



**SANDUSKY CITY COMMISSION
REGULAR SESSION AGENDA
AUGUST 10, 2020 AT 5 P.M.
CITY HALL, 240 COLUMBUS AVENUE**

INVOCATION	Dennis Murray
PLEDGE OF ALLEGIANCE	
CALL TO ORDER	
ROLL CALL	W. Poole, B. Harris, D. Murray, D. Brady, N. Twine, M. Meinzer & D. Waddington
APPROVAL OF MINUTES	July 27, 2020 & Special Meeting August 3, 2020
AUDIENCE PARTICIPATION	
COMMUNICATIONS	Motion to accept all communications submitted below
CURRENT BUSINESS	

CONSENT AGENDA ITEMS

ITEM A -

AGREEMENT WITH REMINGER CO. LPA FOR PROFESSIONAL LAW DIRECTOR SERVICES

Budgetary Information: The cost for the professional law director services is \$6,500.00 per month and will be paid with funds from the Law Department's operation budget (50%), Water Funds (25%), and Sewer Funds (25%);

ORDINANCE NO. _____: It is requested an ordinance be passed authorizing and directing the city manager to enter into an agreement with Reminger Co., LPS of Sandusky, Ohio, for professional law director services for the city of Sandusky; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM B – Submitted by Aaron Klein, Director of Public Works

AGREEMENT WITH ODNR TO ACCEPT \$4M FOR CONSTRUCTION OF CEDAR POINT CAUSEWAY WETLANDS PROJECT, PHASE I

Budgetary Information: There is no impact to the City budget as all project activities will be paid for with the available funds from ODNR on a reimbursable basis. Staff is also requesting from ODNR to have a portion of our time reimbursed, but we are still in negotiations on that.

ORDINANCE NO. _____: It is requested an ordinance be passed authorizing and directing the City Manager to accept grant funds in the amount of \$4,029,500.00 from the Ohio Department of Natural Resources in cooperation with the Ohio Environmental Protection Agency for the Cedar point Causeway Wetland Project – Phase 1 and the related Sandusky Bay Initiative; authorizing the city manager to execute the grant agreement and to expend the funds consistent with the grant agreement; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM C – Submitted by Aaron Klein, Director of Public Works

TWO (2) EASEMENT AGREEMENTS BETWEEN THE CITY OF SANDUSKY AND ERIE METROPARKS REGARDING THE LANDING PROJECT

Budgetary Information: There will be no impact on the City's budget to acquire these easements.

ORDINANCE NO. _____: It is requested an ordinance be passed approving a temporary construction and permanent utility easement granted to the city by Erie MetroParks for the Landing Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ORDINANCE NO. _____: It is requested an ordinance be passed approving a train and access easement granted to the city by Erie MetroParks for the Landing Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

REGULAR AGENDA ITEMS

ITEM #1 – Submitted by Aaron Klein, Director of Public Works

U.S. CUSTOMS AND BORDER PROTECTION LEASE AGREEMENT

Budgetary Information: There is no lease payment received for this lease as it is a requirement of the federal government when an international port exists. As owner, the City of Sandusky will be responsible for maintaining this facility to the standard requirements contained within this lease and to absorb all costs associated with the lease. It is unknown at this time what the annual costs will be, but staff will monitor these costs over the next several years so they can be rolled into future agreements for the Owen Sound ferry lease.

Negotiated as part of the Ministry of Transportation of Ontario’s (MTO) long-term lease for the Pelee Islander, there will be a capital contribution for the Jackson Street Pier rehabilitation project to be paid over the term of the agreement. All non-capital proceeds derived from those lease payments are to be deposited into the Jackson Street Pier fund.

ORDINANCE NO. _____: It is requested an ordinance be passed authorizing and directing the City Manager to enter into a lease agreement with the United States of America, acting by and through the designated representative of the U.S. Customs and Border Protection for a portion of the Jackson Street Pier property for Homeland Security; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

CITY MANAGER’S REPORT

OLD BUSINESS

NEW BUSINESS

AUDIENCE PARTICIPATION: Open discussion on any item (5 minute limit)

EXECUTIVE SESSION(S)

ADJOURNMENT

Online: www.ci.sandusky.oh.us – Click “Play” 

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH REMINGER CO., LPA OF SANDUSKY, OHIO, FOR PROFESSIONAL LAW DIRECTOR SERVICES FOR THE CITY OF SANDUSKY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City's Law Director, Trevor M. Hayberger, has resigned effective August 2, 2020, to accept a position as a Magistrate Judge with the Erie County Common Pleas Court, and in the interim of selecting a new Law Director, the City desires to retain Reminger Co., LPA of Sandusky, Ohio, for professional law director services to be provided by Attorney Justin D. Harris; and

WHEREAS, this City Commission reviewed and accepted the proposal submitted by Reminger Co., LPA at their regularly scheduled meeting on July 27, 2020; and

WHEREAS, the cost for the professional law director services is \$6,500.00 per month and will be paid with funds from the Law Department's operation budget (50%), Water Funds (25%), and Sewer Funds (25%); and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to formally approve the agreement that was effective July 31, 2020; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an agreement with Reminger Co., LPA of Sandusky, Ohio, for professional law director services for the City of Sandusky, effective July 31, 2020, consistent with the proposal submitted, a copy of which is marked Exhibit "A" and is attached to this Ordinance and is specifically incorporated as if fully rewritten herein together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent

provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: August 10, 2020

CERTIFICATE OF FUNDS

In the Matter of: Reminger Law Agreement

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account # 110-7100-5300, 612-5900-53000, 613-5900-53000

By: Michelle Reeder

Michelle Reeder

Finance Director

Dated: 8/6/2020



Justin D. Harris
Direct: (419) 609-4234
jharris@reminger.com

July 27, 2020

City of Sandusky
C/O Trevor Hayberger, Law Director
240 Columbus Ave
Sandusky, OH 44870

Re: Interim Law Director

Dear Trevor:

I am writing you to congratulate you and wish you the best on your future endeavors as a Magistrate Judge with the Erie County Common Pleas Court—the City will surely miss you.

Per our conversations, my firm and I would be honored if I were able to serve as your interim replacement while the City searches for its next law director. Accordingly, we submit for Mr. Eric Wobser and the City Commission's approval the following provisions governing our engagement. Our objective is to provide high quality legal services to our clients at a fair and reasonable cost.

The attorney-client relationship is one of mutual trust and confidence. If this agreement memorializes our attorney-client relationship appropriately, please sign the enclosed copy of this letter in the space provided below. If you have any questions about these provisions, or if you would like to discuss possible modifications, do not hesitate to call. Again, I am pleased to have the opportunity to serve the City of Sandusky once again.

ATTORNEY-CLIENT ENGAGEMENT LETTER

This document (the "Agreement") is the written attorney-client fee contract under which Justin D. Harris, and Reminger Co., LPA ("We," "we," "Us," or "us") will provide law director services and outside general counsel legal services to the City of Sandusky ("You," "you," "Your," or "your").

- 1. Effective Date.** You agree to retain us as your interim law director from the date of execution of this Agreement, to and including July 31, 2020, unless sooner terminated as provided in Paragraph 8 of this Agreement. This Agreement will automatically renew monthly on the last day of the month 31st, unless otherwise agreed to by either party to this Agreement.
- 2. Scope of Representation as Interim Law Director.** You are hiring me as the interim law director to perform services related to, among other things, the following: coordinating and managing all legal services for the City of Sandusky; business/legal advice; assistance with contract review and negotiation;



REMINGER CO., LPA
237 W. Washington Row • Second Floor • Sandusky, OH 44870-2620 • phone: 419.609-1311 • fax: 419.626.4805 • www.reminger.com
CLEVELAND / COLUMBUS / CINCINNATI / AKRON / SANDUSKY / TOLEDO / YOUNGSTOWN / FT. MITCHELL / LEXINGTON / LOUISVILLE / INDIANAPOLIS / FT. WAYNE

creation of contract templates; review of proposed legislation, employment matters, including advising the City's Human Resources Department; attendance at City Commission meetings, Planning & Zoning meetings, and other committee meeting as necessary; and general consultation, research, and advice on overall City of Sandusky policies and procedures. We will also make ourselves available to attend and participate in regularly scheduled meetings with the City's administrative team so that we can provide advice on strategic, litigation, and business issues as they arise, as well as provide periodical litigation updates on all pending litigation matters. We will provide those legal services reasonably required to represent you and take reasonable steps to keep you informed of progress and to respond to your inquiries.

As the interim law director, Justin Harris will be exclusively available to the City of Sandusky as follows:

- a. Monthly City Commission meetings;
- b. Regular scheduled weekly meetings with City Manager, Eric Wobser;
- c. Monthly Planning & Zoning meetings;
- d. 5 hours per week office hours at the City of Sandusky administration building;
- e. Outside of regularly scheduled office hours, Justin Harris will review all legislation and work with Paige Doster to make sure the City Commission agenda is approved and published in coordination with the City Commission Clerk; and
- f. Provide 24/7 availability for phone conferences with the City Manager and department heads to discuss legal issues that arise.

3. **Scope of Services.** You agree to hire Justin Harris as the interim law director. Justin Harris will have primary responsibility for your representation but will utilize other firm lawyers and legal assistants as he believes appropriate in the circumstances. We will endeavor to keep you reasonably informed of progress and developments, and to respond to your inquiries.

4. **Client Responsibilities.** You agree to cooperate fully with us and to provide promptly all information known or available to you relevant to our representation in both litigation and non-litigation matters. You also agree to pay our statements for services and expenses in accordance with the fee agreement outlined in this Agreement.

5. **Confidentiality.** It is in your best interest to preserve the confidentiality of all communications between us. Your ability to protect the confidentiality of those communications may be jeopardized if you disclose their contents to third parties. We will preserve the confidentiality of all communications, proprietary information and standard operating procedures.

6. **General Waiver of Conflicts.** As we discussed, you are aware that the firm represents many other companies and individuals. You agree that we may continue to represent or may undertake in the future to represent existing or new clients in any manner that is not substantially related to our work for you. We agree, however, to obtain your consent prior to representing any existing or new client whose interests, although not substantially related to our work for your, may be directly or indirectly adverse to you. You should know that, Justin Harris, as the attorney serving as your interim law director, will reasonably prioritize your matters.

7. **Legal Fees and Billing Practices.** In consideration for the services outlined in Paragraph 2 and Paragraph 3 of this Agreement, you agree to pay the firm pursuant to the following fee arrangement:

a. **Outside Associate General Counsel Retainer.** You agree that our fee and compensation for legal services as the interim law director shall be sixty-five hundred (\$6500.00) per month payable on the 20th day of each month that we serve as the City of Sandusky's interim law director.

8. **Discharge and Withdrawal.** You may discharge us at any time. We may withdraw from representing you with your consent or for good cause. Good cause includes your breach of this Agreement (including your failure to pay bills and/or deposits), your refusal to cooperate with us or to follow our advice, or any circumstance that would, in our opinion, render our continued representation of you unlawful or unethical.

9. **Disclaimer and Guarantee.** Nothing in this Agreement and nothing in our statements to you will be construed as a promise or guarantee about the outcome of your legal issues and matters. All our statements on any legal matter are statements of opinion only.

10. **Counterparts.** This Agreement may be signed in counterparts. Each counterpart shall constitute a binding agreement upon each and all the undersigned.

11. **Prior Agreements.** This Agreement supersedes all prior understandings and agreements between Attorney and Client relating to the subject matter of this Agreement.

NOTICE TO CLIENT

YOU HAVE THE RIGHT TO SEEK INDEPENDENT LEGAL ADVICE REGARDING THIS ATTORNEY-CLIENT FEE AGREEMENT. DO NOT SIGN THIS FEE AGREEMENT BEFORE YOU HAVE READ IT OR IF IT CONTAINS ANY BLANK SPACES TO BE FILLED IN. YOU ARE ENTITLED TO A FILLED IN COPY.

By signing below, the party acknowledges he or she has the right to seek independent legal advice regarding this Agreement. By signing below, the party further acknowledges that he or she has read and understood the terms of this Agreement including: (i) those set forth in Paragraph 7 regarding applicable fee schedules and (ii) those set forth in Paragraph 6 regarding representation of potentially adverse interests, and agree to them, as of the date we first provided services.

WHEREFORE, the parties to this Agreement, through their duly authorized representatives, have signed this Agreement on the date(s) which appear below:

City of Sandusky

By:



Eric Wobser
City Manager

Approved as to form: correctness
For Mr. Wobser
Trevor M. Haybarger (0075112)
Law Director, City of Sandusky

Reminger Co., LPA (Firm)

By:



Justin D. Harris, Shareholder



DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue
Sandusky, Ohio 44870
419.627.5829
www.ci.sandusky.oh.us

To: Eric Wobser, City Manager

From: Aaron M. Klein, P.E.

Date: July 29, 2020

Subject: **Commission Agenda Item – Agreement with ODNR to accept \$4M Funding**

ITEM FOR CONSIDERATION: Legislation authorizing the City Manager to enter into an agreement with the Ohio Department of Natural Resources (ODNR) that will allow the City to accept \$4,029,500 from the Ohio Parks and Natural Resources Fund (Fund 7031) for the construction of the Cedar Point Causeway Wetlands Project, Phase I.

BACKGROUND INFORMATION: In 2016 via ordinance 16-231, Commission accepted \$1M from the State of Ohio and the Ohio Department of Natural Resources (ODNR) to develop a series of projects along the nearshore within the jurisdictional boundaries of the City of Sandusky. This study yielded four “pilot” projects, collectively called the Sandusky Bay Initiative (SBI) that would meet the objectives of 1) beneficially reusing dredged material from the Sandusky shipping channel, 2) re-establishing in-water coastal wetland habitat that would improve wildlife activity in the Sandusky Bay for birds and fish, 3) reducing phosphorus and nitrogen in the Bay and Lake Erie and 4) coordinating various funding sources. It was the desire of ODNR to proceed with a staged approach for Project 2, which was along the western shores of the Cedar Point Causeway. This project was fully paid for with State Capital Fund, outside of in-kind contributions of staff time and materials.

