



**AGENDA
SPECIAL MEETING
of THE MARY ESTHER CITY COUNCIL
December 20, 2023 - 6:00 PM**

195 Christobal Road – North, Mary Esther, FL 32569

- 1. INVOCATION**
- 2. CALL TO ORDER**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ROLL CALL**
- 5. APPROVAL OF THE AGENDA**
- 6. UNFINISHED BUSINESS**
- 7. NEW BUSINESS**
 - 7.1. Ratification of the Purchase Agreement for 302 Mary Esther Boulevard**
 - 7.2. Ratification of Financing Agreements for Purchase and Improvements of 302 Mary Esther Boulevard and Christobal Waterfront Park**
 - 7.3. Resolution 23-07, Establishing Intent to Reimburse Capital Expenditures with Proceeds of Future Tax-Exempt Financing**
 - 7.4. Update on Springdale Neighborhood Infrastructure Improvements**
- 8. ADJOURN**

******* PLEASE TURN OFF OR SILENCE ALL CELL PHONES *******

REMOTE MEETING ATTENDANCE

The virtual link to our meetings is posted in the calendar section of our website (www.cityofmaryesther.com) You may log into the meeting up to 10 minutes prior to the start time to ensure your connection is working properly.

All communications via the chat feature by online participants during city meetings are subject to Florida's public records laws and must be civil in public discourse whether written or spoken. Any private messages sent by online attendees during the meeting is strongly discouraged. Only messages sent to "All" or "Everyone" in the public forum will be addressed by the City Council or City staff during the meeting.

NOTES:

- 1) *Adjournment with continuation on the following day at 6:00 PM may be called if the meeting proceeds past 10 PM.*
- 2) *The City does not keep verbatim minutes as a matter of record. If a person decides to appeal any decision made by the Mary Esther City Council with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. See Florida Statute 286.0105*
- 3) *Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council is not allowed by law to endorse the religious beliefs or views of this or any other speaker.*

AGENDA ITEM

Agenda Item 7.1.

TO: Honorable Mayor and Members of the City Council

FROM: Jared Cobb, City Manager

DATE: December 20, 2023

SUBJECT: Ratification of the Purchase Agreement for 302 Mary Esther Boulevard

BACKGROUND:

On December 5, the City Council directed staff to submit a formal offer for the property located at 302 Mary Esther Boulevard with the purchase price and terms agreed to in the LOI. The offer was accepted by the seller on December 12 with the following terms:

- Purchase price \$2,375,000
- Earnest deposit \$25,000
- Due diligence period of 30 days through January 11, 2024
- Closing date of no later than February 1, 2024, with an optional 30-day extension for financing

DISCUSSION:

Staff is scheduling a commercial property inspection. We have also started the process of securing financing for the purchase and anticipated improvements.

FINANCIAL IMPACT:

The purchase price is \$2,375,000. Our architect has estimated renovation costs of \$574,500, which includes the construction of a City Council Chambers.

RECOMMENDATION:

Motion to ratify the purchase agreement for 302 Mary Esther Boulevard as presented.

ATTACHMENT(S):

1. Purchase Agreement
2. Probable Cost Comparison

Commercial Contract

1 **1. PARTIES AND PROPERTY:** CITY OF MARY ESTHER OR ASSIGNS ("Buyer")
 2 agrees to buy and RETAIL PARTNERS SANTA LLC ("Seller")
 3 agrees to sell the property at:

4 Street Address: 302 MARY ESTHER BLVD, MARY ESTHER, FL 32569

6 Legal Description: PARCEL ID: 16-2S-24-0000-0001-001D

8 and the following Personal Property: ANY FURNISHINGS ON SITE

10 (all collectively referred to as the "Property") on the terms and conditions set forth below.

11 **2. PURCHASE PRICE:** \$ 2,375,000.00

12 (a) Deposit held in escrow by: Hand Arendall Harrison Sale \$ 5,000.00
 13 ("Escrow Agent") (checks are subject to actual and final collection)

14 Escrow Agent's address: 111 N HWY 393, STE 203, SRB, FL Phone: 8506500010

15 (b) Additional deposit to be made to Escrow Agent
 16 within ___ days (3 days, if left blank) after completion of Due Diligence Period or
 17 within ___ days after Effective Date \$ _____

18 (c) Additional deposit to be made to Escrow Agent
 19 within ___ days (3 days, if left blank) after completion of Due Diligence Period or
 20 within ___ days after Effective Date \$ _____

21 (d) Total financing (see Paragraph 5) \$ _____

22 (e) Other \$ _____

23 (f) All deposits will be credited to the purchase price at closing.
 24 Balance to close, subject to adjustments and prorations, to be paid
 25 via wire transfer. \$ 2,350,000
2,370,000.00

26 For the purposes of this paragraph, "completion" means the end of the Due Diligence Period or upon delivery of
 27 Buyer's written notice of acceptability.

28 **3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME:** Unless this offer is signed by Seller
 29 and Buyer and an executed copy delivered to all parties on or before December 13, 2023, this offer
 30 will be withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be
 31 3 days from the date the counter offer is delivered. The "Effective Date" of this Contract is the date on which the
 32 last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer or
 33 _____. Calendar days will be used when computing time periods, except time periods of 5
 34 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal
 35 holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next
 36 business day. Time is of the essence in this Contract.

37 **4. CLOSING DATE AND LOCATION:**

38 (a) Closing Date: This transaction will be closed on February 1, 2024 (Closing Date), unless
 39 specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods
 40 including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended

Buyer J.C. and Seller MAA acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

41 on Closing Date and **Buyer** is unable to obtain property insurance, **Buyer** may postpone closing up to 5 days after
42 the insurance underwriting suspension is lifted.

43 (b) **Location:** Closing will take place in OKALOOSA County, Florida. (If left blank, closing will take place in the
44 county where the property is located.) Closing may be conducted by mail or electronic means.

45 **5. THIRD PARTY FINANCING:**

46 **BUYER'S OBLIGATION:** On or before 15 days (5 days if left blank) after Effective Date, **Buyer** will apply for third
47 party financing in an amount not to exceed 100% of the purchase price or \$ _____, with a fixed
48 interest rate not to exceed 8% per year with an initial variable interest rate not to exceed _____%, with points or
49 commitment or loan fees not to exceed _____% of the principal amount, for a term of _____ years, and amortized
50 over _____ years, with additional terms as follows:

IS THIS ACHIEVABLE?

51 _____
52 **Buyer** will timely provide any and all credit, employment, financial and other information reasonably required by any
53 lender. **Buyer** will use good faith and reasonable diligence to (i) obtain Loan Approval within _____ days (45 days if left
54 blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and (iii) close
55 the loan. **Buyer** will keep **Seller** and Broker fully informed about loan application status and authorizes the mortgage
56 broker and lender to disclose all such information to **Seller** and Broker. **Buyer** will notify **Seller** immediately upon
57 obtaining financing or being rejected by a lender. **CANCELLATION:** If **Buyer**, after using good faith and reasonable
58 diligence, fails to obtain Loan Approval by Loan Approval Date, **Buyer** may within _____ days (3 days if left blank)
59 deliver written notice to **Seller** stating **Buyer** either waives this financing contingency or cancels this Contract.
60 If **Buyer** does neither, then **Seller** may cancel this Contract by delivering written notice to **Buyer** at any time thereafter.
61 Unless this financing contingency has been waived, this Contract shall remain subject to the satisfaction, by closing, of
62 those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes of Paragraph 5 only):** If **Buyer**
63 has used good faith and reasonable diligence but does not obtain Loan Approval by Loan Approval Date and
64 thereafter either party elects to cancel this Contract as set forth above or the lender fails or refuses to close on or
65 before the Closing Date without fault on **Buyer's** part, the Deposit(s) shall be returned to **Buyer**, whereupon both
66 parties will be released from all further obligations under this Contract, except for obligations stated herein as surviving
67 the termination of this Contract. If neither party elects to terminate this Contract as set forth above or **Buyer** fails to use
68 good faith or reasonable diligence as set forth above, **Seller** will be entitled to retain the Deposit(s) if the transaction
69 does not close. For purposes of this Contract, "Loan Approval" means a statement by the lender setting forth the terms
70 and conditions upon which the lender is willing to make a particular mortgage loan to a particular buyer. Neither a pre-
71 approval letter nor a prequalification letter shall be deemed a Loan Approval for purposes of this Contract.

