

1510894

TO OWNER: Gulf County Board of Commissioners
1000 Cecil Costin Sr. Boulevard
Port St. Joe, Florida 32456

PROJECT: Cape San Blas Multi-Use Path
Project (Phase IV)

APPLICATION NO: 2
PERIOD TO: 3/18/2012
DISTRIBUTION: OWNER
 ARCHITECT
 CONTRACTOR
 ENGINEER

FROM CONTRACTOR: C. W. Roberts Contracting, Inc.
P.O. Box 16279
Tallahassee, Florida 32317

VIA ENGINEER:

PROJECT NOS: 412681 3.58.01
CONTRACT DATE:

CONTRACTORS APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

- 1. ORIGINAL CONTRACT SUM \$ 380,356.20
- 2. Net change by Change Orders \$0.00
- 3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 380,356.20
- 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 154,322.00
- 5. RETAINAGE:
 - a. 10% of Completed Work \$ 15,432.20 (Column D + E on G703)
 - b. % of Stored Material \$
 - (Column F on G703)
 - Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ 15,432.20
- 6. TOTAL EARNED LESS RETAINAGE \$ 138,889.80 (Line 4 Less Line 5 Total)
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 73,754.10
- 8. CURRENT PAYMENT DUE \$ 65,135.70
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 241,466.40

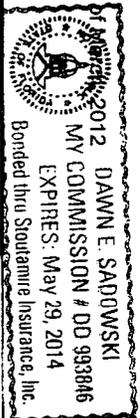
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		\$0.00
Total approved this Month		\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order	\$0.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: C. W. Roberts Contracting, Inc.

By: *[Signature]* Date: March 23, 2012

State of: Florida County of: Bay
Subscribed and sworn to before me this 23rd Day of March, 2012
Notary Public: *[Signature]*
My Commission expires: 7/17/2014



ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the ENGINEER certifies to the Owner that to the best of the ENGINEER'S knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$ 65,135.70 Date: 4/3/12 D.H. UK

(Attach explanation if amount certified differs from the amount applied. Initial # figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
APPROVED FOR PAYMENT
LAP - Cape
Bike Path,
Phase 4

By: _____ Date: 3-25-2012

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

4/10/12 JS

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 2 OF 2 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing Contractor's signed certification is attached.
 In tabulations below, amounts are stated to the nearest dollar.
 Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: 2
 APPLICATION DATE: 3/23/2012
 PERIOD TO: 3/18/2012
 ENGINEER'S PROJECT NO:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE		D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C - G)	I RETAINAGE
		ORIGINAL SCHEDULED VALUE	CURRENT SCHEDULED VALUE	FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		% (G + C)			
	SEE ATTACHED SCHEDULE									
		\$ 380,356.20	\$ 380,356.20	\$ 81,949.00	\$ 72,373.00		\$ 164,322.00	40.57%	\$ 226,034.20	\$ 15,432.20



110 Connecticut Avenue, NW
Suite 300
Washington, D.C. 20036
202.331.6300
202.331.6393 fax

Invoice Number 0512179
Invoice Date May 01, 2012
PO Number
Contract
Project 0711-GULFCOUNTY
Page 1 of 1

Don Butler
Gulf County, FL
1000 Cecil G. Costin Sr. Blvd.
Room 302
Port St. Joe, FL 32456

Manager Valerie L. Gelnovatch

Retainer for the month of May 1 through May 31, 2012 6,500.00

Invoice Total

6,500.00

This invoice is due upon receipt

Please return yellow copy with payment.

2012 APR -14 AM 7:30

BCC APPROVED

DATE _____ D.C. _____

ACCT. # 2111-31200

Donald Butler

Subject: FW: TDC opportunity/BOCC meeting

Recommendation as follows;
Thanks

Donald Butler

Gulf County Administrator
1000 Cecil G. Costin, Sr. Blvd., Room 301
Port St. Joe, FL 32456
(850) 229-6106
(850) 229-9252 Fax

From: Kellee Novak [mailto:kellee@visitgulf.com]
Sent: Monday, March 26, 2012 12:45 PM
To: 'Don Butler'
Subject: RE: TDC opportunity/BOCC meeting

Promotional opportunity for TDC

TDC has requested to use some of their BP money to pay for a unique opportunity to have Boating Magazine film and feature their November/December Swimsuit Issue here in Gulf County.