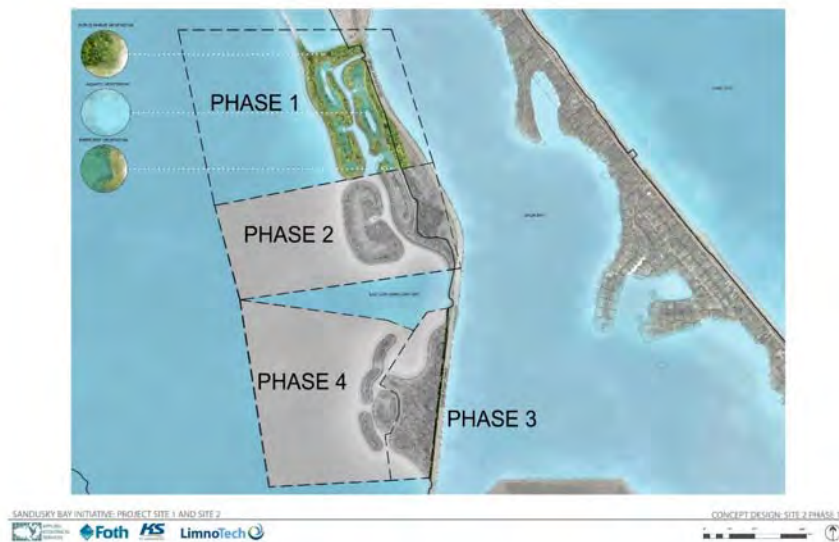
The image below, generated by the Sandusky Bay Initiative, is for all of Project Area 2. The concept design focuses on four separate phases along the western edge of the Cedar Point causeway located in Sandusky Bay south of the Cedar Point Amusement Park’s overflow parking lot.

As seen below, each phase consists of a number of cells which will utilize a mixture of armor stone, wooden structures, and other natural materials to construct basins for placement of dredged material. The focus of the final plan is to create nearshore wetland areas with variations in water depth, water flow, and native wetland vegetation. Multiple habitat types are built into the designs to increase potential for usage by fish, birds and other wildlife.



This SBI was subsequently followed by an overall study of Sandusky Bay, titled Sandusky Bay Strategic Restoration Initiative (SBSRI). This SBSRI study, also led by the City at the request of ODNR and the State of Ohio, built on the same four principles as the SBI but was broader in scope as it suggested a series of projects within the Bay, including areas outside the City's jurisdictional boundary. The suggested projects were only taking to the recommendation stage, unlike the SBI which developed preliminary design documents. The City accepted \$240,000 via ordinance 17-079 for SBSRI from the State of Ohio, Department of Natural Resources with total funding being split evenly from the state and federal governments.

With the State of Ohio ban on open-lake placement of dredged material into the Ohio waters of Lake Erie becoming effective on July 1, 2020, the State of Ohio desired to proceed with design and construction of Phase I of Project Area 2, which was renamed Cedar Point Causeway Wetlands. See the image below. Design and permitting are currently being completed through funding from another grant from the State of Ohio for \$140,500 from the Healthy Lake Erie Fund, which was accepted by the City of Sandusky via ordinance 18-184. As the consultant finalizes permitting and negotiations with Ohio EPA, Ohio Department of Natural Resources and the Army Corps of Engineers, there is a need to complete construction of this project by mid- 2021 to provide the Army Corps of Engineers a location to dump clean dredged material, as required.



Design and permitting is nearing completion so this scope of work for this new grant includes the Construction and Construction Engineering portions of Cedar Point Causeway Wetlands, Phase 1 shown above. The State of Ohio, Department of Natural Resources would like to grant \$4,029,500.00 to the City of Sandusky to complete work, which includes project bidding, award, construction, and construction administration of the Cedar Point Causeway Wetlands Project, Phase 1.

Staff has worked with Cedar Fair to obtain an easement that grants littoral rights to the City of Sandusky for this project, which was a requirement by the ODNR permitting branch. This project will complement the overall objectives of the SBI and the SBSRI and will provide an opportunity through adaptive management to develop a process for implementing similar types of projects throughout Lake Erie and the rest of the Great Lakes.

BUDGETARY INFORMATION: There is no impact to the City budget as all project activities will be paid for with the available funds from ODNR on a reimbursable basis. Staff is also requesting from ODNR to have a portion of our time reimbursed, but we are still in negotiations on that.

ACTION REQUESTED: It is recommended that proper legislation be passed authorizing the City Manager to enter into an Agreement with ODNR to accept \$4,029,500 from the Ohio Parks and Natural Resources Fund (Fund 7031) for construction of the Cedar Point Causeway Wetlands Project, Phase I and that the necessary legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter because we need to bid the project soon so construction activities can proceed this winter and not interfere with Cedar Point's summer activities in 2021.

I concur with this recommendation:

Eric Wobser
City Manager

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; J. Harris, Interim Law Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ACCEPT GRANT FUNDS IN THE AMOUNT OF \$4,029,500.00 FROM THE OHIO DEPARTMENT OF NATURAL RESOURCES IN COOPERATION WITH THE OHIO ENVIRONMENTAL PROTECTION AGENCY FOR THE CEDAR POINT CAUSEWAY WETLAND PROJECT - PHASE 1 AND THE RELATED SANDUSKY BAY INITIATIVE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT AGREEMENT AND TO EXPEND THE FUNDS CONSISTENT WITH THE GRANT AGREEMENT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission authorized and directed the City Manager to accept grant funds in the amount of \$1,000,000.00 from the Ohio Environmental Protection Agency through the Ohio Department of Natural Resources (ODNR) for costs associated with the Healthy Lake Erie Initiative Sustainable Sediment Management Pilot Project Expansion by Ordinance No. 16-231, passed on December 27, 2016, to develop a series of projects along the nearshore within the jurisdictional boundaries of the City; and

WHEREAS, the City Commission authorized and directed the City Manager to accept grant funds in the amount of \$240,000.00 from the Ohio Department of Natural Resources (ODNR) for costs associated with the Sandusky Bay Strategic Restoration Initiative by Ordinance No. 17-079, passed on April 10, 2017; and

WHEREAS, the City Commission authorized and directed the City Manager to accept grant funds in the amount of \$140,500.00 from the Ohio Department of Natural Resources (ODNR) for the Sandusky Bay Causeway Wetland Restoration Project and the related Sandusky Bay Initiative by Ordinance No. 18-183, passed on September 10, 2018; and

WHEREAS, the Sandusky Bay Initiative (SBI) Project 2, renamed the Cedar Point Causeway Wetland Project - Phase 1, involves the area along the western edge of the Cedar Point Causeway immediately to the south of the overflow/employee parking lot and the object is to create nearshore wetland areas with variations in water depth, water flow, and native wetland vegetation; and

WHEREAS, the Ohio Department of Natural Resources has appropriated grant funds in the amount of \$4,029,500.00 for costs associated with the Cedar Point Causeway Wetland Project - Phase 1; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to execute a grant agreement and proceed with bidding the project so that construction activities can proceed this winter and not interfere with Cedar Point's summer activities in 2021; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take

immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission authorizes and directs the City Manager and or Finance Director to accept grant funds from the Ohio Department of Natural Resources (ODNR) for the Cedar Point Causeway Wetland Project - Phase 1 and the related Sandusky Bay Initiative, in the amount of Four Million Twenty Nine Thousand Five Hundred and 00/100 Dollars (\$4,029,500.00).

Section 2. This City Commission authorizes and directs the City Manager to execute the Healthy Lake Erie Grant Agreement between the City of Sandusky and the Ohio Department of Natural Resources in relation to the Cedar Point Causeway Wetland Project - Phase 1, substantially in the same form as attached to this Ordinance and marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes, and to lawfully expend the funds consistent with the Grant Agreement.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: August 10, 2020

**Healthy Lake Erie Grant Agreement
Between the City of Sandusky
And the
Ohio Department of Natural Resources**

This Grant Agreement (the “Agreement”) is made and entered into by and between the State of Ohio, Department of Natural Resources, (the “ODNR”), acting by and through its Director, in cooperation with the Ohio Environmental Protection Agency (the “OEPA”), pursuant to Section 1501.01 of the Ohio Revised Code and Amended House Bill No. 529, passed by the 132nd General Assembly of the State of Ohio and signed by the Governor of Ohio on 30 March, 2018 (effective date 1 July, 2018) and the City of Sandusky Ohio, (the “Grantee”). The effective date of this agreement shall be July 1, 2020.

All notices, demands, requests, consents, approvals, and other communications required or permitted to be given pursuant to the terms of this Agreement shall be in writing.

- (a) with respect to Exhibit A
Project progress and
Completion reports:

Scudder D. Mackey, Chief
ODNR Office of Coastal Management
105 West Shoreline Drive
Sandusky, OH 44870
Email: scudder.mackey@dnr.state.oh.us

- (b) with respect to project fiscal management:

Scudder D. Mackey, Chief
ODNR Office of Coastal Management
105 West Shoreline Drive
Sandusky, OH 44870
Email: scudder.mackey@dnr.state.oh.us

- (c) with respect to the project grantee:

Eric Wobser, City Manager
City of Sandusky
240 Columbus Avenue
Sandusky, OH 44870
Email: aklein@ci.sandusky.oh.us

Pursuant to Amended House Bill No. 529, the 132nd General Assembly of the State of Ohio has appropriated funds of which Four Million Twenty-Nine Thousand Five Hundred Dollars (\$4,029,500) has been awarded to the Grantee for costs associated with the Healthy Lake Erie Sandusky Cedar Point Causeway Project, (hereinafter referred to as “Project”).

The General Assembly has identified the Ohio Parks and Natural Resources Fund (Fund 7031), as the fund from which these monies will be disbursed.

The scope of service is set forth in Exhibit A, which is attached hereto and by reference fully incorporated into this Agreement, with the total amount funded subject to this agreement limited to the amount stated above.

NOW, THEREFORE, for the purposes of providing the funds to the Grantee pursuant to Amended House Bill No. 529, passed by the 132nd General Assembly, the parties hereto agree as follows:

1. ODNR agrees to provide the Grantee Four Million Twenty-Nine Thousand Five Hundred Dollars and no/100 (\$4,029,500.00) via: a) a qualifying advance not to exceed 10% of the total award, namely Four Hundred Two Thousand Nine Hundred Fifty Dollars (\$402,950) from the total Project award, and b) subsequent reimbursements, to be used toward the total cost of the Project. In no event shall ODNR's payment to Grantee exceed Four Million Twenty-Nine Thousand Five Hundred Dollars and no/100 (\$4,029,500.00). Funds for this Project have been released by the Controlling Board as of 15 June 2020 and encumbered by Contract Encumbrance Record Number DNR01-0000045621 and are so certified by the Director of Budget and Management on 19 June 2020. Obligations of the State are subject to the provisions of Section 126.07 of the Ohio Revised Code. The ODNR reserves the right to confirm compliance with the disbursement schedule and limitations set forth in this Paragraph 1. Any funds provided under this Agreement that are not timely spent shall be returned with interest to the State of Ohio in accordance with paragraph 6 of this Agreement.
2. This Agreement will terminate on 30 June 2022, at which time the Grantee agrees that the Project will be completed. Upon written request, and subject to appropriation and renewal of funds by the State of Ohio, the agreement may be renewed by the Parties.
3. The Grantee hereby represents and warrants that there are not now, and there will not be, any restrictions of record with respect to the Project, including without limitation, any encumbrances, liens or other matters, which would interfere with or otherwise impair the use of the property as an in-water coastal wetland created from dredged sediment as a sustainable alternative to open-lake dumping.
4. The Grantee shall be responsible for the administration of the Project. The Grantee shall have the full authority to contract with appropriate persons for the design and construction of the Project. The Grantee will secure all necessary permits and/or licenses for the Project. The Grantee warrants and certifies that it will cause the Project to be

constructed with all reasonable speed and reasonably adhere to the submitted development timeline.

5. The Grantee, or its assigns approved by ODNR, shall be solely responsible for the operation, maintenance, and upkeep of the property or facilities acquired or developed pursuant to this Agreement.
6. If for any reason funds and/or interest on such funds acquired through this Agreement are required to be paid, repaid or remitted to the State of Ohio, such shall be remitted in full within forty-five (45) days of demand to:

Treasurer of the State of Ohio
30 East Broad Street, 9th Floor
Columbus, Ohio 43215

Any such remittance shall include a copy of this agreement. A copy of the cover letter transmitting the remittance to the Treasurer of State shall be sent simultaneously to the Auditor of State and ODNR.

7. On and after the date of this agreement, the Grantee agrees not to seek any determination of liability against ODNR in the case of claim or suit arising from the Project including acquisition of property or any future condition, construction, operation, maintenance or use of property or facilities which may be developed in relation to the Project.
8. Prior to release of funds, Grantee will provide ODNR with a document that demonstrates that all employees or agents of Grantee who are responsible for maintaining or disbursing funds acquired through this Agreement will be fully bonded or insured against loss of such funds. The bonding agent or insurer shall be licensed to do business in Ohio. No part of the funds or interest acquired by Grantee through this Agreement shall be spent to obtain bonding or insurance. All funds acquired by Grantee through this Agreement shall be deposited in one or more financial institutions that fully insure, secure or otherwise protect the funds from loss.
9. The Grantee will assure compliance with all applicable Federal, State, and local laws and regulations pertaining to handling, management, and accountability in relation to public funds, competitive bidding for public projects, procurement of equipment and materials, and the like.
10. The Grantee will keep and make all Project-related records available to the state Auditor or the Auditor's designee for a period of not less than five (5) years after the date of Project closeout as described in Paragraph 5 above. The Grantee acknowledges that the

Auditor of State, ODNR or OEPA may audit this Project at any time, including before, during and after completion.

11. The Grantee affirmatively states that Grantee is fully aware of the restrictions and guidelines for expending such funds and intends to comply fully with same. Grantee will implement appropriate monitoring controls to ensure that funds acquired through this Agreement and any interest thereon are expended in accordance with all applicable laws, rules and requirements.
12. The Grantee assures compliance with all applicable Federal, State and local laws and regulations, for the Project, including, but not limited to:
 - a. Prevailing wage pursuant to ORC Chapter 4115
 - b. Worker's Compensation
 - c. Equal Opportunity Laws

The Grantee agrees that it will fully comply with all state and federal non-discrimination laws and promptly comply with all requests and directions from the State of Ohio in this regard.
 - d. Domestic Steel pursuant to ORC 153.011
 - e. Environmental and Historical Preservation Laws and Regulations

The Grantee assures compliance with all applicable Federal, State, and local environmental and historic preservation laws and regulations pertaining to the Project.
 - f. Drug-free Workplace

The Grantee agrees to comply with all applicable State and Federal laws regarding a drug-free workplace. The Grantee will make a good faith effort to ensure that all contract employees, while working on Grantee's property, will not purchase, transfer, use or possess illegal drugs or abuse prescription drugs in any way.
 - g. Laws of Professional Design

The Grantee will comply with all laws that may require approval of the Project by a registered professional engineer, surveyor, architect or landscape architect.