72 **6. TITLE:** **Seller** has the legal capacity to and will convey marketable title to the Property by statutory warranty
73 deed special warranty deed other _____, free of liens, easements and
74 encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,
75 restrictions and public utility easements of record; existing zoning and governmental regulations; and (list any other
76 matters to which title will be subject) _____

NO
J.C. 2/12/23

77 _____
78 provided there exists at closing no violation of the foregoing and none of them prevents **Buyer's** intended use of the
79 Property as _____

80 (a) **Evidence of Title:** The party who pays the premium for the title insurance policy will select the closing agent
81 and pay for the title search and closing services. **Seller** will, at (check one) **Seller's** **Buyer's** expense and
82 within _____ days after Effective Date or at least 15 days before Closing Date deliver to **Buyer** (check one)
83 (i) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by
84 **Seller** at or before Closing and, upon **Buyer** recording the deed, an owner's policy in the amount of the purchase
85 price for fee simple title subject only to exceptions stated above. If **Buyer** is paying for the evidence of title and
86 **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after Effective Date. (ii.) an
87 abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm.
88 However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable to the proposed
89 insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy
90 exceptions and an update in a format acceptable to **Buyer** from the policy effective date and certified to **Buyer** or

Buyer *J.C.* (_____) and Seller *MM* (_____) acknowledge receipt of a copy of this page, which is Page 2 of 8 Pages.

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Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller** then (i.) above will be the evidence of title.

(b) Title Examination: **Buyer** will, within 15 days from receipt of the evidence of title deliver written notice to **Seller** of title defects. Title will be deemed acceptable to **Buyer** if (1) **Buyer** fails to deliver proper notice of defects or (2) **Buyer** delivers proper written notice and **Seller** cures the defects within _____ days from receipt of the notice ("Curative Period"). **Seller** shall use good faith efforts to cure the defects. If the defects are cured within the Curative Period, closing will occur on the latter of 10 days after receipt by **Buyer** of notice of such curing or the scheduled Closing Date. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, **Buyer** will have 10 days from receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) Survey: (check applicable provisions below)

Seller will, within 5 days from Effective Date, deliver to **Buyer** copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant to this transaction:

CC&R's

prepared for **Seller** or in **Seller's** possession, which show all currently existing structures. In the event this transaction does not close, all documents provided by **Seller** will be returned to **Seller** within 10 days from the date this Contract is terminated.

Buyer will, at **Seller's** **Buyer's** expense and within the time period allowed to deliver and examine title evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the Property or that the improvements encroach on the lands of another, **Buyer** will accept the Property with existing encroachments such encroachments will constitute a title defect to be cured within the Curative Period.

JTC 12/12/23
MD

(d) Ingress and Egress: **Seller** warrants that the Property presently has ingress and egress.

per the CC&R's of record.

7. PROPERTY CONDITION: **Seller** will deliver the Property to **Buyer** at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. **Seller** makes no warranties other than marketability of title. In the event that the condition of the Property has materially changed since the expiration of the Due Diligence Period, **Buyer** may elect to terminate the Contract and receive a refund of any and all deposits paid, plus interest, if applicable, or require **Seller** to return the Property to the required condition existing as of the end of Due Diligence period, the cost of which is not to exceed \$ _____ (1.5% of the purchase price, if left blank). By accepting the Property "as is", **Buyer** waives all claims against **Seller** for any defects in the Property. (Check (a) or (b))

(a) As Is: **Buyer** has inspected the Property or waives any right to inspect and accepts the Property in its "as is" condition.

(b) Due Diligence Period: **Buyer** will, at **Buyer's** expense and within 30 days from Effective Date ("Due Diligence Period"), determine whether the Property is suitable, in **Buyer's** sole and absolute discretion. During the term of this Contract, **Buyer** may conduct any tests, analyses, surveys and investigations ("Inspections") which **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state and regional growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections that **Buyer** deems appropriate. **Buyer** will deliver written notice to **Seller** prior to the expiration of the Due Diligence Period of **Buyer's** determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice requirement will constitute acceptance of the Property in its present "as is" condition. **Seller** grants to **Buyer**, its agents, contractors and assigns, the right to enter the Property at any time during the term of this Contract for the purpose of conducting Inspections, upon reasonable notice, at a mutually agreed upon time; provided, however, that **Buyer**, its agents, contractors and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will indemnify and hold **Seller** harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from the conduct of any and all inspections or any work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a mechanic's lien being filed against the Property without **Seller's** prior written consent. In the event this transaction does not close, (1) **Buyer** will repair all damages to the

Buyer *JC* () and **Seller** *[Signature]* () acknowledge receipt of a copy of this page, which is Page 3 of 8 Pages.

145 Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the
146 Inspections, and (2) Buyer will, at Buyer's expense release to Seller all reports and other work generated as a
147 result of the Inspections. Should Buyer deliver timely notice that the Property is not acceptable, Seller agrees that
148 Buyer's deposit will be immediately returned to Buyer and the Contract terminated.

149 (c) Walk-through Inspection: Buyer may, on the day prior to closing or any other time mutually agreeable to the
150 parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and
151 to ensure that all Property is on the premises.

152 **8. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Seller will continue to operate the Property and any
153 business conducted on the Property in the manner operated prior to Contract and will take no action that would
154 adversely impact the Property after closing, as to tenants, lenders or business, if any. Any changes, such as renting
155 vacant space, that materially affect the Property or Buyer's intended use of the Property will be permitted only with
156 Buyer's consent without Buyer's consent.

157 **9. CLOSING PROCEDURE:** Unless otherwise agreed or stated herein, closing procedure shall be in accordance with
158 the norms where the Property is located.

159 (a) **Possession and Occupancy:** Seller will deliver possession and occupancy of the Property to Buyer at
160 closing. Seller will provide keys, remote controls, and any security/access codes necessary to operate all locks,
161 mailboxes, and security systems.

162 (b) **Costs:** Buyer will pay Buyer's attorneys' fees, taxes and recording fees on notes, mortgages and financing
163 statements and recording fees for the deed. Seller will pay Seller's attorneys' fees, taxes on the deed and
164 recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at or
165 prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

166 (c) **Documents:** Seller will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable
167 service and maintenance contracts that will be assumed by Buyer after the Closing Date and letters to each
168 service contractor from Seller advising each of them of the sale of the Property and, if applicable, the transfer of its
169 contract, and any assignable warranties or guarantees received or held by Seller from any manufacturer,
170 contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium
171 documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters (if
172 applicable); tenant subordination, non-disturbance and attornment agreements (SNDAs) required by the Buyer or
173 Buyer's lender; assignments of permits and licenses; corrective instruments; and letters notifying tenants of the
174 change in ownership/rental agent. If any tenant refuses to execute an estoppels letter, Seller, if requested by the
175 Buyer in writing, will certify that information regarding the tenant's lease is correct. If Seller is an entity, Seller will
176 deliver a resolution of its governing authority authorizing the sale and delivery of the deed and certification by the
177 appropriate party certifying the resolution and setting forth facts showing the conveyance conforms to the
178 requirements of local law. Seller will transfer security deposits to Buyer. Buyer will provide the closing statement,
179 mortgages and notes, security agreements, and financing statements.