The magazine **will feature** Gulf County in: a full page ad, a web banner, website link and Gulf County logo on their Swimsuit page, one month feature ad on Boating E-newsletter and commercial rights to selected photos and video.

The magazine is the **Largest Power Boat Magazine** with a printed circulation of **160,000** and online monthly views of 529,000.

TDC would be paying for the accommodations for the crew/models to be here as well as a food allowance – average about 16 crew members for 5 nights/6 days + food = **\$11,000 out of our BP budget**. The return we would receive from this promotional opportunity far exceeds the price the TDC has to pay for accommodations.

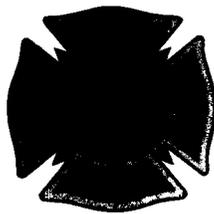
2012 APR -3 PM 4:51
GULF COUNTY
COMMUNICATIONS
DEPARTMENT

BCC APPROVED

DATE _____ D.C. _____

www.visitgulf.com

CONSENT
DATE **4/12/12**
LB



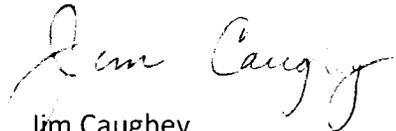
SOUTH GULF COUNTY VOLUNTEER FIRE DEPARTMENT INC.
PO Box 126, Port St Joe, FL 32457

March 30, 2012

Gulf County Board of Commissioners
10001 Cecil B Costin Blvd
Port Saint Joe, Florida 32457

Re: Purchase request

The South Gulf County VFD is requesting permission to purchase two (2) Kawasaki Mule 610 4x4 under the State of Florida Purchasing Contract 760-000-10-01. The **unit** price with trailer hitch is **\$6723.61**. The purchase will be funded with available funds currently available in SGCVFD budget. Total cost: **\$13,447.22**.


Jim Caughey
Chief, SGCVFD

2012 MAR 30 11:30 AM
PORT ST JOE, FL 32457

BCC APPROVED

DATE _____ D.C. _____

CONSENT
DATE 4/12/12

BOARD OF COUNTY COMMISSIONERS GULF COUNTY, FLORIDA

(From the Desk of Warren J. Yeager, Jr., Commissioner, District 5)

1000 CECIL G. COSTIN SR. BLVD., ROOM 302, PORT ST. JOE, FLORIDA 32456

PHONE (850) 229-6106/639-6700

FAX (850) 229-9252 • EMAIL: commissioner5@gulfcounty-fl.gov

DATE AND TIME OF MEETINGS • SECOND AND FOURTH TUESDAY AT 6:00 P.M., E.T

MEMORANDUM

TO: GULF COUNTY BOARD OF COUNTY COMMISSIONERS
FROM: COMMISSIONER WARREN YEAGER, JR., DISTRICT 5
DATE: MARCH 22, 2012
RE: REQUEST FOR TRAVEL ALLOWANCE

It is my request for the BOCC to allow my travel expenses associated with the Six Pillars Caucus, a group developed from the Florida Chamber Foundation. I have been asked to participate in this Caucus as a representative of the Florida Association of Counties.

Thank you.

BCC APPROVED

DATE _____ D.C. _____

2012 APR -3 PM 4: 50

CLERK OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA

CARMEN L. McF-MORE
District 1

WARD McDANIEL
District 2

BILL WILLIAMS
District 3

TAN SMILEY
District 4

WARREN YEAGER
District 5

148

4/10/12 LL

Lynn Lanier

From: Sara Patterson [spatterson@FLFoundation.org]
Sent: Monday, March 19, 2012 8:45 AM
To: lpinkoson@alachuacounty.us; dlgaffer@comcast.net; yeagerw@preble-rish.com; commissioner5@gulfcounty-fl.gov; kasont@embarqmail.com; slatvala@pinellascounty.org; bccd1@sjcfl.us
Subject: Six Pillars Caucus System
Attachments: image001.png; image002.png; SixPillarsManual.pdf; Six Pillars Graphic.pdf

Dear Florida Association of Counties Six Pillars™ Representatives:

We are delighted to have your participation in the Florida Chamber Foundation's Six Pillars Caucus System™, the statewide strategic planning initiative, as a representative from the Florida Association of Counties.