- 13.** The Grantee affirmatively represents and warrants to the State that it is not subject to a finding for recovery under R.C. 9.24, or that it has taken appropriate remedial steps required under R.C. 9.24 or otherwise qualifies under that section.
- 14.** The State of Ohio reserves the right to terminate this agreement with 30 days' notice if the Grantee is unable to proceed with the Project described in the Project Agreement, or if Grantee violates any of the terms herein.
- 15.** The Grantee will assure that monies expended under this Agreement are spent in conformity with their intended purpose as provided by Amended House Bill No. 497, 130th General Assembly and Chapters 151 and 154 of the Ohio Revised Code and all other laws that apply to expenditure of monies by the Grantee.
- 16.** This Agreement may be modified if agreed to in writing by both parties.
- 17.** The Grantee, by signature on this document, certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. The Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.
- 18.** No personnel of either Party who exercises any functions or responsibilities in connection with the review or approval of this Agreement shall, prior to the completion of the Work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to this Agreement. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest shall immediately disclose his or her interest to the other Party in writing. Thereafter, he or she shall not participate in any action affecting the Work, unless the other Party determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- 19.** The Grantee hereby certifies that neither it nor any of its officers or directors, nor the spouse of any such person, has made contributions to the ODNR or the Governor in excess of the limitations specified in R.C. 3517.13.

- 20.** Each provision hereof shall be separate and independent and the breach of any provision by either party hereto shall not discharge or relieve the other party from its obligations to perform each and every covenant to be performed by it hereunder. If any provisions hereof (or the application thereof to any person, firm or corporation or to any circumstances) shall be deemed invalid or unenforceable by any court of competent jurisdiction, the remaining provisions of this Agreement (or the application of such invalid provision to such persons, firms or corporations or circumstances other than those as to which it is invalid or unenforceable), shall not be affected thereby, and said provisions hereof shall be valid and enforceable to the fullest extent permitted by law.
- 21.** This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio.
- 22.** A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
- 23.** Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by the Grantee, without the prior written consent of the ODNR.
- 24.** This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
- 25.** This Agreement is not binding upon the ODNR unless executed in full and is effective as of 21 July 2020.
- 26.** All notices, consents and communications required hereunder (each, a “Notice”) shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof and shall be sent to the addresses first set forth above. Notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

27. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
28. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

IN TESTIMONY WHEREOF, the Grantee and the State have caused this Agreement to be executed by their respective officers duly authorized as of the date on which the Director of the Department of Natural Resources signs this Agreement.

FOR THE GRANTEE

FOR THE ODNR

Eric Wobser
City Manager

Mary Mertz
Director

Date

Date

**STATE OF OHIO
DEPARTMENT OF NATURAL RESOURCES**

**STANDARD AFFIRMATION AND DISCLOSURE FORM
EXECUTIVE ORDER [2019-12D]
Banning the Expenditure of Public Funds on Offshore Services**

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the CONTRACTOR/SUBCONTRACTOR affirms, understands, and will abide by the requirements of Executive Order 2019-12D. If awarded a contract, the CONTRACTOR/SUBCONTRACTOR becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Agreement outside of the United States.

The CONTRACTOR/SUBCONTRACTOR shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the CONTRACTOR/SUBCONTRACTOR not responsive and the Agreement will not be executed. If the CONTRACTOR/SUBCONTRACTOR will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces. Attach a supplemental sheet, if necessary.

1. Principal location of business of Contractor:

(Address)

(City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

3. Location where State data will be stored, accessed, tested, maintained, or backed-up, by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where State data will be stored, accessed, tested, maintained, or backed-up by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

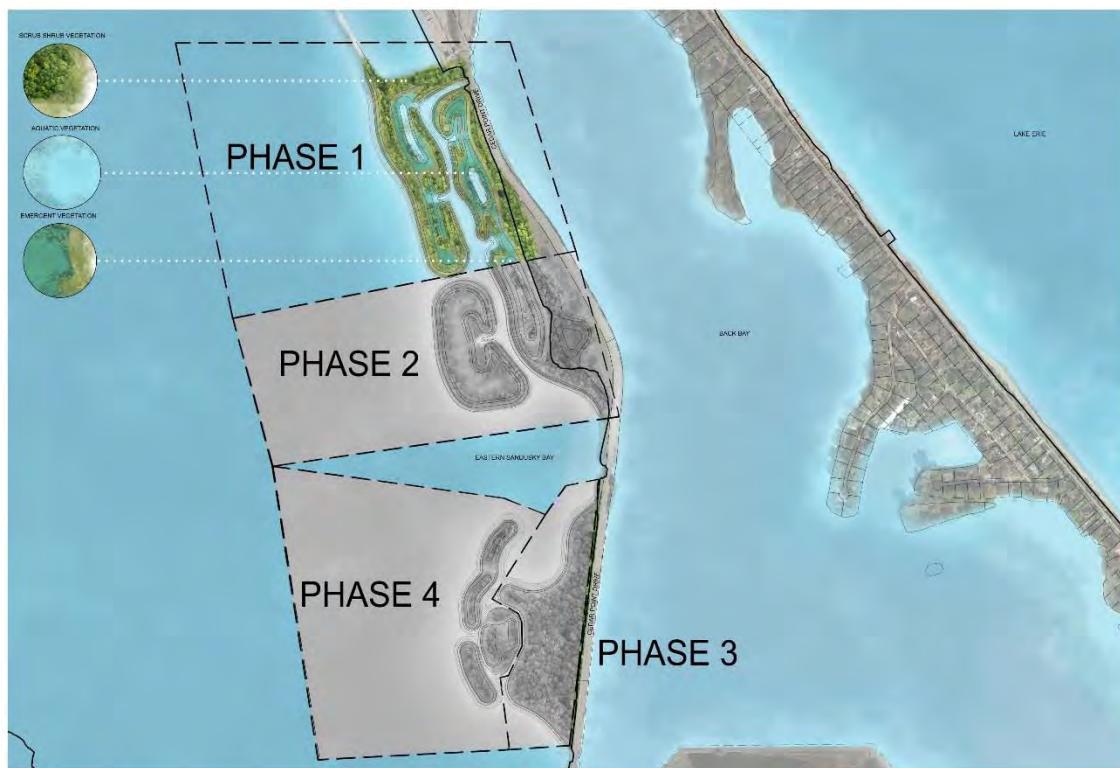
Sandusky Cedar Point Causeway Wetland Project Construction Scope of Work

Introduction

Sandusky Bay encompasses approximately 64 square miles of open water in the western Lake Erie basin that receives runoff from nearly one million acres of land from the Sandusky River and numerous tributaries that drain directly into the Bay. The Sandusky Bay is a significant and unique bay ecosystem within the Great Lakes and holds some of the most significant coastal wetland systems in the Lake Erie basin. In addition to coastal wetlands, Sandusky Bay is a highly productive fishery area and serves as a centerpiece for public recreation and tourism.

With the July 1, 2020 State of Ohio ban on open-lake placement of dredged material into the Ohio waters of Lake Erie, alternative uses for the dredge material were considered under separate projects. One alternative was the beneficial reuse of dredged material to construct nearshore wetlands.

Healthy Lake Erie Initiative funds were used to develop a design to establish a nearshore wetland enhancement project as a demonstration project within Sandusky Bay that addresses State of Ohio Lake Erie Restoration plan priorities that include *nutrient pollution reduction, dredge material beneficial reuse and management, and in-water habitat restoration and species*. The concept design focuses on four separate phases along the western edge of the Cedar Point causeway located in Sandusky Bay south of the Cedar Point Amusement Park (Figure 1).



SANDUSKY BAY INITIATIVE: PROJECT SITE 1 AND SITE 2



CONCEPT DESIGN: SITE 2 PHASE 1



Figure 1. Final Concept Design for Cedar Point Causeway Wetland Site

EXHIBIT A

Each phase consists of a number of cells which will utilize a mixture of armor stone, wooden structures, and other natural materials to construct basins for placement of dredged material. The focus of the final plan is to create nearshore wetland areas with variations in water depth, water flow, and native wetland vegetation. Multiple habitat types are built into the designs to increase potential for usage by fish and wildlife . Figure 2 provides a cross-sectional views of how the wetland may look after dredge material placement and plantings.



Figure 2. Conceptual Post-Construction Cross Sections.

The City of Sandusky will coordinate project management and administration for the project. Design and permitting is nearing completion so this scope of work includes the Construction and Construction Engineering portions of Phase 1 shown above. This project will complement the overall objectives of the Sandusky Bay Initiative and will provide an opportunity through adaptive management to develop a process for implementing similar types of projects throughout Lake Erie and the rest of the Great Lakes.

The following Scope of Work includes project bidding, award, construction, and construction administration of the Cedar Point Causeway Wetland Site: Phase 1.

Scope of Work

The scope of work for this request is the funding of the construction and materials for constructing only the structure portions of the Cedar Point Causeway Wetland project.

Task 1: The City of Sandusky will proceed with project bidding and award

- Develop bidding and contract documents consistent with federal, state and local laws;
- Ensure contract documents include design goals, project objectives, construction details, specifications, construction drawings, timelines, and permit restrictions based on the ongoing design process;
 - All mobilization, insurance, labor, warranty, materials and other expenses for construction will be included as part of the bid documents to be provided by the contractor will be included;
- Advertise the project through public notice and established timelines and schedules;
- Establish and administer contractor selection process;
- Interview contractors, as needed;
- Evaluate bids for consistence with contract and bidding documents;
- Select a contractor compliant with the State of Ohio public bid process; and
- Provide all documents to State of Ohio for review prior to bidding.

Task 2: The City of Sandusky will proceed with hiring a consultant for Construction Oversight & Permit Compliance

- Advertise the RFQ through public notice with established timelines and schedule.
- Establish a selection process;
- Develop a project team to review Qualifications;
- Administer selection of consultant;
- Interview consultants, as needed; and
- Develop and administer sub-grant agreements with selected consultant(s).

Task 3: The City of Sandusky will proceed with Construction Administration and Project Management

- Develop and administer consultant and contractor agreement(s) as required;
- Administer invoicing;
- Submit quarterly progress reports;
- Develop agendas and run progress meetings;
- Coordinate with contractor(s), subcontractor(s), consultant(s) and sub-consultant(s) on project;
- Engage stakeholders, as necessary;
- Establish coordination with ODNR and other state agency partners; and
- Provide updates to ODNR on project work as necessary.



DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue
Sandusky, Ohio 44870
419.627.5829
www.ci.sandusky.oh.us

To: Eric Wobser, City Manager

From: Aaron Klein, Director of Public Works

Date: July 31, 2020

Subject: Commission Agenda Item – The Landing
Two (2) Easement Agreements between the City of Sandusky and Erie County Metroparks

Items for Consideration: Legislation approving and authorizing the City Manager to enter into a two (2) Agreements with Erie Metroparks (“Metroparks”) in which Metroparks has agreed to donate two easements totaling approximately 2.2 acres to the City located as shown in the attached maps.

Background Information: The City, in conjunction with other partners, including Erie Metroparks, has determined to proceed with certain waterfront improvements in the City to be titled *The Landing*. The intent is to provide additional public park space and recreational opportunities for the residents of the City and visitors to Sandusky Bay. The Landing is intended to serve as the easternmost node of the Sandusky Bay Pathway within the City’s corporation limits, as well as a metropolitan park and amenity for the users of the Sports Center site.

Per ordinance 18-127, the City contracted with Environmental Design Group (EDG) to complete final engineering, landscape architectural design, environmental permitting and acquisition services for this project. EDG and City staff have worked closely with the Metroparks throughout the planning and design phases of The Landing, including attendance at several public meetings held by the Metroparks to discuss the project.

Original discussions were to have one easement around Hemminger Ditch, but the City did not want to jeopardize its ability to construct the full park and pathway plans approved by City Commission. However, staff also wanted to honor the Metroparks desire to more strictly limit the area in which utilities could be constructed for long-term considerations. Hence, a compromise was reached to establish two different easements that will allow the project to proceed in full, while maintaining the overarching mission of Erie Metroparks.

The first agreement, which is from Erie Metroparks, is titled **Trail and Access Easement** and is accompanied by maps and a legal description that depicts the agreed easement boundary by a solid bold line totaling 8.6592 acres. The boundary This easement allows the City to construct, own, operate and maintain a park and trail network, including boardwalks, education facilities, asphalt trails and all other intended uses that are encompassed within the approved plan for The Landing park. In addition to the park’s infrastructure improvements, the lease will allow the City to comply with environmental and other regulatory permits that are required as part of the project. This easement shall run in perpetuity unless termination is enacted per Section 11 of the agreement.

The second agreement, which is from The Board of Park Commissions of the Erie Metroparks, is titled **Temporary Construction and Permanent Utility Easement Agreement**. This agreed upon easement outlined in the legal description is depicted on the same map by a diagonal hatch, totaling 2.2062 acres. This easement allows the City or private utility

company to construct, own, operate and maintain all underground utility infrastructure that will service The Landing, including water, storm water, sanitary sewer, natural gas, electric, fiber optic, telephone. This easement shall run in perpetuity unless termination is enacted per Section 5.6 of the agreement.

Budgetary Information: There will be no impact on the City's budget to acquire these easements.

Action Requested: It is requested that the proper legislation be prepared to allow the City to enter into separate Easement Agreements with Erie Metroparks and The Board of Park Commissions of the Erie Metroparks. It is further requested that the legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to allow the consultant to proceed with finalizing plans and permits for The Landing.