180 (d) **Taxes and Prorations:** Real estate taxes, personal property taxes on any tangible personal property, bond
181 payments assumed by Buyer, interest, rents (based on actual collected rents), association dues, insurance
182 premiums acceptable to Buyer, and operating expenses will be prorated through the day before closing. If the
183 amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due
184 allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request
185 of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

186 (e) **Special Assessment Liens:** Certified, confirmed, and ratified special assessment liens as of the Closing Date
187 will be paid by Seller. If a certified, confirmed, and ratified special assessment is payable in installments, Seller will
188 pay all installments due and payable on or before the Closing Date, with any installment for any period extending
189 beyond the Closing Date prorated, and Buyer will assume all installments that become due and payable after the
190 Closing Date. Buyer will be responsible for all assessments of any kind which become due and owing after Closing
191 Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially
192 completed as of the Closing Date but has not resulted in a lien before closing, Seller will pay the amount of the last
193 estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and
194 does not apply to condominium association special assessments.

195 (f) **Foreign Investment in Real Property Tax Act (FIRPTA):** If Seller is a "foreign person" as defined by FIRPTA,
196 Seller and Buyer agree to comply with Section 1445 of the Internal Revenue Code. Seller and Buyer will
197 complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply

Buyer JC and Seller [Signature] acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

198 with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or
199 Social Security Numbers to the closing agent. If **Buyer** does not pay sufficient cash at closing to meet the
200 withholding requirement, **Seller** will deliver to **Buyer** at closing the additional cash necessary to satisfy the
201 requirement.

202 **10. ESCROW AGENT:** **Seller** and **Buyer** authorize Escrow Agent or Closing Agent (collectively "Agent") to receive,
203 deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance with the
204 terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to
205 **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent
206 has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option, (a) hold the escrowed
207 items until the parties mutually agree to its disbursement or until a court of competent jurisdiction or arbitrator
208 determines the rights of the parties or (b) deposit the escrowed items with the clerk of the court having jurisdiction over
209 the matter and file an action in interpleader. Upon notifying the parties of such action, Agent will be released from all
210 liability except for the duty to account for items previously delivered out of escrow. If Agent is a licensed real estate
211 broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent interpleads the escrowed items
212 or is made a party because of acting as Agent hereunder, Agent will recover reasonable attorney's fees and costs
213 incurred, with these amounts to be paid from and out of the escrowed items and charged and awarded as court costs
214 in favor of the prevailing party.

215 **11. CURE PERIOD:** Prior to any claim for default being made, a party will have an opportunity to cure any alleged
216 default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-
217 complying party specifying the non-compliance. The non-complying party will have _____ days (5 days if left blank) after
218 delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.

219 **12. FORCE MAJEURE:** **Buyer** or **Seller** shall not be required to perform any obligation under this Contract or be liable
220 to each other for damages so long as performance or non-performance of the obligation, or the availability of services,
221 insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure.
222 "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual
223 transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent effort, the
224 non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will
225 be extended a reasonable time up to 7 days after the Force Majeure no longer prevents performance under this
226 Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than
227 30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other
228 and the Deposit shall be refunded to **Buyer**, thereby releasing **Buyer** and **Seller** from all further obligations under this Contract.

229 **13. RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is
230 not met and **Buyer** has timely given any required notice regarding the condition having not been met, **Buyer's** deposit
231 will be returned in accordance with applicable Florida Laws and regulations.

232 **14. DEFAULT:**

233 (a) In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make
234 the title marketable after diligent effort, **Buyer** may elect to receive return of Buyer's deposit ~~without thereby~~
235 ~~waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek~~ or seek
236 specific performance. If Buyer elects a deposit refund, ~~Seller may be liable to Broker for the full amount of the~~ J-C
237 brokerage fee. 12/12/23

238 (b) In the event the sale is not closed due to any default or failure on the part of **Buyer**, **Seller** may either (1)
239 retain all deposit(s) paid or agreed to be paid by **Buyer** as agreed upon liquidated damages, consideration for the
240 execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) ~~seek~~
241 ~~specific performance.~~ If **Buyer** fails to timely place a deposit as required by this Contract, **Seller** may either (1)
242 terminate the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without
243 waiving any remedy for **Buyer's** default.

244 **15. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the
245 prevailing party, which for purposes of this provision will include **Buyer**, **Seller** and Broker, will be awarded reasonable
246 attorneys' fees, costs, and expenses.

247 **16. NOTICES:** All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or
248 electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice,
249 document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker)
250 representing a party will be as effective as if given by or delivered to that party.

Buyer  () and Seller  () acknowledge receipt of a copy of this page, which is Page 5 of 8 Pages.

251 **17. DISCLOSURES:**

252 (a) **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales
253 Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of
254 commercial real estate for any commission earned by the broker under a brokerage agreement. The lien upon the
255 owner's net proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not
256 attach to any interest in real property. This lien right cannot be waived before the commission is earned.

257 (b) **Special Assessment Liens Imposed by Public Body:** The Property may be subject to unpaid special
258 assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such
259 liens, if any, shall be paid as set forth in Paragraph 9(e).

260 (c) **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in
261 sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that
262 exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon
263 and radon testing may be obtained from your county public health unit.

264 (d) **Energy-Efficiency Rating Information:** Buyer acknowledges receipt of the information brochure required by
265 Section 553.996, Florida Statutes.

266 **18. RISK OF LOSS:**

267 (a) If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will
268 bear the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to
269 Buyer. Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and
270 Seller will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim
271 to any insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any
272 such proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of
273 the Buyer.

274 (b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the
275 right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this
276 Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of
277 purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at
278 closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate
279 with and assist Buyer in collecting any such award.

280 **19. ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise is not
281 assignable is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment agreement
282 to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This
283 Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns (if
284 assignment is permitted).

285 **20. MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between Buyer and Seller.
286 Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound.
287 Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated
288 electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or
289 typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract
290 is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be
291 construed under Florida law and will not be recorded in any public records.

292 **21. BROKERS:** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to, a
293 licensed real estate Broker other than:

294 (a) **Seller's Broker:** NBI PROPERTIES INC DUSTIN PARKMAN
295 154 Brooks Street SE, #101, FWB, 32548 8502188408
(Company Name) (Licensee)
(Address, Telephone, Fax, E-mail)

296 who is a single agent is a transaction broker has no brokerage relationship and who will be compensated by
297 Seller Buyer both parties pursuant to a listing agreement other (specify) _____
298 _____
299 _____

300 (b) **Buyer's Broker:** _____
(Company Name) (Licensee)
301 _____
(Address, Telephone, Fax, E-mail)

Buyer JC () and Seller [Signature] () acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

302 who is a single agent is a transaction broker has no brokerage relationship and who will be compensated by
303 Seller's Broker Seller Buyer both parties pursuant to an MLS offer of compensation other (specify)

304 _____
305 (collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to
306 inquiries, introductions, consultations, and negotiations resulting in this transaction. Seller and Buyer agree to
307 indemnify and hold Broker harmless from and against losses, damages, costs and expenses of any kind, including
308 reasonable attorneys' fees at all levels, and from liability to any person, arising from (1) compensation claimed which is
309 inconsistent with the representation in this Paragraph, (2) enforcement action to collect a brokerage fee pursuant to
310 Paragraph 10, (3) any duty accepted by Broker at the request of Seller or Buyer, which is beyond the scope of
311 services regulated by Chapter 475, Florida Statutes, as amended, or (4) recommendations of or services provided and
312 expenses incurred by any third party whom Broker refers, recommends, or retains for or on behalf of Seller or Buyer.