I have attached some additional materials to help you better understand the Caucus System and your role in the process.

Our next meeting of the Caucus will be a two-day retreat held at Collaborative Labs at St. Petersburg College, April 10-11, 2012. The April Caucus Retreat is an opportunity to build towards the next iteration of the Six Pillars 20-year Strategic Plan™. We will further the work of the Action Plan Committees, who will meet on-site to identify gaps in the existing content, as well as work toward developing consensus policy options by June--in time to forward to the Florida Chamber's Policy Council for its annual deliberations. Click [here](#) to view the current iteration of the Six Pillars 20-year Strategic Plan.

It is critical that Caucus members attend both days of the Retreat. The meetings are only open to Six Pillars Caucus members. To confirm your participation in the Caucus Retreat, please register by clicking [here](#).

More details, including actual meeting times, hotel accommodations and directions can be found in the provided registration link. A final agenda, prep materials—including Action Plan Committee assignments—will be sent via e-mail to confirmed Caucus members closer to the Retreat.

Once you've had a chance to review the attached documents, I would be glad to schedule a follow-up call with you to answer any remaining questions you may have. My schedule is typically very open prior to 12:00 noon EST Tuesdays through Fridays; however, I can be as flexible as necessary to accommodate your schedule if this time does not work for you.

We look forward to seeing you in the St. Petersburg area in April, and welcome aboard!

Kindly,
Sara

SARA R. PATTERSON
 Director of Program Development
 Florida Chamber Foundation

136 South Bronough Street
 Tallahassee, FL 32301

2012 APR -3 PM 4: 50

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Gulf County Board of County Commissioners will hold a public hearing to consider adoption of an Ordinance with the following title:

AN ORDINANCE OF GULF COUNTY, FLORIDA; WHEREBY AMENDING GULF COUNTY ORDINANCE 98-14 TITLED IN PART “AN ORDINANCE APPROVING THE GULF COUNTY, FLORIDA, TOURIST DEVELOPMENT COUNCIL’S TOURIST DEVELOPMENT PLAN”; AND TO INCLUDE THE BOARD OF COUNTY COMMISSION ADOPTION OF RESOLUTION 2012-03 AND ITS AMENDEMENT TO ADOPT, INSTITUTTE AND IMPLEMENT THE GULF COUNTY TOURIST DEVELOPMENT “POLICY, GUIDELINES, APPLICATION AND APPOINTMENT PROCESS”, PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Complete Ordinance on file in the Clerk’s Office

The public hearing will be held during the Gulf County Board of County Commissioner’s Regular Meeting on Tuesday, April 10, 2012 at 6:00 p.m., E.T. in the County Commissioner’s meeting room in the Robert M. Moore Administration Building, Gulf County Courthouse Complex, Port St. Joe, Florida.

All interested persons may appear and be heard with respect to the proposed Ordinance. If a person decides to appeal any decisions made by the Gulf County Commission with respect to any matter considered at this hearing, he/she will need a record of the proceedings and that for such purpose he/she may need to ensure a verbatim record of the proceedings made and which would include any evidence upon which the appeal is to be based.

A copy of the proposed Ordinance is available for inspection on weekdays between the hours of 9:00 a.m., E.T. and 5:00 p.m., E.T. at the Office of the Clerk of Court, Gulf County Courthouse, 1000 C.G. Costin, Sr., Blvd., Port St. Joe, Florida, 32456.

BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA

BY: WILLIAM C. WILLIAMS III, CHAIRMAN

Ad Date: March 29, 2012

Ad #2012-23

Publish in Legals

Invoice: Gulf County Board of County Commissioners