I concur with this recommendation:

Eric L. Wobser
City Manager

cc: M. Spriggs, Commission Clerk; J. Harris, Interim Law Director; M. Reeder, Finance Director

ORDINANCE NO. _____

AN ORDINANCE APPROVING A TEMPORARY CONSTRUCTION AND PERMANENT UTILITY EASEMENT GRANTED TO THE CITY BY ERIE METROPARKS FOR THE LANDING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission declared their support for The Landing Park Project by Resolution No. 005-18R, passed on January 22, 2018; and

WHEREAS, the City Commission authorized and directed the City Manager to enter into an agreement for professional design services with Environmental Design Group, LLC, of Akron, Ohio, for the Landing Project by Ordinance No. 18-127, passed on June 25, 2018; and

WHEREAS, the City owns property identified as Erie County Permanent Parcel Nos. 57-01824.000, 57-01824.003, 57-01824.004, and intends to develop the contiguous property into a public park (commonly known as “Landing Park”), which must be utilized exclusively for recreational and educational public-park land uses, including walking, biking, kayaking, canoeing, rowing, sculling, paddle boarding, running trails and related facilities and improvements, such as parking areas, walks, paths, boardwalks, education and observation facilities, playground and picnic areas, traffic-control facilities and improvements, flood and erosion control facilities and improvements, or other non-commercial public amenities; and

WHEREAS, Erie MetroParks is the owner of property consisting of approximately 230.64 acres located in the City and identified as Erie County Permanent Parcel No. 57-62420.000 and desires to grant the City an easement to allow the City to construct, install and maintain certain transmitter lines and water and sewer lines across Erie MetroPark’s property, in the Utility Easement Area, in order to access and tie into the electrical infrastructure established by Ohio Edison and the water/sewer infrastructure for the Landing Project; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order for the easement to be immediately approved and allow the consultant to proceed with finalizing plans and permits for The Landing; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission approves the Temporary Construction and Permanent Utility Easement granted to the City by Erie MetroParks for the construction, installation, and maintenance of certain transmitter lines and water

and sewer lines across property owned by Erie MetroParks, a copy of which is attached and marked Exhibit "1" and is specifically incorporated as if fully rewritten herein. together with any revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: August 10, 2020

**TEMPORARY CONSTRUCTION AND
PERMANENT UTILITY EASEMENT AGREEMENT**

This Temporary Construction and Permanent Utility Easement Agreement (the "Agreement") is entered into by and between THE BOARD OF PARK COMMISSIONS OF THE ERIE METROPARKS (a political subdivision under the provisions of Section 1545.07 of the Ohio Revised Code herein called "MetroParks") and THE CITY OF SANDUSKY (an Ohio chartered municipal corporation, herein called "City of Sandusky").

RECITALS

A. WHEREAS, MetroParks owns 230.64 acres of real property located off of Cleveland Road, in the City of Sandusky, Erie County, Ohio, which is known as Erie County Permanent Parcel Number 57-62420.000 (herein called "MetroParks Property"); and

B. WHEREAS, the City of Sandusky owns several parcels of contiguous real property adjacent to the MetroParks Property, including the following Permanent Parcel Numbers: 57-01824.000, 57-01824.003, 57-01824.004 (herein collectively called the "City Contiguous Property"); and

C. WHEREAS, the City of Sandusky intends to develop the City Contiguous Property into a public park (commonly known as "Landing Park"), which must be utilized exclusively for recreational and educational public-park land uses, including walking, biking, kayaking, canoeing, rowing, sculling paddle boarding, running trails and related facilities and improvements, such as a parking areas, walks, paths, boardwalks, education and observation facilities, playground and picnic areas, traffic-control facilities and improvements, flood and erosion-control facilities and improvements, or other non-commercial public amenities (herein called "Public Recreational Purposes"); and

D. WHEREAS, the City of Sandusky's intended utilization of the City Contiguous Property for Public Recreational Purposes is consistent with the MetroParks' public purposes; and

E. WHEREAS, a specified 2.2062 acre portion of the MetroParks Property (as more fully described on attached Exhibits A & B, and herein called the "Utility Easement Area") is uniquely situated in a location which is feasible to run the necessary utilities lines to and through for the benefit of the City Contiguous Property; and

F. WHEREAS, the Utility Easement Area is located in a such an area which makes it both convenient and cost-efficient to run conduit transmitter lines across the MetroParks Property, underground (for the benefit of the City Contiguous Property and for the development of Landing Park) in order to access the existing public infrastructure, which has been established by public electrical systems (Ohio Edison) adjacent to Cleveland Road; and

G. WHEREAS, the Utility Easement Area is located in such an area which makes it both convenient and cost-efficient to run water storm, sewer, gas, fiber optic, or other similar public utility lines across the MetroParks Property, underground (for the benefit of the City Contiguous Property and for the development of Landing Park) in order to access the existing public water and sewer infrastructure, which has been established by public water/sewer systems (the City of Sandusky) adjacent to Cleveland Road; and

H. WHEREAS, the City of Sandusky has or will obtain the requisite consent and have or will enter into all necessary documentation and agreements with Ohio Edison which will allow the City of Sandusky to access, via the transmitter lines, and tap into the electrical system; and

I. WHEREAS, the City of Sandusky agrees to have its electrical and water consumption separately metered and billed through Ohio Edison and the appropriate tribunals; and

J. WHEREAS, the MetroParks desire to grant the City of Sandusky an easement to allow the City of Sandusky to construct, install and maintain certain transmitter lines and water and sewer lines across the MetroParks' Property, in the Utility Easement Area, in order to access and tie into the electrical infrastructure established by Ohio Edison and the water/sewer infrastructure; and

NOW, THEREFORE, for the sum of One Dollar (\$1.00) to be paid by the City of Sandusky to the MetroParks and for other valuable consideration and the promises made by the respective parties herein, the City of Sandusky and the MetroParks covenant and agree as follows:

1. Grant of Easement

1.1 Utility Easement. The MetroParks, for themselves and for their respective heirs, executors and assigns, hereby convey and grant to the City of Sandusky, a permanent, non-exclusive utility easement under, in, along, across and upon a certain specified portion of the MetroParks Property (a sketch of which is found on attached Exhibit A, which is attached hereto and incorporated by reference herein, and referred to as the "Utility Easement Area", the Utility Easement Area is depicted with hatching on the attached Exhibit A) solely for the lawful construction, installation, maintenance, operation, repair, replacement and use of underground

conduit, electrical lines, meters, connections, and related equipment, fiber optic, telephone, water/sewer lines natural gas lines and other similar public utilities (the "Improvements"). A legal description of the Utility Easement Area is found on Exhibit B, which is attached hereto and incorporated by reference herein.

1.2 Temporary Construction Easement. The MetroParks, for itself and for its successors and assigns, hereby convey and grant to the City of Sandusky or the water and sewer provider to the City Contiguous Property, to Ohio Edison, or the electricity provider to the City Contiguous Property, and to Columbia Gas, or the natural gas provider of the City Contiguous Property, a temporary, non-exclusive easement (the "Temporary Construction Easement") over, under, in, along, across and upon the MetroParks Property ("Temporary Easement Area") for use in the initial construction and installation of the Improvements and other construction purposes reasonably related to the initial construction of the Improvements. Prior to commencement of the Temporary Construction Easement, the City of Sandusky and its contractors shall have reasonable access to the MetroParks Property (upon the provision of advanced notice) to conduct all studies, tests, examinations, and surveys necessary to design and construct the Improvements. The granting of the Utility Easement and Temporary Construction Easement is expressly conditioned upon the City of Sandusky performing all necessary maintenance and upkeep on the Improvements to ensure the efficient and proper operation of the City Contiguous Property for Public Recreational Purposes and further is conditioned upon the City of Sandusky's agreement to use its best efforts to finish its construction of the public-park improvements and have the public park open no later than June 30, 2025.

2. Terms of Easements

2.1 Utility Easement. The Utility Easement shall commence on the effective date of this Agreement and shall run with the land, be binding on the respective parties' successors and future owners of the respective properties and continue in full force and effect until terminated as specified in Section 5.5 herein.

2.2 Temporary Construction Easement. The Temporary Construction Easement shall commence on the effective date of this Agreement and shall automatically terminate and expire upon (a) the date construction of the Improvements are completed; or (b) June 30, 2025, whichever date shall first occur. Upon the expiration of the term of the Temporary Construction Easement, all of the rights and benefits of The City of Sandusky in, to and under this Agreement with respect to the Temporary Construction Easement, shall automatically terminate and be of no further force and effect.

3. Reservation by Erie MetroParks / Non-Exclusive Use

All right, title, and interest in and to any easement area under this Agreement which may be used and enjoyed without interfering with the rights conveyed by this Agreement are reserved to the MetroParks, provided, however, that MetroParks shall not enact or maintain any buildings which may cause damage to or interfere with the Improvements to be placed within

the Utility Easement Area; or develop, landscape, or beautify any easement area in any way which would unreasonably or materially increase the costs to The City of Sandusky of installing the Improvements or restoring any of the Easement Areas after such installation.

4. Construction of Utility Improvements

4.1 Costs/Lien-Free Construction. The City of Sandusky shall bear and promptly pay without the imposition of any lien or charge on or against all or any portion of the MetroParks' Property all costs and expenses of construction and maintenance of the Improvements.

4.2 Compliance With Laws & Existing Restrictions. The City of Sandusky shall construct the Improvements in a workmanlike manner and in compliance with the applicable statutes, ordinances, rules and regulations of all governing public authorities as those statutes, ordinances, rules and regulations are amended from time to time, including, but not limited to, all Environmental Protection Agency regulations. All Improvements shall be constructed and maintained in such a manner as to not conflict with the MetroParks' conservation and public recreational policies and objectives and shall be in conformity with all restrictions and mandates of the existing conversation easements, trail easements and restrictions which the MetroParks Property is current subject to, including, but not limited to those restrictions and mandates found within RN 20071450, RN 200714533, and RN 200322578 of the Official Records of Erie County, Ohio .

4.3 Restoration. In the event the surface of any easement area is disturbed by the City of Sandusky exercise of any of its easement rights under this Agreement, such area shall be restored to the condition in which it existed at the commencement of such activities.

5. General Provisions

5.1 Covenants Running with the Land/Assignment. The parties to this Agreement acknowledge and agree that the easements and other rights conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors, and assigns.

5.2 Insurance. The City of Sandusky shall maintain proper levels of liability insurance by reason of the location, construction, installation, maintenance and operation the Improvements which are the subject of the Temporary Construction Easement and Utility Easement, as described herein, and shall name the MetroParks as an additional insured on said policies. Upon reasonable request, the City of Sandusky shall provide to the MetroParks written substantiation of the fact that such mandated insurance coverage is in full force and effect.

5.3 Effective Date. This Agreement shall be effective upon the date it is executed by an authorized representative of each signing party.

5.4 Notices. Any notice permitted or required by this Agreement shall be deemed received, if delivered, when actually received, or, if mailed, on the third day after mailing by

registered or certified mail, postage prepaid, to the party's address set forth below their respective signatures to this Agreement, or to such other address designated in writing to the other parties.

5.5 Choice of Law / Venue. In the event any disputes arise between the parties regarding the enforcement, interpretation or effect of this Agreement, the parties agree that Ohio law shall govern and that the State Courts of Erie County, Ohio shall be the exclusive venue to resolve said disputes.

5.6 Termination. If The City of Sandusky fails to: (a) maintain or keep the Improvements in proper working condition; or (b) ceases use of the City Contiguous Property for the stated Public Recreational Purposes, the easement rights afforded to The City of Sandusky pursuant to this Agreement shall terminate.

5.7 Repair and Maintenance. The City of Sandusky, or its designee, shall, at all times, keep the Improvements in good repair and proper operating condition as to not negatively impact the preservation and recreational nature of the MetroParks Property. The City of Sandusky shall exclusively be responsible for all maintenance and repair costs associated with the obligations set forth in this Section 5.6. Failure to comply with the mandates of this Section 5.6 may result in termination of the easement rights afforded to The City of Sandusky herein.

5.8 Further Cooperation. Each of the signatures to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this agreement.

[SIGNATURE PROVISIONS ON SUBSEQUENT PAGE]

IN WITNESS of this, the undersigned have executed this Agreement as of this _____ day
of _____, 2020.

THE CITY OF SANDUSKY

By: _____

Date _____

-The City of Sandusky-

ERIE METROPARKS

By: _____
Amy Bowman-Moore, Executive Director

_____ Date

- Erie MetroParks-

STATE OF OHIO)
) :ss
COUNTY OF ERIE)

On this _____ day of _____, 2020 before me, personally appeared _____ authorized representative of The City of Sandusky, the grantee in the aforestated Easement Agreement, and acknowledged said instrument to be his/her free and voluntary act and deed and the act of The City of Sandusky.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

Notary Public

My Appointment Expires _____

STATE OF OHIO)
) :ss
COUNTY OF ERIE)

On this ____ day of _____, 2020 before me, personally appeared Amy Bowman-Moore authorized representative of Erie Metroparks, the grantor in the aforestated Easement Agreement, and acknowledged said instrument to be his/her free and voluntary act and deed and the act of Erie Metroparks.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

Notary Public

My Appointment Expires _____

Instrument prepared by:
James E. Peters, Esq.
Reminger Co., L.P.A.
237 W. Washington Row, 2nd Floor
Sandusky, Ohio 44870
419-609-1311



March 15, 2019

THE CANOPY WALK UTILITY EASEMENT DESCRIPTION
TO THE CITY OF SANDUSKY
2.2062 ACRE EASEMENT

Situated in the State of Ohio, County of Erie, and the City of Sandusky, being part of Outlot 1 in Darling's Survey East of Sycamore Line in Ward 2 of the City of Sandusky, and also being part of those lands conveyed to Erie Metroparks by deed in RN 200322577, Kelly Tract Parcels 1 and 2 of Erie County Records, said easement being more fully described as follows:

Beginning at a 5/8-inch iron pin found at a southwesterly corner of the lands conveyed to Cedar Point Park, LLC by deed in RN 201600753, Conservation Area, on a northerly line of Cleveland Road (U.S. 6) (R/W Varies) and at a southeasterly corner of said Erie Metroparks lands, said iron pin found being the TRUE PLACE OF BEGINNING for the easement area herein described;

COURSE NO. 1: Thence **North 58°-08'-14" West, 106.89 feet** along the southerly line of said Erie Metroparks lands and along the northerly line of said Cleveland Road to a point;

COURSE NO. 2: Thence **North 11°-10'-24" East, 942.13 feet** to a point;

COURSE NO. 3: Thence **South 78°-49'-02" East, 100.00 feet** to a point on the easterly line of said Erie Metroparks lands and on the westerly line of the lands conveyed to the City of Sandusky by deed in RN 200714534, West Parcel;

COURSE NO. 4: Thence **South 11°-10'-24" West, 979.88 feet** along the easterly line of said Erie Metroparks lands, along the westerly line of said City of Sandusky lands and along the westerly line of said Cedar Point Park, LLC lands to the True Place of Beginning and containing **2.2062 acres** of land, more or less, as determined in February 2019 by Adam D. Treat, P.S. 8058 for **Environmental Design Group** under project number 16-00259-050 and being subject to all legal highways, easements and restrictions of record.

This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group for this project. All pins set are 5/8-inch diameter by 30 inches long rebar with an identification cap stamped "Environ. Design Group, Akron, Ohio". This described easement is 2.2062 acres within Erie County Auditor Parcel Number 57-62420.000.

ADAM D. TREAT, P.S.

Ohio Registered Professional Surveyor No. 8058



The community impact people.