313 **22. OPTIONAL CLAUSES:** (Check if any of the following clauses are applicable and are attached as an addendum to
314 this Contract):

- | | | |
|---|--|---|
| 315 <input type="checkbox"/> (A) Arbitration | <input type="checkbox"/> (E) Seller Warranty | <input type="checkbox"/> (I) Existing Mortgage |
| 316 <input type="checkbox"/> (B) Section 1031 Exchange | <input type="checkbox"/> (F) Coastal Construction Control Li | <input type="checkbox"/> (J) Buyer's Attorney Approval |
| 317 <input type="checkbox"/> (C) Property Inspection and Repair | <input type="checkbox"/> (G) Flood Area Hazard Zone | <input type="checkbox"/> (K) Seller's Attorney Approval |
| 318 <input type="checkbox"/> (D) Seller Representations | <input type="checkbox"/> (H) Seller Financing | <input type="checkbox"/> Other _____ |

319 **23. ADDITIONAL TERMS:**

320 IN THE EVENT THAT FINANCING IS NOT IN PLACE BY THE SCHEDULED CLOSING DATE, BUYER RESERVES
321 THE RIGHT TO EXTEND THE CLOSING 30 DAYS TO ALLOW FOR UNDERWRITING AND FUNDS TO BE IN
322 PLACE. ** Please provide Seller with documentation that shows*

323 *Buyer is working diligently towards financing and Closing.* *WMP*
J. e.
12/10/23

330 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE
331 ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL
332 FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE
333 PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE
334 EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR
335 REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER
336 ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT OCCUPY THE PROPERTY AND THAT ALL
337 REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE BASED ON SELLER
338 REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION OF
339 THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND
340 GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE AND
341 FACTS THAT MATERIALLY AFFECT PROPERTY VALUE.

Buyer *J.C.* () and Seller *[Signature]* () acknowledge receipt of a copy of this page, which is Page 7 of 8 Pages.

CC-5x Rev. 7/23
Serial#: 068886-600170-2318343

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Form
Simplicity

342 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other
343 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its
344 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized
345 to do so.

ATTENTION: SELLER AND BUYER

347 **CONVEYANCES TO FOREIGN BUYERS:** Part III of Chapter 692, Sections 692.201 - 692.205, Florida Statutes, 2023
348 (the "Act"), in part, limits and regulates the sale, purchase and ownership of certain Florida properties by certain buyers
349 who are associated with a "foreign country of concern", namely: the People's Republic of China, the Russian
350 Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the
351 Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. **It is a crime to buy or knowingly sell property
352 in violation of the Act.**

353 **At time of purchase, Buyer must provide a signed Affidavit which complies with the requirements of the Act.**
354 **Seller and Buyer are advised to seek legal counsel regarding their respective obligations and liabilities under the Act.**

355 Jared Cobb Date: 12/11/2023
(Signature of Buyer)

356 Jared Cobb Tax ID No.: _____
(Typed or Printed Name of Buyer)

357 Title: City Manager, City of Mary Esther Telephone: _____

358 _____ Date: _____
(Signature of Buyer)

359 _____ Tax ID No.: _____
(Typed or Printed Name of Buyer)

360 Title: _____ Telephone: _____

361 Buyer's Address for purpose of notice _____

362 Facsimile: _____ Email: _____

363 _____ Date: _____
(Signature of Seller)

364 RETAIL PARTNERS SANTA, LLC Tax ID No.: _____
(Typed or Printed Name of Seller)

365 Title: Chief Manager Telephone: 615-477-4262

366 [Signature] Date: 12/11/23
(Signature of Seller)

367 _____ Tax ID No.: _____
(Typed or Printed Name of Seller)

368 Title: _____ Telephone: _____

369 Seller's Address for purpose of notice: _____

370 Facsimile: _____ Email: _____

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Buyer JC () and Seller [Signature] () acknowledge receipt of a copy of this page, which is Page 8 of 8 Pages.

CITY OF MARY ESTHER
NEW CITY HALL MODIFICATIONS OR REMODEL PROBABLE COST COMPARISON
Date: October 2, 2023



To: Mr. Jared Cobb, City Manager
City of Mary Esther, FL
195 Christobal Road
Mary Esther, FL 32569
850.243.3566 ext 14
(Via: jcobb@cityofmaryesther.com)

Re: Probable Cost Comparison – New City Hall or Remodel an Existing Building

Dear Mr. Cobb,

Thank you for meeting with us and for the opportunity to provide you with a generalized probable cost comparison between potentially building a new city hall building vs. remodeling an existing property (First Florida Bank) located at 302 Mary Esther Blvd, Mary Esther, FL 32569.



The professional opinion offered is consistent with Florida Architects, Inc. (FLA) normal governmental project requirements, services, and processes normally required for a City Hall in the range of 7,220-NSF (9,747-GSF).

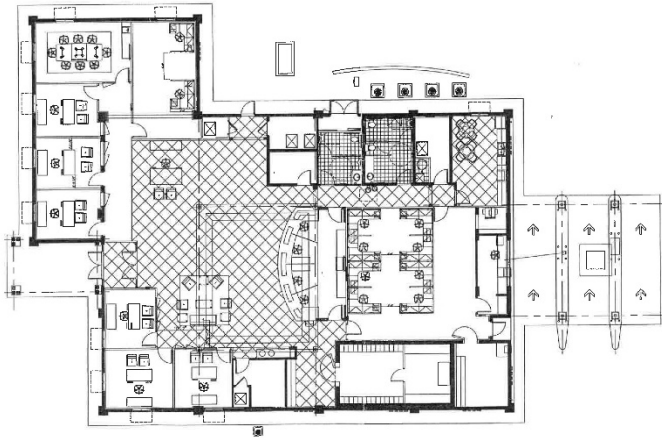
The following items and descriptions represent Florida Architects, Inc. proposed professional architectural and engineering services scope-of-work, deliverables, schedule, and related compensation.

OPTION #1: EXISTING BUILDING REMODELING

The existing building is in very good condition, has an emergency generator, with some exterior site improvements necessary, such as parking and driveway coating and restriping.

The interior would require some remodeling to accommodate city functions but are considered to be mostly related to new partitions and some finish work. Specific improvements would be considered during the design phase.

CITY OF MARY ESTHER
 NEW CITY HALL MODIFICATIONS OR REMODEL PROBABLE COST COMPARISON
 Date: October 2, 2023



OPTION #1: Remodeling/Improvements Probable Cost

Interior: 7,220-NSF x \$75.00/SF = \$541,500
 Exterior: Parking & Drive Coatings = \$33,000

TOTAL OPTION #1: \$574,500

OPTION #2: CONSTRUCT NEW CITY HALL

- Approx. 7,220-NSF x 1.35 = 9,747-GSF (hurricane resistant)
- Reinforced CMU w/Brick Veneer Exterior Walls
- KEE Single-Ply Membrane Roofing on Insulated Concrete Deck & Steel Joists/Beams
- Suspended AT Ceilings
- LVP Vinyl Plank & Carpet Plank Flooring
- Porcelain Tile Restrooms Floors & Wall Finishes
- Painted Gypsum Board Interior Walls & Birch Paneling in Chamber
- Split HVAC System
- Mid-Level Grade Site Work/Minimum Improvements

9,747-GSF x \$322.88/SF = \$3,147,123
 Generator Option (whole bldg) = \$245,000

TOTAL OPTION #2: \$3,392,123 to \$4,000,000

CITY OF MARY ESTHER
NEW CITY HALL MODIFICATIONS OR REMODEL PROBABLE COST COMPARISON
Date: October 2, 2023



The Probable Cost Estimates included are based on minimum assumptions and should be studied further in a design process with more detail. However, this information is a reasonable comparison.

Thank you for the opportunity to *best serve* the City of Mary Esther.

Respectfully Submitted By
FLORIDA ARCHITECTS, INC.

Prepared By: Joseph Sorci, AIA, President

Encl: New Building Means Probable Cost Estimate Worksheet

Cost Estimate Report

Date: 10/01/2023

City of Mary Esther

195 Christobal Road North Mary Esther, FL 32569
 Mary Esther, Florida, 32569

Mary Esther City Hall

Year 2023

Assembly Summary Report

Prepared By: Valli Sorci

Florida Architects, Inc.

Division Description	Total
A Substructure	\$93,213.45
B Shell	\$868,455.76
C Interiors	\$525,957.90
D Services	\$681,206.67
E Equipment & Furnishings	\$24,653.98
G Building Sitework	\$384,009.01
Subtotal	\$2,577,496.77
General Contractor's Markup on Subs	5.00% \$0.00
Subtotal	\$2,577,496.77
General Conditions	11.00% \$283,524.64
Subtotal	\$2,861,021.41
General Contractor's Overhead and Profit	10.00% \$286,102.14
Grand Total	\$3,147,123.55

AGENDA ITEM

Agenda Item 7.2.

TO: Honorable Mayor and Members of the City Council

FROM: Heather Day, Finance Director

DATE: December 20, 2023

SUBJECT: Ratification of Financing Agreements for Purchase and Improvements of 302 Mary Esther Boulevard and Christobal Waterfront Park

BACKGROUND:

The City has enlisted the services of the Florida League of Cities (FLC) to obtain funding for acquiring the property at 302 Mary Esther Boulevard and for financing the city's share of both the property purchase and construction of the waterfront park on South Christobal Road.

DISCUSSION:

Through participation in the FLC Florida Municipal Loan Council (FMLC) Bank Loan Program, the city gains access to comprehensive services facilitated by the League of Cities, including note council provided by FMLC and municipal advisory services provided by Public Resources Advisory Group, Inc. (PRAG). These services encompass the entire financing process, from formulating and dispatching a request for proposal to 40 to 50 different banking institutions, ensuring the city secures the most favorable rates and terms, and overseeing all aspects leading to the loan's closure. Enclosed are the engagement letters from the FLC, FMLC, and PRAG detailing the services they will contribute throughout the loan process. Although the City Manager has already executed these engagement letters to maintain adherence to the timeline, we seek the council's ratification of these agreements.

FINANCIAL IMPACT:

The engagement letters outline the fees for each service. The total cost for these services is anticipated to be \$32,500, designated as closing costs and incorporated into the loan agreement.

RECOMMENDATION:

Motion to ratify the attached engagement letters with FLC, FMLC, and PRAG.

ATTACHMENT(S):

1. FLC Engagement Letter
2. FMLC Engagement Letter
3. PRAG Engagement Letter



December 8, 2023

Jared Cobb
City Manager
City of Mary Esther
195 Cristobal Road N
Mary Esther, FL 32569

Re: Florida Municipal Loan Council Financing Programs

Dear Mr. Cobb,

We understand that the City of Mary Esther (the "City") is interested in working with the Florida Municipal Loan Council ("FMLC") and utilizing one of its financing programs. The purpose of this letter is to document the City's intent to move forward with using the FMLC's finance programs to finance two property acquisitions as well as outline the service provided by the FMLC.

The FMLC offers two financing programs:

- Competitive Capital Access Program (Bank Loan RFP Program)
- Fixed-Rate Bond Program (Bond Issue Program)

The services provided by the FMLC under both programs are described in Exhibit A. The Florida League of Cities serves as Administrator for the FMLC.

The FMLC's compensation will be based on the Compensation Schedule attached below as Exhibit B. All compensation is due upon closing. No fees are due if the financing does not close.

The FMLC does not serve as a financial advisor or as a municipal advisor in connection with the issuance of financing. Please note nothing in this letter is an expressed nor an implied commitment by the FMLC to provide financing.

We look forward to working with the City on this financing.

Sincerely,

FLORIDA LEAGUE OF CITIES, as Administrator for the FMLC

Paul Shamoun, Director of Financial Services

Accepted:

City of Mary Esther, Florida

Signature: _____

Printed Name: _____

Title: _____

Jared Cobb
Jared Cobb
City Manager

Exhibit A

Description of Services

Competitive Capital Access Program (Bank Loan RFP Program):

Services through closing –

- Team of professionals (Bond Counsel, Financial Advisor)
- Coordination of RFP process and professionals
- Pre-reviewed form set of bond documents
- Assist in the closing of the financing

FMLC Fixed-Rate Bond Program:

Services through closing –

- Team of bond professionals (Bond Counsel, Financial Advisor, Underwriter, Disclosure Counsel, Trustee)
- Coordination of professionals and issuance process
- Access to bond insurance*
- Access to an existing surety bond to fund reserve requirements*
- Assist in the closing of the financing

*Subject to a credit review by bond insurer

Ongoing Administrative Services –

- Florida League of Cities serves as Administrator over the life of the loan
- Arbitrage Rebate Calculations
- Continuing Disclosure Services
- Monthly Account Statements and Reconciliation
- Investment of Bond Proceeds
- Audit Confirmations
- Oversight by FMLC Board of Directors

Exhibit B

Compensation Schedule

Competitive Capital Access Program (Bank Loan RFP Program):

An upfront fee to be collected through the cost of issuance for each borrower at the rate of 10/100 of 1% (.001) with a minimum fee of \$5,000 and a maximum fee of \$15,000 per loan.

FMLC Fixed-Rate Bond Program (Bond Issue Program):

For administrative services rendered through closing, an upfront fee to be collected through the costs of issuance for each borrower at the rate of 5/100 of 1% (.0005) with a minimum fee of \$10,000 per bond issue.

For ongoing administrative services, the fee shall be computed annually for each borrower at the rate of 10/100 of 1% (.001) of the principal balance outstanding, with a minimum annual fee of \$1,500 and a maximum annual fee of \$10,000.

December 12, 2023

Paul Shamoun
Director, Department of Financial Services
Florida League of Cities, Inc.
P.O. Box 1757
Tallahassee, Florida 32302

Jared Cobb
City Manager
195 Christobal Road N
Mary Esther, Florida 32569

RE: Proposed issuance under the Florida Municipal Loan Council's Capital Access Program (the "Program") of the Capital Improvement Revenue Note, Series 2024 (the "Note")

Dear Mr. Shamoun and Mr. Cobb:

The purpose of this letter is to advise the City of Mary Esther, Florida (the "Issuer") and the Florida Municipal Loan Council (the "FMLC") of our fee estimate and to describe the services we will perform as Note Counsel to the FMLC in connection with the issuance of the above described Note by the Issuer. We understand that the Note is being issued in a single series for the purpose of financing (a) the acquisition of waterfront property and the development and/or redevelopment of such property into a public park for recreational and tourism purposes, and (b) the acquisition of land and an existing building thereon and the renovation of such building to be used as City Hall (collectively, the "Project"). We further understand that: (i) the Note will be a limited obligation of the Issuer payable solely from the Issuer's covenant to budget and appropriate legally available non-ad valorem revenues; (ii) the Note will be purchased at a private negotiated sale by a financial institution to be selected by the Issuer (the "Bank"); and (iii) the Issuer will be responsible for paying our note counsel fees as part of the Program.