EXHIBIT
"B"

ORDINANCE NO. _____

AN ORDINANCE APPROVING A TRAIL AND ACCESS EASEMENT GRANTED TO THE CITY BY ERIE METROPARKS FOR THE LANDING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission declared their support for The Landing Park Project by Resolution No. 005-18R, passed on January 22, 2018; and

WHEREAS, the City Commission authorized and directed the City Manager to enter into an agreement for professional design services with Environmental Design Group, LLC, of Akron, Ohio, for the Landing Project by Ordinance No. 18-127, passed on June 25, 2018; and

WHEREAS, the City owns property identified as Erie County Permanent Parcel Nos. 57-01824.000, 57-01824.003, 57-01824.004, and intends to develop the contiguous property into a public park (commonly known as “Landing Park”), which must be utilized exclusively for recreational and educational public-park land uses, including walking, biking, kayaking, canoeing, rowing, sculling, paddle boarding, running trails and related facilities and improvements, such as parking areas, walks, paths, boardwalks, education and observation facilities, playground and picnic areas, traffic-control facilities and improvements, flood and erosion control facilities and improvements, or other non-commercial public amenities; and

WHEREAS, Erie MetroParks is the owner of property consisting of approximately 230.64 acres located in the City and identified as Erie County Permanent Parcel No. 57-62420.000, and has agreed to convey to the City a trail and access easement across certain portions of the Erie MetroParks property for the benefit of the City’s contiguous property and for the benefit of The Landing; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order for the easement to be immediately approved and allow the consultant to proceed with finalizing plans and permits for The Landing; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission approves the Trail and Access Easement granted to the City by Erie MetroParks for the purpose of utilizing for recreational and educational public park land uses over and through property owned by Erie

MetroParks, a copy of which is attached and marked Exhibit "1" and is specifically incorporated as if fully rewritten herein. together with any revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: August 10, 2020

TRAIL AND ACCESS EASEMENT

This **TRAIL AND ACCESS EASEMENT (the "Easement")** is entered into this ____ day of _____, 2020 by and between **ERIE METROPARKS**, an Ohio political subdivision (the "MetroParks") and **THE CITY OF SANDUSKY**, an Ohio political subdivision (the "City of Sandusky").

RECITALS

A. The MetroParks are the sole owner of certain real estate, consisting of approximately 230.64 acres of property, located in the City of Sandusky, County of Erie, State of Ohio, which is legally described in **Exhibit A**, commonly known as Erie County Permanent Parcel Number 57-62420.000 and incorporated herein by reference (the "MetroParks Property").

B. The City of Sandusky intends to develop contiguous real estate owned by the City of Sandusky (namely Erie County Permanent Parcel Numbers 57-01824.000, 57-01824.003, 57-01824.004), which is shown in **Exhibit B**, herein called the "City Property") into a public park (commonly known as "Landing Park"), which must be utilized exclusively for recreational and educational public-park land uses, including walking, biking, kayaking, canoeing, rowing, sculling, paddle boarding, running trails and related facilities and improvements, such as parking areas, walks, paths, boardwalks, education and observation facilities, playground and picnic areas, traffic-control facilities and improvements, flood and erosion control facilities and improvements, or other non-commercial public amenities (herein collectively called "Public Recreational Purposes"); and

C. The MetroParks has agreed to convey to the City of Sandusky, for the benefit of the City Contiguous Property and for the benefit of the Landing Park, a trail and access easement across certain portions of the MetroParks Property.

GRANT OF TRAIL AND ACCESS EASEMENT

In consideration of the facts recited above, the MetroParks and the City of Sandusky agree as follows:

1. **Grant of Trail and Access Easement.** The MetroParks hereby grants and conveys to City of Sandusky a perpetual, non-exclusive easement (the "Easement") over and through certain specified portions of the MetroParks Property, which is incorporated herein by reference (the "Easement Area"). The location of the Easement Area is shown on the Easement Map

attached hereto as **Exhibit C (2 of 2)**. The purpose of the Easement is to provide year-round pedestrian access, through established trails, boardwalks and platforms, to and from the City Property as a part of Landing Park (including but not limited to, access for necessary safety patrol and for law enforcement and EMS vehicles), and to provide year-round hiking trails, biking trails, kayaking, paddle boarding and canoeing and recreational observation platforms on the Easement Area for the general public exclusively for Public Recreational Purposes. No motorized watercraft are permitted to be utilized on the MetroParks Property or in the Easement Area.

2. **Use of Easement.** Nothing in this easement is intended to prohibit use of the Easement Area by the MetroParks, provided such use does not interfere with the use of the Easements by the City of Sandusky and the general public. The City's use of the Easement Area and construction of the improvements (described below) shall be in such a manner as to not conflict with the MetroParks' conservation and public recreational policies and objectives and shall be in conformity with all restrictions and mandates of the existing conservation easements, trail easements and restrictions which the MetroParks Property is currently subject to, including, but not limited to those restrictions and mandates found within RN 20071450, RN 200714533 and RN 200322578 of the Official Records of Erie County, Ohio.

3. **Improvements.** The City of Sandusky shall have the right, but not the obligation, to construct, reconstruct, maintain and repair, at its sole expense, improvements upon the Easement Area to make the Easement Area suitable for intended use of such property as described in Section 1 above. Furthermore, the City of Sandusky shall have the right to come upon the MetroParks Property temporarily during such construction, reconstruction, maintenance and repair as may be reasonably necessary to complete such construction, reconstruction, maintenance and repair, provided, however, that the City of Sandusky shall be responsible for any damage to the MetroParks Property as a result of its exercise of such right. The City of Sandusky shall also have the right to post signs on the Easement Area notifying the public of their right to use the trails, boardwalks and observation platforms and Easement Area for public recreation purposes. The City of Sandusky shall not be obligated to install any of these improvements. Any improvements on the Easement Area made by the City of Sandusky shall be subject to the prior written approval of the MetroParks, which approval will not be unreasonably withheld, conditioned or delayed. Any such approved improvements shall be completed by no later than June 30, 2025.

4. **Maintenance.** The City of Sandusky, or its designee, shall be responsible for maintaining the Easement Area and all improvements thereupon, to the extent necessary for the uses described in Section 1 above.

5. **Damage to Easement Area.** The City of Sandusky shall be responsible for any damage it may cause to the Easement Area and the improvements thereupon. The City of Sandusky shall be responsible for such damage and shall promptly make all needed repairs, restoring the Easement Area and the improvements thereupon, to its condition prior to the damage.

6. **Enforcement of Agreement.** Each Party shall have the right to legally enforce this Easement and the covenants, conditions and restrictions set forth herein, by whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.

7. **Amendments.** The Easement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both the MetroParks and the City of Sandusky.

8. **Successors.** All of the easements, rights, terms, covenants, conditions and obligations set forth in this Easement shall inure to the benefit of and be binding upon the City of Sandusky, the MetroParks, the MetroParks Property and the City Property, and each successive owner of the MetroParks Property and the City Property, and their respective personal representatives, heirs, successors, transferees and assigns.

9. **Insurance.** The City of Sandusky shall maintain proper levels of liability insurance by reason of the location, construction, installation, maintenance and operation of the recreational activities and other occupancy and use of the Easement Area, as described herein, and shall name the MetroParks as an additional insurance on said policies. Upon reasonable request, the City of Sandusky shall provide to the MetroParks written substantiation of the fact that such mandated insurance coverage is in full force and effect.

10. **Covenants Running With Land.** All licenses, easements, rights, covenants, conditions, and restrictions set forth in this Easement are appurtenances, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon the MetroParks and the City of Sandusky and their respective heirs, representatives, successors and assigns unless and until the easements and all other rights hereunder shall have been unequivocally and permanently abandoned by the City of Sandusky, and shall not be personal benefits or burdens with respect to the MetroParks or the City of Sandusky.

11. **Termination.** If The City of Sandusky fails to: (a) maintain or keep the Easement Area or the improvements thereupon, in proper working condition; or (b) ceases use of the City Property for the stated conversation and public recreational purposes, the easement rights afforded to the City of Sandusky pursuant to this Agreement shall terminate

12. **Severability.** If any provisions or specific application of this Easement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Trail and Access Easement shall remain valid and binding.

13. **Governing Law.** This Easement shall be governed by and construed under the policies and ordinances of the City of Sandusky and the laws of the State of Ohio.

[SIGNATURE PROVISIONS ON SUBSEQUENT PAGE]

ERIE METROPARKS

By: _____

Name: _____

Title: _____

Date: _____

STATE OF OHIO)
) :ss
COUNTY OF ERIE)

On this ____ day of _____, 2020 before me, personally appeared Amy Bowman-Moore authorized representative of Erie Metroparks, the grantor in the aforesated Access Easement, and acknowledged said instrument to be his/her free and voluntary act and deed and the act of Erie Metroparks.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

Notary Public

My Appointment Expires _____

THE CITY OF SANDUSKY

By: _____

Name: _____

Title: _____

Date: _____

STATE OF OHIO)
) :ss
COUNTY OF ERIE)

On this _____ day of _____, 2020 before me, personally appeared Eric Wobser authorized representative of The City of Sandusky, the grantee in the aforestated Access Easement, and acknowledged said instrument to be his/her free and voluntary act and deed and the act of The City of Sandusky.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

Notary Public

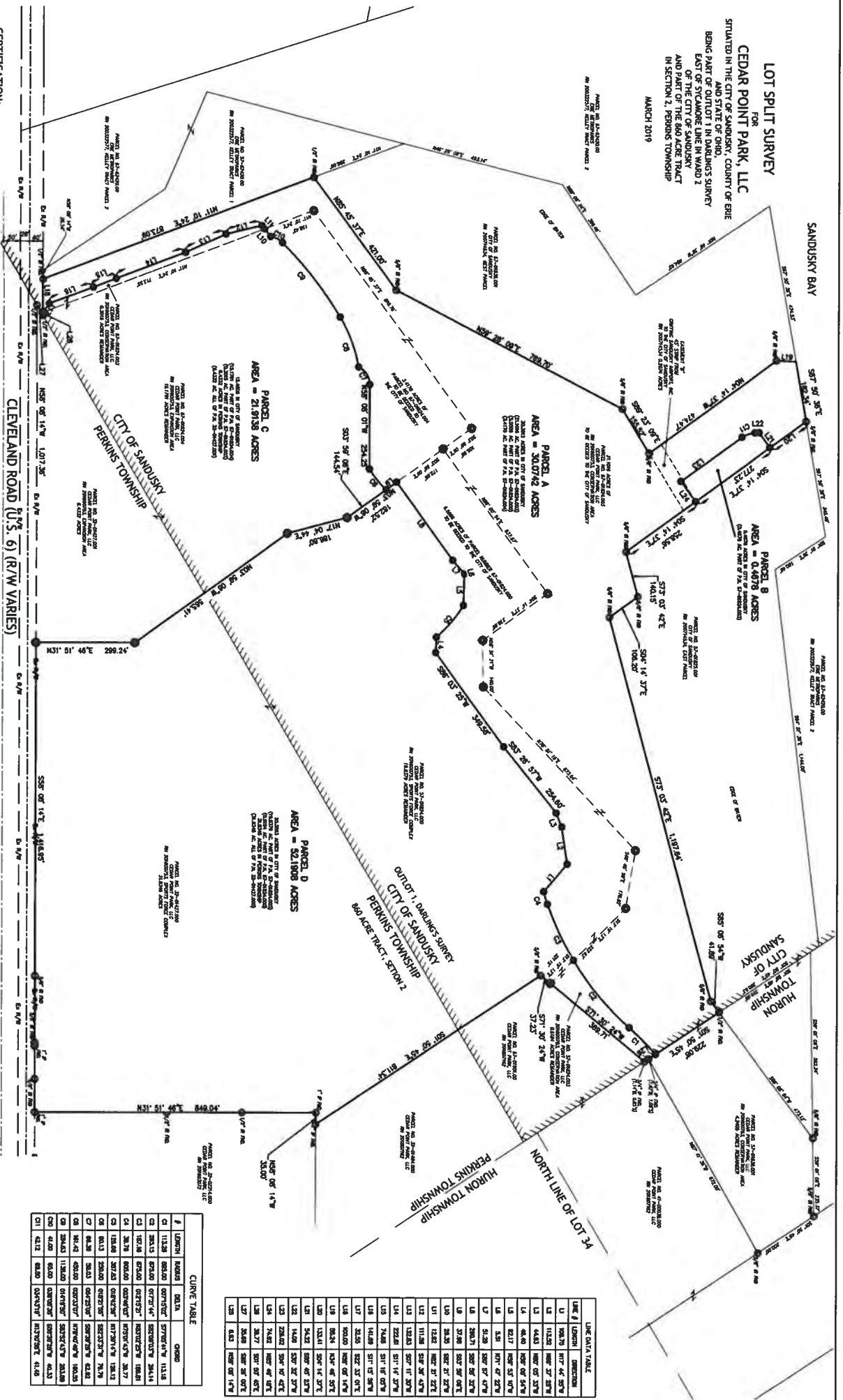
My Appointment Expires _____

Approved as to form and Correctness:

Trevor M. Hayberger
Law Director, City of Sandusky

Instrument prepared by:
Trevor M. Hayberger
Law Director City of Sandusky
240 Columbus Avenue
Sandusky, Ohio 44870
419-627-5852

LOT SPLIT SURVEY
FOR
CEDAR POINT PARK, LLC
 SITUATED IN THE CITY OF SANDUSKY, COUNTY OF ERIE
 BEING PART OF OUTLOT 1 IN DARTING SURVEY
 EAST OF SYCAMORE LINE IN WARD 2
 OF THE CITY OF SANDUSKY
 AND PART OF THE 860 ACRE TRACT
 IN SECTION 2, PERINS TOWNSHIP
 MARCH 2019



CERTIFICATION:
 I CERTIFY THAT THIS PLAN IS DERIVED FROM A SURVEY PERFORMED AND PROVIDED BY CONTRACTORS DESIGN ENGINEERING, LTD. TO ENVIRONMENTAL DESIGN GROUP FOR THIS PROJECT. THE R/W PINS AND MONUMENTS WERE BEARINGS FOR THIS SURVEY ARE BASED FROM A SURVEY AS PROVIDED BY CONTRACTORS DESIGN ENGINEERING, LTD.
Adam D. Treat, P.E.
 REGISTERED PROFESSIONAL SURVEYOR NO. 80638
 STATE OF OHIO



EXHIBIT
"B"

- LEGEND**
- ROAD PIN OR PINE TRUNK AS DESCRIBED
 - E/W ROAD W/LD. CAP STAMPED THROUGH
 - DESIGN GROUP PROPERTY LINE TO BE SET AFTER
 - PERINS LOT AND PINE TRUNK CONSTRUCTION
 - E/W ROAD TO BE SET BY PERINS SURVEYOR
 - MONUMENTS AS INDIC. ON
 - CONSTRUCTION LINE



Environmental Design Group
 1500 N. Linn St., Suite 100
 Sandusky, OH 44870
 419.283.1100
 www.environmental-design.com