SCOPE OF ENGAGEMENT

In this transaction, we expect to perform the following duties:

- (1) Subject to the completion of proceedings to our satisfaction, render our legal opinion (the "Note Opinion") regarding the validity and binding effect of the Note, the source of payment and security for the Note, and the excludability of interest on the Note from gross income for federal income tax purposes.
- (2) Draft the basic agreements governing the issuance of the Note, including a loan agreement.
- (3) Prepare and review other documents necessary or appropriate to the authorization, issuance, and delivery of the Note, coordinate the authorization and execution of documents, and review and, where appropriate, draft enabling legislation.
- (4) Assist the Issuer and the FMLC in seeking from other governmental authorities such approvals, permissions, and exemptions as we determine are necessary or appropriate in connection with the authorization, issuance, sale, and delivery of the Note, except that we will not be responsible for any required blue sky filings.
- (5) Review legal issues relating to the structure of the Note issue.
- (6) Assist the Issuer and the FMLC in presenting information relating to the structure and legality of the Note to the Bank.
- (7) Serve as the Issuer's and the FMLC's closing agent in connection with the closing of the loan.
- (8) Circulate all documents in connection with this transaction to the Issuer's Attorney and assist as necessary with the preparation of the Issuer's Attorney opinion letter.

Our Note Opinion will be addressed to the Issuer and the FMLC and will be delivered by us on the date the Note is exchanged for its purchase price (the "Closing").

The Note Opinion will be based on facts and law existing as of its date. In rendering our Note Opinion, we will rely on the certified proceedings and other certifications of public officials, officers of the Issuer, and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the Issuer with applicable laws relating to the Note. During the course of this engagement, we rely on you to provide us with complete and timely information on all developments pertaining to the Note and the security for the Note. Among other things, we will require the Issuer to

execute a certificate of fact relating to the use of proceeds of the Note. In rendering our Note Opinion, we will expressly rely upon other counsel as to due organization of the Issuer, the due enactment or adoption of any authorizing ordinances or resolutions and other matters.

Our duties in this engagement are limited to those expressly set forth above. Among other things, our duties do not include:

(a) Assisting in the preparation or review of an official statement or any other disclosure document with respect to the Note, or performing an independent investigation to determine the accuracy, completeness, or sufficiency of any such document or rendering advice that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(b) Preparing blue sky or investment surveys with respect to the Note.

(c) Except as described in paragraph (3) above, drafting state constitutional or legislative amendments.

(d) Pursuing test cases or other litigation (such as contested validation proceedings).

(e) Making an investigation or expressing any view as to the creditworthiness of the Issuer, any credit enhancement provider, liquidity provider or the Note.

(f) Assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the Note or, after Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.

(g) Representing the Issuer or the FMLC in Internal Revenue Service examinations or inquiries, or Securities and Exchange Commission investigations.

(h) After Closing, providing continuing advice to the Issuer, the FMLC, or any other party concerning any actions necessary to assure that interest paid on the Note will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Note).

(i) Providing any advice or opinions on bankruptcy matters.

(j) Providing advice or opinions on interest rate swap agreements.

(k) Addressing any other matter not specifically set forth above that is not required to render our Note Opinion.

ATTORNEY-CLIENT RELATIONSHIP

In this transaction, the FMLC will be our client and an attorney-client relationship will exist between the FMLC and us. We understand that the Issuer has retained Hand Arendall Harrison Sale LLC to act as Issuer's counsel. We assume that the Issuer, the Bank, and other parties to the transaction will retain such counsel as the Issuer or they deem necessary and appropriate to represent the respective interests of such parties in this transaction. In performing our services as Note Counsel, we will represent the interests of the FMLC exclusively and we will not be representing the Issuer, the Bank, or any other party and will not be acting as an intermediary among the parties. Our representation of the FMLC will not affect, however, our responsibility to render an objective Note Opinion.

CONFLICT

The rules regulating The Florida Bar provide that a conflict of interest exists whenever a lawyer represents one client in a matter adverse to another client. The lawyer may proceed with the representation of one client if, after disclosure of the conflict, both clients consent to the representation. We have disclosed to FMLC and the Issuer that we have, currently do, and may in the future, serve as bond, disclosure, or other counsel to other local governments.

In addition, we have, currently do, and may in the future act as bank's counsel and/or underwriter's counsel on unrelated public finance matters in the State of Florida. From time to time, we may represent the firms which may underwrite FMLC's and the Issuer's bonds, notes, or other obligations on financings for other governmental entities or entities in the State of Florida on unrelated matters. In either case, such representations are standard and customary within the municipal bond industry. In our opinion, we can effectively represent FMLC and the discharge of our professional responsibilities to FMLC will not be prejudiced as a result. This is the case either because such engagements will be sufficiently different or because the potential for such prejudice is remote and minor and outweighed by consideration that it is unlikely advice given to the other client will be relevant in any respect to the subject matter.

FMLC and the Issuer expressly acknowledge such other representations consistent with the circumstances herein described. FMLC and the Issuer acknowledge and agree that our role as bond counsel, disclosure counsel, or counsel to any other local governmental entity or financial institution, or in conjunction with other public finance transactions is not likely to create or cause any actual conflict, and service as bond counsel, disclosure counsel, or counsel to other clients of ours will not per se be construed as a conflict or be objectionable to FMLC or the Issuer. Execution of this letter will signify FMLC's and the Issuer's consent to our representation of FMLC as Note Counsel in this transaction and our representation of other local governmental entities or financial institutions in certain unrelated transactions for purposes of Rule 4-1.7 of the Rules regulating The Florida Bar.

FEES

Although we will be acting as Note Counsel on behalf of the FMLC, the Issuer will be responsible for paying our legal fees from the proceeds of the Note. Based upon: (i) our current understanding of the terms, structure, size and schedule of the financing represented by the Note; (ii) the duties we will undertake pursuant to this engagement letter; (iii) the time we anticipate devoting to the financing in connection therewith; (iv) the responsibilities we will assume; and (v) the terms of the FMLC's note counsel arrangements, our fee will be \$15,000.

Our fee is usually paid at the closing, and we customarily do not submit any statement until the Closing unless there is a substantial delay in completing the financing. If this transaction is delayed beyond March 1, 2024, we reserve the right to present to you for payment an interim statement.

If the financing is not consummated, we understand and agree that we will not be paid; however, we expect that all reasonable out-of-pocket expenses are subject to reimbursement.

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed by an authorized officer, retaining the original letter for your files. We look forward to working with you.

BRYANT MILLER OLIVE P.A.

A handwritten signature in black ink, appearing to read "Jason M. Breth". The signature is stylized with a large initial "J" and "B".

Jason M. Breth
Shareholder

ACCEPTED AND APPROVED

The undersigned, on behalf of the Florida Municipal Loan Council hereby accepts and approves the terms and conditions of the letter dated December 12, 2023. For purposes of Rule 4-1.7 of the Rules regulating the Florida Bar, the undersigned hereby acknowledges and consents to Bryant Miller Olive P.A.'s representation of the Issuer and other local governmental entities or financial institution in certain unrelated transactions based on the circumstances described in such letter. I have had the opportunity to consult with independent counsel regarding the Florida Municipal Loan Council's agreement hereto.

FLORIDA MUNICIPAL LOAN COUNCIL


By: _____
Name: Paul Shamoun
Title: Director, Department of Financial
Services

Date: _____

ACCEPTED AND APPROVED

The undersigned, on behalf of the City of Mary Esther, Florida hereby accepts and approves the terms and conditions of the letter dated December 12, 2023. For purposes of Rule 4-1.7 of the Rules regulating the Florida Bar, the undersigned hereby acknowledges and consents to Bryant Miller Olive P.A.'s representation of FMLC and other local governmental entities or financial institution in certain unrelated transactions based on the circumstances described in such letter. I have had the opportunity to consult with independent counsel regarding the Town of Malabar, Florida's agreement hereto.

CITY OF MARY ESTHER, FLORIDA

By: 
Name: Jared Cobb
Title: City Manager

Date: 12/15/23

December 8, 2023

Jared Cobb
City Manager
City of Mary Esther
195 Christobal Road N
Mary Esther, FL 32569

Re: Municipal Advisory Services

Dear Mr. Cobb:

The purpose of this engagement letter (the "Agreement") is to document the relationship between Public Resources Advisory Group, Inc. ("PRAG") and the City of Mary Esther, FL (the "City"). The City desires to utilize the services of PRAG as an independent registered municipal advisor to assist the City in issuing debt which will finance two property acquisitions within the City and improvements thereto (the "Project"). It is also our understanding that the City intends to use the Florida Municipal Loan Council ("FMLC") Bank Loan Program. PRAG does serve as an independent registered municipal advisor to the Florida League of Cities ("FLC") and the FMLC. At this time we are not aware of any divergence of interest between the City and the FLC or FMLC.

Scope of Services

It is expected that the Project will be financed with a Bank Loan. PRAG's services to the City will include the following:

- a. Review the City's existing debt and documentation thereto as applicable;
- b. Provide the City with debt structuring and debt service analysis as requested;
- c. Develop a financing timetable;
- d. Assist in the development of a request for proposals to be distributed to commercial banks;
- e. Summarize bank proposals indicating key terms of each;
- f. Negotiate final terms and pricing of the debt;
- g. Assist in the development and preparation of loan documents; and,
- h. Perform functions to facilitate the closing of the debt.

Compensation

PRAG's compensation will be based on the Compensation Schedule attached hereto as Attachment I. Expenses shall include, but are not limited to, reasonable and necessary travel-related expenses (reimbursed pursuant to Section 112.061, Florida Statutes). In no event will expenses exceed \$500 without the approval of the City.

Term

We understand that our engagement will end upon the settlement of the transaction anticipated by this Agreement, but no later than June 30, 2024.



ATTACHMENT I

COMPENSATION SCHEDULE

PRAG Transaction Fees for Single Borrower Bank Loan Transactions through the FMLC	
Up to \$30 million	\$0.60 per \$1,000
Above \$30 million	\$0.25 per \$1,000
Minimum	\$12,500
Maximum	\$20,000



ATTACHMENT II
REQUIRED DISCLOSURES

Required Disclosure Pursuant to MSRB Rule G-42

The City of Mary Esther (the "City") is in the process of retaining Public Resources Advisory Group ("PRAG") as an independent registered municipal advisor to assist with the scope of services pursuant to the letter agreement dated December 8, 2023 (the "Agreement") and attached hereto. These activities qualify as municipal advisory activities pursuant to Section 15B of the Securities Exchange Act of 1934. As a registered municipal advisor, PRAG is required to have written documentation of its agreement with you and must provide certain information to you. This letter will serve as the written documentation required under MSRB Rule G-42 of certain specific terms, disclosures and other items of information relating to our municipal advisory relationship as of the date this letter is signed by PRAG.

1. Scope of Services

(a) Services to be provided: The scope of services with respect to PRAG's engagement with the City (the "Scope of Services") are as described in the Agreement.

2. Term. We understand that our engagement will end upon the settlement of the transaction outlined in the Agreement, but no later than June 30, 2024. In addition, we understand that our engagement may be terminated with or without cause by either party. In case of any termination, we believe that the terminating party should endeavor to provide reasonable notice of such termination to the other party so as to permit an orderly transition.

3. Municipal Advisor's Regulatory Duties When Servicing the City. MSRB Rule G-42 requires that PRAG make a reasonable inquiry as to the facts that are relevant to the City's determination whether to proceed with a course of action or that form the basis for the advice provided by PRAG to the City with respect to municipal financial products or the issuance of municipal securities, including with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues, based on all the facts and circumstances. The rule also requires that PRAG undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information. PRAG is also required under the rule to use reasonable diligence to know the essential facts about the City and the authority of each person acting on the City's behalf.

Accordingly, PRAG will seek the City's assistance and cooperation, and the assistance and cooperation of the City's agents, with the carrying of these regulatory duties, including providing PRAG with accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, if the City provides direction to PRAG to review a recommendation made by a third party, PRAG requests that the City provide any information it has received from such third party relating to its recommendation.

4. Compensation. The form and basis of compensation for PRAG's services as municipal advisor are as provided in this Agreement.

5. Disclosures of Conflicts of Interest. MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable. Accordingly, PRAG makes the following disclosures with respect to material conflicts of interest in connection with the Scope of Services under this Agreement, together with explanations of how PRAG addresses or intends to manage or mitigate each conflict.

With respect to all of the conflicts disclosed below, PRAG mitigates such conflicts through its adherence to its fiduciary duty to the City, which includes a duty of loyalty to the City in performing all municipal advisory activities for the City. This duty of loyalty obligates PRAG to deal honestly and with the utmost good faith with the City and to act in the City's best interests without regard to PRAG's financial or other interests.

(a) Compensation-Based Conflicts: The fees due under this Agreement will be contingent upon the successful closing of a transaction and is based on the size or nature of the transaction. While this form of compensation is customary in the municipal securities market, this may present a potential conflict of interest because it could create an incentive for PRAG to recommend unnecessary financings or financings that are disadvantageous to the City or to advise the City to increase the size of the issue.

(b) Other Municipal Advisor Relationships: PRAG serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of the City. For example, PRAG serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to the City under this Agreement. These other clients may, from time to time and depending on the specific circumstances, have competing interests. In acting in the interests of its various clients, PRAG could potentially face a conflict of interest arising from these competing client interests. PRAG currently serves as an independent registered municipal advisor to the Florida League of Cities ("FLC") and the FMLC. At this time we are not aware of any divergence of interest between the City and the FLC or FMLC and, as such, we have no conflicts in connection with providing services to the City.

6. Disclosures of Information Regarding Legal Events and Disciplinary History. MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal events or disciplinary history material to its client's evaluation of the municipal advisor or



the integrity of the municipal advisor's management or advisory personnel. Accordingly, PRAG sets out below required disclosures and related information in connection with such disclosures.

There are no legal events or disciplinary history that are material to the City's evaluation of PRAG or the integrity of PRAG's management or advisory personnel **disclosed**, or that should be disclosed, on any Form MA and Form MA-I filed with the SEC. The City may electronically access PRAG's most recent Form MA and each of our most recent Form MA-I filed with the SEC at the following website: www.sec.gov/edgar/searchedgar/companysearch.html.

PRAG has not made any material, legal or disciplinary event disclosures on Form MA or any Form MA-I filed with the SEC.

7. Future Supplemental Disclosures. As required by MSRB Rule G-42, this letter may be supplemented or amended, from time to time as necessary, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of PRAG. PRAG will provide the City with any such supplement or amendment as it becomes available throughout the term of the Agreement.

Required Disclosure Pursuant to MSRB Rule G-10

Public Resources Advisory Group, Inc. is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board ("MSRB").