CURVE TABLE

STATION	CHORD BEARS	DELTA	CHORD
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LINE DATA TABLE

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99	112.39	107° 42' 00"
100	112.39	107° 42' 00"



March 17, 2019

THE CANOPY WALK PARK & TRAIL EASEMENT DESCRIPTION
TO THE CITY OF SANDUSKY
8.6592 ACRE EASEMENT

Situated in the State of Ohio, County of Erie, and the City of Sandusky, being part of Outlot 1 in Darling's Survey East of Sycamore Line in Ward 2 of the City of Sandusky, and also being part of those lands conveyed to Erie Metroparks by deed in RN 200322577, Kelly Tract Parcels 1 and 2 of Erie County Records, said easement being more fully described as follows:

Beginning at a 5/8-inch iron pin found at a southwesterly corner of the lands conveyed to Cedar Point Park, LLC by deed in RN 201600753, Conservation Area, on a northerly line of Cleveland Road (U.S. 6) (R/W Varies) and at a southeasterly corner of said Erie Metroparks lands, said iron pin found being the TRUE PLACE OF BEGINNING for the easement area herein described;

COURSE NO. 1: Thence **North 58°-08'-14" West, 471.32 feet** along the southerly line of said Erie Metroparks lands and along the northerly line of said Cleveland Road to a point at the southwesterly corner of said Erie Metroparks lands;

COURSE NO. 2: Thence **North 14°-18'-53" East, 814.66 feet** along the westerly line of said Erie Metroparks lands to a point;

COURSE NO. 3: Thence **South 78°-49'-02" East, 396.27 feet** to a point on the easterly line of said Erie Metroparks lands and on the westerly line of the lands conveyed to the City of Sandusky by deed in RN 200714534, West Parcel;

COURSE NO. 4: Thence **South 11°-10'-24" West, 979.88 feet** along the easterly line of said Erie Metroparks lands, along the westerly line of said City of Sandusky lands and along the westerly line of said Cedar Point Park, LLC lands to the True Place of Beginning and containing **8.6592 acres** of land, more or less, as determined in February 2019 by Adam D. Treat, P.S. 8058 for **Environmental Design Group** under project number 16-00259-050 and being subject to all legal highways, easements and restrictions of record.



March 17, 2019

THE CANOPY WALK PARK & TRAIL EASEMENT DESCRIPTION
TO THE CITY OF SANDUSKY
8.6592 ACRE EASEMENT

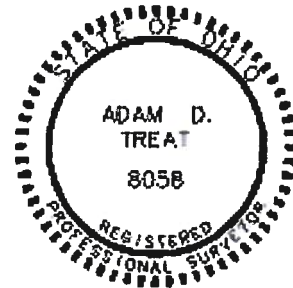
This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group for this project. All pins set are 5/8-inch diameter by 30 inches long rebar with an identification cap stamped "Environ. Design Group, Akron, Ohio".

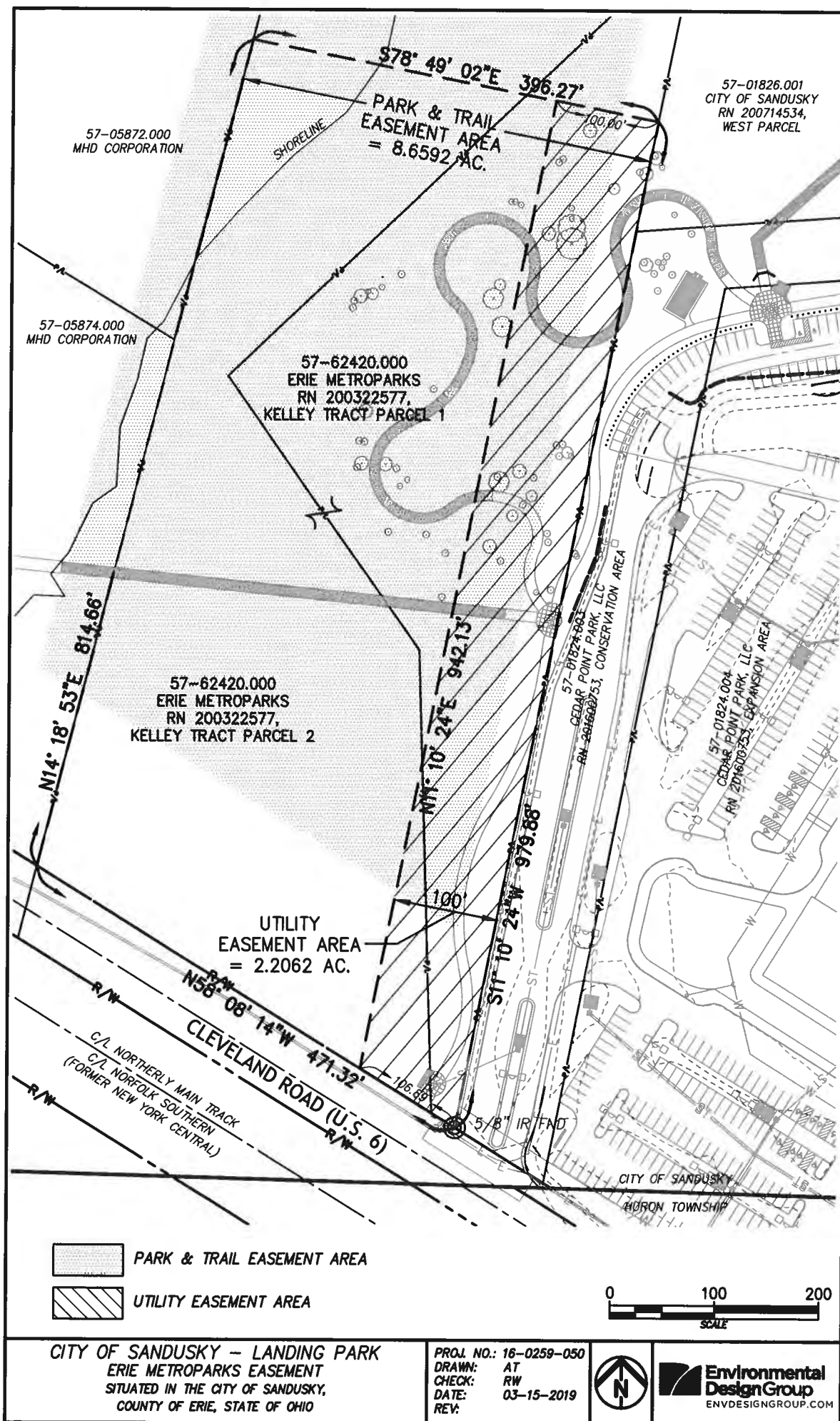
This described easement is 8.6592 acres within Erie County Auditor Parcel Number 57-62420.000.

A handwritten signature in black ink that reads "Adam D. Treat".

ADAM D. TREAT, P.S.

Ohio Registered Professional Surveyor No. 8058







March 17, 2019

THE POINT EASEMENT DESCRIPTION
TO THE CITY OF SANDUSKY
2.8720 ACRE EASEMENT

Situated in the State of Ohio, County of Erie, and the City of Sandusky, being part of Outlot 1 in Darling's Survey East of Sycamore Line in Ward 2 of the City of Sandusky, and also being part of those lands conveyed to Erie Metroparks by deed in RN 200322577, Kelly Tract Parcel 2 of Erie County Records, said easement being more fully described as follows:

Beginning at a 5/8-inch iron pin found at a northeasterly corner of the lands conveyed to Cedar Point Park, LLC by deed in RN 201506962, at a northwesterly corner of the lands conveyed to the City of Sandusky by deed in RN 200714534, East Parcel, and on the southerly line of said Erie Metroparks lands, said iron pin found being the TRUE PLACE OF BEGINNING for the easement area herein described;

COURSE NO. 1: Thence **North 67°-50'-36" West, 331.24 feet** along the southerly line of said Erie Metroparks lands to a point;

COURSE NO. 2: Thence **North 04°-14'-02" West, 110.29 feet** to a point;

COURSE NO. 3: Thence **North 85°-49'-18" East, 522.17 feet** to a point;

COURSE NO. 4: Thence **South 04°-14'-02" East, 368.88 feet** to a point on the southerly line of said Erie Metroparks lands;

COURSE NO. 5: Thence **North 67°-50'-36" West, 251.68 feet** to the True Place of Beginning and containing **2.8720 acres** of land, more or less, as determined in February 2019 by Adam D. Treat, P.S. 8058 for **Environmental Design Group** under project number 16-00259-050 and being subject to all legal highways, easements and restrictions of record.

This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group for this project. All pins set are 5/8-inch diameter by 30 inches long rebar with an identification cap stamped "Environ. Design Group, Akron, Ohio". This described easement is 2.8720 acres within Erie County Auditor Parcel Number 57-62420.000.

ADAM D. TREAT, P.S.

Ohio Registered Professional Surveyor No. 8058



The community impact people.

Page 1 of 1

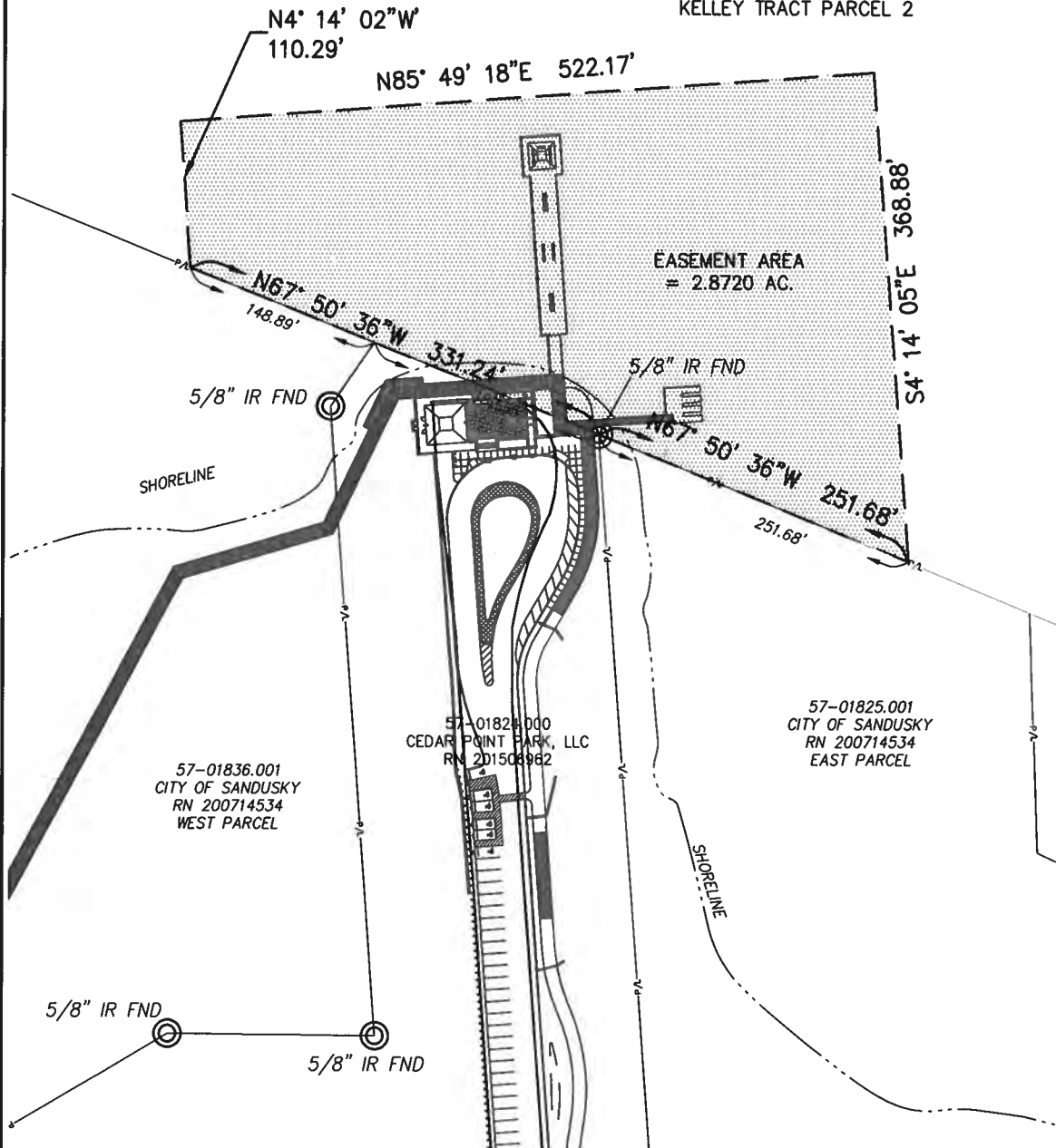
CIVIL ENGINEERING / LANDSCAPE ARCHITECTURE / PLANNING / SURVEYING / ENVIRONMENTAL SERVICES / CONSTRUCTION MANAGEMENT

EXHIBIT

"C" (2)

SANDUSKY BAY

57-62420.000
ERIE METROPARKS
RN 200322577
KELLEY TRACT PARCEL 2



 EASEMENT AREA



CITY OF SANDUSKY – LANDING PARK
ERIE METROPARKS EASEMENT
SITUATED IN THE CITY OF SANDUSKY,
COUNTY OF ERIE, STATE OF OHIO

PROJ. NO.: 16-0259-050
DRAWN: AT
CHECK: RW
DATE: 03-15-2019
REV:



 **Environmental
Design Group**
ENVDESIGNGROUP.COM



DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue
Sandusky, Ohio 44870
419.627.5829
www.ci.sandusky.oh.us

To: Eric L. Wobser, City Manager

From: Aaron M. Klein, P.E.

Date: July 29, 2020

Subject: Commission Agenda Item – US Customs & Border Protection Lease Agreement

Items for Consideration: Legislation authorizing and directing the City Manager to execute a Lease Agreement with the United States of America (Government), acting by and through the designated representative of the U.S. Customs and Border Protection (CBP).

Background Information: There has been an international ferry service between the City of Sandusky (City) and Ontario, Canada (Ontario) since the 1940's. The most recent lease with the Owen Sound Transportation Company (Owen Sound), which permits the operator to utilize the Jackson Street Pier (Pier) for two vessels – the Jiimaan and the Pelee Islander – was established in 1995 and contains 16 addenda through 2019. Since the service is international, the United States of America, Department of Homeland Security (DHS) is responsible to screen passengers, vehicles and any other item entering the country for safety and security. The Government utilizes staff stationed at the Port Clinton office of U.S. Customs and Border Protection. Officers drive to Sandusky based on the schedule provided by the Ministry of Transportation of Ontario (MTO) for ferry operations.

The facility that had been provided by the City on the Jackson Street Pier for many years was out of compliance with Land Port of Entry Design Standard, September 2014 (LPOE) standards for many years. In 2015, the federal government had requested that the entire facility, screening process, buildings, IT equipment, security, audio/visual, waiting areas, etc. be brought into compliance with their standards. At that time, the City was pursuing the Bicentennial Plan that had a focus on re-envisioning the Jackson Street Pier, which meant that their operations would likely be relocated from its previous location. CBP was very accommodating by approving the City's request to simply maintain the previous status, with limited improvements, until we could proceed with the planning, design and construction of the new Jackson Street Pier. They have only asked for privacy slats in the chain-linked fence, shelter for passengers to get out of the sun and rain, a wooden walkway above bay levels and a few minor items.

CBP was involved throughout the redesign and reconstruction of the Pier, including a staged review process vetted by various divisions within DHS. The City and Donley's were very conscientious about having all subcontractors and subconsultants involve CBP staff often and give in-person or virtual tours of construction to ensure it is being constructed to their standards. The thorough process has proven to be very effective.

Although CBP has had a presence in the City for many years, staff is not aware of a lease that had ever existed between the two parties. However, prior to resuming long-term ferry services, the Government is requiring the attached lease be executed. Due to their transient use of the facility, they have provided a simplified, modified lease based on GSA Form L201A (October 2016). Only minor adjustments were incorporated based on the City's requests. At this point, everything in the document is required.

The initial term of the lease is one year and will be automatically renewed on a year-to-year basis for nineteen (19) additional years through 2040.

Budgetary Information: There is no lease payment received for this lease as it is a requirement of the federal government when an international port exists. As owner, the City of Sandusky will be responsible for maintaining this facility to the standard requirements contained within this lease and to absorb all costs associated with the lease. It is unknown at this time what the annual costs will be, but staff will monitor these costs over the next several years so they can be rolled into future agreements for the Owen Sound ferry lease.

Negotiated as part of the Ministry of Transportation of Ontario's (MTO) long-term lease for the Pelee Islander, there will be a capital contribution for the Jackson Street Pier rehabilitation project to be paid over the term of the agreement. All non-capital proceeds derived from those lease payments are to be deposited into the Jackson Street Pier fund.

Action Requested: It is recommended that the proper legislation be prepared to allow the City Manager to execute a Lease Agreement with the United States of America. It is further requested that this legislation be passed in accordance with Section 14 of the City Charter in order to permit the ferry service to resume operations as soon as the international travel bans are lifted.

I concur with this recommendation:

Eric L. Wobser
City Manager

cc: McKenzie Spriggs, Clerk of the City Commission; Justin Harris, Interim Law Director; Michelle Reeder, Finance Director; Matt Lasko, Chief Development Officer

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE DESIGNATED REPRESENTATIVE OF THE U.S. CUSTOMS AND BORDER PROTECTION FOR A PORTION OF THE JACKSON STREET PIER PROPERTY FOR HOMELAND SECURITY; AND DECLARING THAT THIS ORDINANCE TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, since the 1940's, there has been an international ferry service between the City of Sandusky and Ontario, Canada, with the most recent lease being with the Owen Sound Transportation Company which has utilized the Jackson Street Pier since 1995 for the Jiimaan and the Pelee Islander vessels; and

WHEREAS, the U.S. Customs and Border Protection is the agency within the Department of Homeland Security responsible for screening passengers, vehicles, and any other item entering the Country for safety and security; and

WHEREAS, the U.S. Customs and Border Protection has been a presence in the City for many years and with the completion of the rehabilitation of the Jackson Street Pier, the federal government is requiring a Lease Agreement be executed with the City; and

WHEREAS, the initial term of the lease is one (1) year and will automatically renewed on a year-to-year basis upon the commencement date each year thereafter for nineteen (19) additional years unless the City provides at least 90 days' written notice of its intent not to renew; and

WHEREAS, the City is responsible for maintaining the U.S. Customs and Border Protection facility to the standards contained within the Lease Agreement at the City's cost as required by the federal government; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the Lease Agreement and allow the U.S. Customs and Border Protection to continue security of the border when the international travel bans are lifted and the ferry services resume operations; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Lease Agreement with the United States of America, acting by and through the designated representative of the U.S. Customs and Border Protection for a portion of the Jackson Street Pier property for the purposes of homeland security for a

period of twenty (20) years, substantially in the same form as attached to this Ordinance and marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: August 10, 2020

This Lease is made and entered into between

City of Sandusky

(Lessor), whose principal place of business address is 240 Columbus Ave Sandusky, OH 44870

and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

(Government), acting by and through the designated representative of the U.S. Customs and Border Protection (CBP), upon the terms and conditions set forth herein.

Witnesses: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

Lessor hereby leases to the Government at no cost the Premises described herein, being all or a portion of the Property located at

233 W. Shoreline Dr.
Sandusky, OH 44870

and more fully described in Section 1 and Exhibit A, together with rights to the use of parking and other areas as set forth herein, to be used for such purposes as determined by CBP.

LEASE TERM

To Have and To Hold the said Premises with their appurtenances for the term beginning on _____, 2020 and continuing through _____, 2021 inclusive for a term of one-year. At the expiration of this term the lease will automatically renew on a year-to-year basis upon the anniversary of the Commencement Date each year thereafter for 19 (nineteen) additional years but not beyond _____, 2040 unless or until the Government or lessor gives at least 90 days' notice in writing of its intent not to renew to the other party pursuant to 1.04 herein.

The signatory to this Lease for the Lessor represents and warrants that he or she is a duly authorized representative of the Lessor, with full power and authority to enter into this Lease and to bind the Lessor with regard to all matters relating to this agreement.

In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

FOR THE LESSOR:**FOR THE GOVERNMENT:**

Name: _____

Name: Michael Sedgebeer

Title: _____

Lease Contracting Officer

Entity Name: _____

U.S. Customs and Border Protection

Date: _____

Date: _____

WITNESSED FOR THE LESSOR BY:

Name:

Title:

Date: _____

The information collection requirements contained in this Solicitation/Contract, that are not required by the regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES (SIMPLIFIED) (SEP 2013)

Federal Inspection Services (FIS) Seaport Operation Space: 975 square feet of FIS Building Space and 21,000 square feet of total land (the Premises) located at 233 W. Shoreline Dr. Sandusky, OH 44870 as depicted on the floor plan attached hereto as Exhibit A

1.02 EXPRESS APPURTENANT RIGHTS (SIMPLIFIED) (JUN 2012)

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C, within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Lessor's standards. Appurtenant to the Premises and included in the Lease are rights to use parking as depicted in Exhibit B. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.

1.03 RENT AND OTHER CONSIDERATION

- A. The Government shall pay no rent.
- B. In exchange for the Government's agreement to locate inspectional personnel onsite, the Lessor shall provide to the Government the following:
1. Provide the leasehold interest in the Property described in the paragraph entitled "The Premises,"
 2. Bear all costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all costs for labor, materials, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses;
 3. Perform or satisfy all other obligations set forth in this Lease and in its attached exhibits, including, but not limited to, Exhibit F pertaining to information technology services and equipment costs; and,
 4. Provide all services, utilities, and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto to meet the requirements of this Lease.

1.04 TERMINATION RIGHTS (SIMPLIFIED)

The Government or the Lessor may terminate this Lease, in whole or in part, at any time during the term of this Lease or any renewal period, with 90 days' prior written notice to the other party. The Government may terminate this lease if the operations supported by the Premises are reduced, if the Lessor does not meet its obligations set forth in this Lease, or if the Government exercises its discretion to reduce its operational presence. In the event of the Lessor's termination under this clause, should the Lessor continue to require inspectional services to be performed by the Government at the Property the Lessor agrees to provide the Government with suitable, alternate space at the Property at no cost to the Government. The effective date of any termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later.

1.05 RENEWAL RIGHTS (SIMPLIFIED) (APR 2011)

Subject to the parties termination rights in 1.04, at the expiration of the initial term of one year, this Lease will automatically renew on a year-to-year basis at the option of the Government unless terminated by the Lessor, for up to 19 **YEARS** but not beyond _____, 2040, and all other terms and conditions of this Lease, as same may have been amended, shall remain in force and effect during any renewal term or holdover period.

1.06 DOCUMENTS INCORPORATED IN THE LEASE (SIMPLIFIED) (APR 2015)

The following documents are as attached to and made part of the Lease:

DOCUMENT NAME	NO. OF PAGES	EXHIBIT
Floor Plan Delineating the Premises	2	A
Parking Plan(s)	1	B
Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions for Leasehold Interests in Real Property) (GSA Form 3518-SAM)	2	C
Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Acquisitions of Leasehold Interests in Real Property.)	2	D
Project Facility Understanding Acknowledgement (PRUA)	1	E
Cost-Sign Off Sheet (CSO)	2	F

SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.01 DEFINITIONS AND GENERAL TERMS (OCT 2016)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

- A. Appurtenant Areas. Appurtenant Areas are defined as those areas and facilities on the Property that are not located within the Premises, but for which rights are expressly granted under this Lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the Premises and express appurtenant rights. Appurtenant Areas include, but are not limited to, parking areas and space located on the roof of the Building where telecommunications devices may be located.
- B. Intentionally deleted
- C. Building. The building(s) situated on the Property in which the Premises are located shall be referred to as the Building(s).
- D. Intentionally deleted
- E. Intentionally deleted
- F. Contract. "Contract" shall mean this Lease.
- G. Contractor. "Contractor" shall mean Lessor.
- H. Days. All references to "day" or "days" in this Lease shall mean calendar days, unless specified otherwise.
- I. FAR. All references to the FAR shall be understood to mean the Federal Acquisition Regulation, codified at 48 CFR Chapter 1.
- J. Intentionally deleted
- K. GSAR. All references to the GSAR shall be understood to mean the GSA supplement to the FAR, codified at 48 CFR Chapter 5.
- L. Commencement Date. The date on which the lease term commences.
- M. Lease Award Date. The Lease Award Date means the date of execution of the Lease by the Lease Contracting Officer (LCO) and the mailing or otherwise furnishing written notification of the executed Lease to the Lessor (and on which the parties' obligations under the Lease begin).
- N. Premises. The Premises are defined as the total Office Area or other type of Space, together with all associated common areas, described in Section 1 of this Lease, and delineated by plan in the attached exhibit. Parking and other areas to which the Government has rights under this Lease are not included in the Premises.
- O. Property. The Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas) to which the Government is granted rights.
- P. Intentionally deleted
- Q. Space. The Space shall refer to that part of the Premises to which the Government has exclusive use, such as Office Area, or other type of Space. Parking areas to which the Government has rights under this Lease are not included in the Space.
- R. Office Area. For the purposes of this Lease, Space shall be measured in accordance with the standard (Z65.1-2017) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed." References to ABOA mean ANSI/BOMA Office Area.
- S. Working Days. Working Days shall mean weekdays, excluding Saturdays and Sundays and Federal holidays.

2.02 AUTHORIZED REPRESENTATIVES (OCT 2016)

Signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals except to the extent that such authority may be explicitly delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its Lease Contracting Officer (LCO) by notice without an express delegation by the prior LCO.

2.03 ALTERATIONS REQUESTED BY THE GOVERNMENT

The Government may request the Lessor to provide alterations at Lessor's expense during the term of the Lease and any renewal periods in the event the Government's inspectional operations require such alterations. Throughout the term of the Lease and all renewal periods, upon request by CBP for alterations that are reasonably tailored to CBP's operational requirements, the Lessor shall make such alterations or shall perform other work at its expense within a reasonable amount of time to ensure that the Premises continues to suit CBP's operational needs and conforms to CBP design standards and site-specific operational requirements. Alterations may be memorialized by issuance of a Lease amendment by the LCO.

2.04 WAIVER OF RESTORATION (OCT 2016)

The Lessor shall have no right to require the Government to restore the Premises upon termination of the Lease, and waives all claims against the Government for waste, damages, or restoration arising from or related to (a) the Government's normal and customary use of the Premises during the term of the Lease (including any extensions thereof), as well as (b) any initial or subsequent alteration to the Premises regardless of whether such alterations are performed by the Lessor or by the Government. At its sole option, the Government may abandon property in the Space following expiration of the Lease, in which case the property will become the property of the Lessor, and the Government will be relieved of any liability in connection therewith.

2.05 NOTICES

A. Any notice, consent, or approval to be given under this lease shall be in writing, and delivered by hand or sent by Express Mail or comparable service, or by a certified or registered mail, postage prepaid and return receipt requested, to the following addresses:

To the Lessor at: City of Sandusky 240 Columbus Ave Sandusky, OH 44870

To CBP at: U.S. Customs and Border Protection, Field Operations Facilities, Program Management Office; ATTN: FOF Lease Contracting Officer; 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.

Notice shall be deemed served upon receipt.

B. In the event of an emergency, either party may provide notice by telephone to the respective officials designated as follows:

The emergency contact and phone number for the Lessor is: Eric Wobser, City Manager 419-627-5846 EWOBSE@CI.SANDUSKY.OH.US or Aaron Klein, Public Works Director, (419) 627-5829, AKLEIN@CI.SANDUSKY.OH.US

The emergency contact and phone number for CBP is: On Duty Supervisor 419-732-4443 - If no answer call 1-800-973-2867 and ask for Duty Manager

2.06 CHANGE OF OWNERSHIP

A. If during the term or any renewal periods of the Lease, title to the Property is transferred, the Lease is assigned, or the Lessor changes its legal name, the Lessor and its successor shall comply with the requirements of FAR Subpart 42.12. If title is transferred, the Lessor shall notify the Government within five days of the transfer of title.

B. The Government and the Lessor may execute a Change of Name Agreement if the Lessor is changing only its legal name, and the Government's and the Lessor's respective rights and obligations remain unaffected. A sample form is found at FAR 42.1205.

C. If title to the Property is transferred, or the Lease is assigned, the Government, the original Lessor (Transferor), and the new owner or assignee (Transferee) shall execute a Novation Agreement providing for the transfer of Transferor's rights and obligations under the Lease to the Transferee. When executed on behalf of the Government, a Novation Agreement will be made part of the Lease via Lease Amendment.

D. In addition to all documents required by FAR 42.1204, the LCO may request additional information (e.g., copy of the deed, bill of sale, certificate of merger, contract, court decree, articles of incorporation, operation agreement, partnership certificate of good standing, etc.) from the Transferor or Transferee to verify the parties' representations regarding the transfer, and to determine whether the transfer of the Lease is in the Government's interest.