As a Municipal Advisor, we are required to provide the following written information to our municipal entity and obligated person clients in accordance with MSRB Rule G-10:

The MSRB website at www.msrb.org, includes the Municipal Advisory client brochure that describes the protections that may be provided by the MSRB Rules and how to file a complaint with an appropriate regulatory authority.



Contacts

The PRAG contacts that will work with the City on this engagement include:

- Mickey Johnston, Senior Managing Director, 727-822-3339, mjohnston@pragadvisors.com
- Wendell Gaertner, Senior Managing Director, 727-822-3339, wgaertner@pragadvisors.com

Other Matters

PRAG is not providing any legal or accounting advice or counsel under this engagement. Without limiting the foregoing, PRAG is not providing any interpretation of any laws or regulations that may be applicable to the City or that are otherwise related to the work hereunder.

Required Disclosures

MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal events or disciplinary history material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel. MSRB Rule 10 requires municipal advisors to provide certain written information to their clients. Accordingly, PRAG has provided Attachment II attached hereto which includes the required disclosures.

We look forward to working with you on this project.

Sincerely,

PUBLIC RESOURCES ADVISORY GROUP

Wendell G. Gaertner
Senior Managing Director

Accepted by:

City of Mary Esther, Florida
Jared Cobb, City Manager

Date: 12/22/23

AGENDA ITEM

Agenda Item 7.3.

TO: Honorable Mayor and Members of the City Council

FROM: Heather Day, Finance Director

DATE: December 20, 2023

SUBJECT: Resolution 23-07, Establishing Intent to Reimburse Capital Expenditures with Proceeds of Future Tax-Exempt Financing

BACKGROUND:

The City has opted to leverage the Florida League of Cities Bank Loan Program to facilitate financing for two distinct projects. The initial project involves acquiring the property situated at 302 Mary Esther Boulevard, designated for use as a new city hall. The total cost, including the purchase price and estimated renovation expenses, amounts to \$2,949,500. The City intends to pursue a bank loan for this project, spanning a term ranging between 15 and 20 years.

The second project earmarked for financing pertains to the City's stake in the waterfront park property on South Christobal Road. Through collaboration with Okaloosa County, the City shares 50% of the responsibility for the property acquisition and construction cost, estimated at \$1,500,000. Significantly, ongoing negotiations between the City and Okaloosa County aim to establish an agreement wherein the City can utilize its share of tourist development tax to reimburse the City for its portion of the project. Consequently, the funding for the park project will be exclusively derived from Okaloosa County and Tourist Development Tax dollars. However, as the City awaits reimbursement, the City seeks a loan to cover the remaining portion of the project. Despite previously expending \$652,201 towards the project, the City aims to secure a loan amounting to \$847,800, with a term of 10 years for the outstanding balance of the park project.

DISCUSSION:

Resolution 23-07 authorizes the City to seek reimbursement from the loan proceeds for any expenditures incurred on either project between now and the closing of the loan, enabling the city to maintain its reserves. We plan on issuing a request for proposals for the loan on December 28th, with the anticipation of selecting a proposal in January and closing on the loan during the first week of February.

FINANCIAL IMPACT:

The City is in the process of pursuing a loan amounting to \$2,949,500 for the acquisition and renovation of a new city hall building and an additional loan of \$847,798 for the acquisition and construction of a waterfront park on South Christobal Road. These two projects are anticipated to be consolidated into a single loan, encompassing closing costs. Due to the distinct terms expected for each project, the loan structure will be front-loaded, resulting in higher payments

during the initial 10 years. This payment structure accounts for both the waterfront park and the new city hall projects during this period.

RECOMMENDATION:

Motion to approve Resolution 23-07, establishing intent to reimburse capital expenditures with proceeds of future tax-exempt financing.

ATTACHMENT(S):

1. Resolution 23-07, Reimbursement of Capital Expenditures

RESOLUTION NO. 23-07

A RESOLUTION OF THE CITY OF MARY ESTHER, FLORIDA, FLORIDA ESTABLISHING ITS INTENT TO REIMBURSE CERTAIN CAPITAL EXPENDITURES WITH PROCEEDS OF A FUTURE TAX-EXEMPT FINANCING; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mary Esther, Florida (the "Issuer") has determined that the need exists to incur debt in order to acquire, construct, and install certain capital improvements, including, but not limited to, (i) the acquisition of waterfront property and the development and/or redevelopment of such property into a public park for recreational and tourism purposes, and (ii) the acquisition of land and an existing building thereon and the renovation of such building to be used as City Hall (collectively, the "Project").

WHEREAS, it is expected that the costs of the Project will be reimbursed by and financed with the proceeds of a future tax-exempt financing for capital expenditures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARY ESTHER, FLORIDA, AS FOLLOWS:

SECTION I. AUTHORITY. This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida; Chapter 166, Florida Statutes; the Charter of the Issuer; and other applicable provisions of law.

SECTION II. DECLARATION OF INTENT. The Issuer hereby expresses its intention to be reimbursed from proceeds of a future tax-exempt financing for capital expenditures to be paid by the Issuer for the purpose of acquiring, constructing, rehabilitating, and installing the Project. The Issuer expects to use legally available funds to pay such costs, including, but not limited to general fund revenues. It is reasonably expected that the total amount of debt to be incurred by the Issuer with respect to the Project will not exceed \$4,000,000. This Resolution is intended to constitute a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations which were promulgated pursuant to the Internal Revenue Code of 1986, as amended, with respect to the debt incurred, in one or more financings, to finance the Project.

SECTION III. SEVERABILITY. If any one or more of the covenants, agreements, or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements, or provisions of this Resolution.

SECTION IV. REPEALER. This Resolution supersedes all prior actions of the Issuer inconsistent herewith. All resolutions or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of any such conflict.

SECTION V. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED this ____ day of December, 2023

By: _____
Chris Stein, Mayor

ATTEST:

Dillon Morris
Interim City Clerk

Approved as to form and legality:

Hayward Dykes, Jr., City Attorney

AGENDA ITEM

Agenda Item 7.4.

TO: Honorable Mayor and Members of the City Council

FROM: Shawn Lindsey

DATE: December 20, 2023

SUBJECT: Update on Springdale Neighborhood Infrastructure Improvements

BACKGROUND:

On July 28, 2023, staff received the construction plans for Ray's Pond. The stormwater analysis determined the footprint of the pond is too small to handle existing stormwater flows. Additional stormwater improvements are required to reduce stormwater flows into Ray's Pond and meet current FDEP permit requirements.

On October 25, 2023, the City Council approved a task order with Jacobs Engineering to design the required neighborhood stormwater improvements.

DISCUSSION:

The sidewalks and stormwater infrastructure will occupy the same right-of-way. Jacobs has developed the attached map which depicts where sidewalks can be installed without conflicting with future stormwater infrastructure. Sidewalks and sod will be installed at these locations starting in January with the first section estimated to take approximately 1 month. Jacobs plans on submitting another plan to our contractor in about two weeks to construct sidewalks on one side of the remaining roads. We believe this will keep our current contractor busy until the remaining work on Ray's Pond is awarded.

Bid documents for Ray's Pond have been completed. The Request for Bids (RFB) will be posted the week of December 18 and close in January. We hope to award the RFB at our meeting on January 16 or February 5.

FINANCIAL IMPACT:

Sidewalks are funded with a \$695,000 federal CDBG-CV grant.
Ray's Pond is funded with a \$500,000 state appropriation.

RECOMMENDATION:

Presentation only. No action is required.

ATTACHMENT(S):

1. Proposed Sidewalk Plan