E. If the LCO determines that recognizing the Transferee as the Lessor is not in the Government's interest, the Transferor shall remain fully liable to the Government for the Transferee's performance of obligations under the Lease, notwithstanding the transfer.

F. As a condition for being recognized as the Lessor, the Transferee must register in the System for Award Management (SAM) (See FAR 52.232-33), and complete and sign GSA Form 3518-SAM, Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions of Leasehold Interests in Real Property)(see Exhibit C).

2.07 FIRE AND CASUALTY DAMAGE (SIMPLIFIED LEASE) (SEP 2011)

If the Building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the Building in which the Premises are located is only partially destroyed or damaged, so as to render the Premises untenantable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **180 days** from the event of destruction or damage, to repair or restore the Premises, if the Lessor submits to the Government a reasonable schedule for repair of the Premises within **30 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **180 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. Termination of the Lease by either party under this clause shall not give rise to liability for either party. This clause shall not apply if the event of destruction or damage is caused by the Lessor's negligence or willful misconduct. In the event of termination under this clause, should Lessor continue to require inspectional services to be performed by the Government at the Property, Lessor agrees to provide the Government with suitable, alternate space at the Property at no cost to the Government.

2.08 DEFAULT BY LESSOR (APR 2012)

A. The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:

- (1) Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for Acceptance of the Space within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default.

(2) After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may perform the service, provide the item, or obtain satisfaction of the requirement by its own employees or contractors and seek reimbursement from the Lessor.

- (3) Grounds for Termination. The Government may terminate the Lease if:

- (i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or
- (ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions,

(4) Excuse. Failure by the Lessor to timely deliver the Space or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:

- (i) Circumstances within the Lessor's control;
- (ii) Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform, regardless of the Government's knowledge of such matters;
- (iii) The condition of the Property;
- (iv) The acts or omissions of the Lessor, its employees, agents or contractors; or
- (v) The Lessor's inability to obtain sufficient financial resources to perform its obligations.

(5) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law and under this Lease.

2.09 INTEGRATED AGREEMENT (JUN 2012)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

2.10 MUTUALITY OF OBLIGATION (SIMPLIFIED) (APR 2011)

The obligations and covenants of the Lessor, and the Government's obligation to perform such obligations as may be specified herein, are interdependent.

2.11 COMPLIANCE WITH APPLICABLE LAW (JAN 2011)

Lessor shall comply with all Federal, state and local laws applicable to its ownership and leasing of the Property, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all Buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this Lease, provided that nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by Federal law.

2.12 MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (SIMPLIFIED) (APR 2015)

The Lessor shall maintain the Property, including the Building, Building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition. Upon request of the LCO or DTR, the Lessor shall provide written documentation that Building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc. The Government shall have the right, at any time after the Lease is signed and during the term and renewal periods of the Lease, to inspect all areas of the Property to which access is necessary for the purpose of determining the Lessor's compliance with this clause.

2.13 CLAUSES INCORPORATED BY REFERENCE (SIMPLIFIED) (OCT 2018)

This Lease incorporates the following clauses by reference, with the same force and effect as if they were given in full text. All citations to the FAR or GSAR are provided for convenience of reference, and shall not be understood as subjecting this Lease to any provision of the FAR or GSAR except to the extent that clauses prescribed by the FAR or GSAR are expressly incorporated into this Lease.

1. FAR 52.204-7, SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
2. FAR 52.204-13, SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2018)
3. FAR 52.204-23, PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (JUL 2018)
4. FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
5. FAR 52.222-21, PROHIBITION OF SEGREGATED FACILITIES (APRIL 2015)
6. FAR 52.222-26, EQUAL OPPORTUNITY (SEP 2016)
7. FAR 52.232-33, PAYMENT BY ELECTRONIC FUNDS TRANSFER-SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
8. FAR 52.233-1, DISPUTES (MAY 2014)
9. GSAR 552.204-70 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
10. GSAR 552.215-70, EXAMINATION OF RECORDS BY GSA (JUL 2016)
11. GSAR 552.270-31, PROMPT PAYMENT (JUN 2011)

SECTION 3 CONSTRUCTION STANDARDS AND COMPONENTS

3.01 CBP STANDARDS

The Premises shall be designed, constructed and maintained in accordance with the standards set forth herein and the 2014 LPOE Design Standards, Voice/Data Communications Room Requirements, and CBP, Minimum Security Requirements (collectively, these standards are hereinafter referred to as "CBP Standards"). If there is a conflict between/among the CBP Standards, the more stringent shall apply.

3.02 WORK PERFORMANCE (JUN 2012)

All work in performance of this Lease shall be done by skilled workers or mechanics and shall be acceptable to the LCO or designated technical representative (DTR). The LCO or DTR may reject the Lessor's workers 1) if such are unlicensed, unskilled, or otherwise incompetent, or 2) if such have demonstrated a history of either untimely or otherwise unacceptable performance in connection with work carried out in conjunction with either this contract or other government or private contracts.

3.03 BUILDING REQUIREMENTS

A. The Building shall be designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of Space. To the extent the Building has already been designed and constructed, Lessor agrees that the Building meets CBP Standards.

B. Base structure and Building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed Building components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, installed, and coordinated with space build out. Circulation corridors are provided as part of the Building only on multi-tenanted floors where the corridor is common to more than one tenant. On single tenant floors, the fire egress corridor(s) necessary to meet code are provided as part of the space.

3.04 RESPONSIBILITY OF THE LESSOR AND LESSOR'S ARCHITECT/ENGINEER (SIMPLIFIED) (JUN 2012)

The Lessor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Lessor under this Lease. The Lessor shall, correct or revise any errors or deficiencies in its designs, drawings, specifications, or other services. THE LESSOR REMAINS SOLELY RESPONSIBLE FOR DESIGNING, CONSTRUCTING, OPERATING, AND MAINTAINING THE LEASED PREMISES IN FULL ACCORDANCE WITH THE REQUIREMENTS OF THE LEASE. The Government retains the right to review and approve aspects of the Lessor's design. Such review and approval is intended to identify potential design flaws, to minimize costly misdirection of effort, and to assist the Lessor in its effort to monitor whether such design and construction comply with applicable laws and satisfy all Lease requirements.

3.05 QUALITY AND APPEARANCE OF BUILDING (JUN 2012)

The Building in which the Premises are located shall be designed, built and maintained in good condition and in accordance with the Lease requirements. If not new or recent construction, the Building shall have undergone by occupancy, modernization, or adaptive reuse for space with modern conveniences.

3.06 MEANS OF EGRESS (MAY 2015)

A. The Premises and any parking garage areas shall meet or will be upgraded to meet, either the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101), or the International Code Council, International Building Code (IBC), each current as of the Lease Award Date, or use an alternative approach or method that achieves an equivalent level of safety deemed acceptable by the Government.

B. The Space shall have unrestricted access to a minimum of two remote exits on each floor of Government occupancy.

C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.

D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.

E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.07 AUTOMATIC FIRE SPRINKLER SYSTEM (SEP 2013)

A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

B. For Buildings in which any portion of the Space is on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

C. For Buildings in which any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Office Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.

D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.

E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).

F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.08 FIRE ALARM SYSTEM (SEP 2013)

A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.

B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code, that was in effect on the actual date of installation.

C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).

D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.

E. If the Building's fire alarm control unit is over 25 years old as of the date of award of this Lease, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.09 ELEVATORS (SIMPLIFIED) (OCT 2016)

A. The Lessor shall provide suitable passenger and, when required by the Government, freight elevator service to any of the Premises not having ground level access. Service shall be available during the normal hours of operation specified in this Lease. However, one passenger and, when required by the Government, one freight elevator shall be available at all times for Government use. When a freight elevator is required by the Government, it shall be accessible to the loading areas. When possible, the Government shall be given 24-hour advance notice if the service is to be interrupted for more than 1-1/2 hours. Normal service interruption shall be scheduled outside of the Government's normal working hours. The Lessor shall also use best efforts to minimize the frequency and duration of unscheduled interruptions.

B. Code: Elevators shall conform to the current requirements of the American Society of Mechanical Engineers ASME A17.1/CSA B44, Safety Code for Elevators and Escalators (current as of the Lease Award Date). Elevators shall be provided with Phase I emergency recall operation and Phase II emergency in-car operation in accordance with ASME A17.1/CSA B44. Fire alarm initiating devices (e.g., smoke detectors) used to initiate Phase I emergency recall operation shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code. The elevators shall be inspected and maintained in accordance with the current edition of the ASME A17.2, Inspector's Manual for Elevators. Except for the reference to ASME A17.1 in ABAAS, Section F105.2.2, all elevators must meet ABAAS requirements for accessibility in Sections 407, 408, and 409 of ABAAS.

C. Safety Systems: Elevators shall be equipped with telephones or other two-way emergency communication systems. The system used shall be marked and shall reach an emergency communication location staffed 24 hours per day, 7 days per week.

3.10 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.11 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office space.

3.12 ELECTRICAL (SIMPLIFIED) (JUN 2012)

A. The Lessor shall be responsible for meeting the applicable requirements of local codes and ordinances. When codes conflict, the more stringent standard shall apply.

B. All power distribution equipment shall be required to handle the actual specified and projected loads and 10 percent spare load capacity. Fuses and circuit breakers shall be plainly marked or labeled to identify circuits or equipment supplied through them.

C. Convenience outlets shall be installed in accordance with NFPA Standard 70, National Electrical Code, or local code, whichever is more stringent. The Lessor shall provide duplex utility outlets in restrooms, corridors, and dispensing areas.

3.13 PLUMBING (JUN 2012)

The Lessor shall provide plumbing in all required areas.

3.14 HEATING, VENTILATION, AND AIR CONDITIONING – (SIMPLIFIED) (OCT 2016)

Central HVAC systems shall be installed and operational, including, as appropriate, main and branch lines, VAV boxes, dampers, flex ducts, and diffusers, to adequately supply tempered air to all built out area to support activities to take place in area. Systems shall be designed with sufficient

systems capacity to meet all requirements in this Lease; equipment shall be concealed. Areas having excessive heat gain or heat loss, or affected by solar radiation at different times of the day, shall be independently controlled.

Any ductwork to be reused and/or to remain in place shall be cleaned, tested, and demonstrated to be clean in accordance with the standards set forth by NADCA. The cleaning, testing, and demonstration shall occur immediately prior to Government occupancy to avoid contamination from construction dust and other airborne particulates.

During working hours in periods of heating and cooling, ventilation shall be provided in accordance with the latest edition of the American National Standards Institute, American Society of Heating, Refrigeration and Air-Conditioning Engineers (ANSI/ASHRAE) Standard 62.1, Ventilation for Acceptable Indoor Air Quality.

Heating and air-conditioning air distribution systems (air handling units, VAV boxes, fan coil units, etc.) for the Space shall be equipped with particulate matter air filters that meet the Minimum Efficiency Reporting Value (MERV) specified in the current edition of ANSI/ASHRAE Standard 62.1. Locations that do not meet the EPA National Ambient Air Quality Standards (NAAQS) for particulates (PM 10 or PM 2.5) must be equipped with additional filtration on outdoor air intakes as required in ANSI/ASHRAE Standard 62.1. NAAQS information can be found at [HTTPS://WWW.EPA.GOV/GREEN-BOOK](https://www.epa.gov/green-book).

Restrooms shall be properly exhausted, with a minimum of 10 air changes per hour.

3.15 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (SIMPLIFIED) (JUN 2012)

A. The Government may elect to contract its own telecommunications (voice, data, video, Internet, or other emerging technologies) service in the Space. The Government may contract with one or more parties to have inside wiring (or other transmission medium) and telecommunications equipment installed pursuant to a separate agreement. In the event future upgrades are required, the Lessor, subject to the availability of funds, shall bear all costs associated with the upgrade. See Exhibit F for Lessor's obligations pertaining to information technology services and equipment costs, including telecommunications costs, in connection with the Government's use of the Premises, which are incorporated by reference.

B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space, or, if existing Building wiring is insufficient, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.

C. The Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas to roof, parapet, or Building envelope (access from the antennas to the Premises shall be provided) and to affix transmission devices in appropriate common areas so as to allow the use of cellular telephones and emerging technologies.

3.16 DUE DILIGENCE AND NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS – LEASE (SEP 2014)

A. Environmental Due Diligence

Lessor is responsible for performing all necessary "response" actions (as that term is defined at 42 U.S.C. § 9601(25) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)) with regard to all "recognized environmental conditions," as that term is defined in ASTM Standard E1527-13, as such standard may be revised from time to time. This obligation extends to any contamination of the Property where such contamination is not attributable to the Government. Lessor must provide the Government with a summary report demonstrating completion of all required response actions prior to Substantial Completion. Any remediation performed by or on behalf of Lessor must be undertaken in strict compliance with all applicable federal, state and local laws and regulations.

B. National Environmental Policy Act

The National Environmental Policy Act regulations provide for analyzing proposed major federal actions to determine if there are ways to mitigate the impact of the proposed actions to avoid, minimize, rectify, reduce, or compensate for environmental impacts associated with such actions. Where the Government has determined that any or all of these mitigation measures should be or must be adopted to lessen the impact of these proposed actions, Lessor must incorporate all mitigation measures identified and adopted by the Government in the design and construction drawings and specifications. All costs and expenses for development of design alternatives, mitigation measures and review submittals for work to be performed under the Lease are the sole responsibility of Lessor.

3.17 AS-BUILT DRAWINGS (SIMPLIFIED) (JUN 2012)

Not later than 60 days after the acceptance of the Space, the Lessor, at Lessor's expense, shall furnish to the Government a complete set of as-built floor plans showing the Space under Lease, as well as corridors, stairways, and core areas. The required file extension is ".PDF." Clean and purged files shall be submitted on CD-ROM. They shall be labeled with Building name, address, list of drawing(s), date of the drawing(s), and Lessor's architect and architect's phone number.

SECTION 4 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

4.01 PROVISION OF SERVICES, UTILITIES, MAINTENANCE ACCESS, AND NORMAL HOURS (SIMPLIFIED) (JUN 2012)

The Government's normal hours of operations are based on the normal Seaport inspection operations schedule and, otherwise, on an as needed basis. Lessor shall verify the actual hours of operations with local CBP Officials. Services, maintenance, and utilities shall be provided at no cost to the Government during these hours. The Government shall have access to the Premises and its Appurtenant Areas at all times, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed when CBP personnel is present.

The Lessor is responsible for providing all utilities necessary for Premises and tenant operations. The following services, utilities, and maintenance shall be provided by the Lessor seven (7) days per week, twenty-four (24) hours per day, including Saturday, Sunday and federal holidays. (check all that apply):

- | | | | | |
|--|---|---|---|--|
| <input checked="" type="checkbox"/> HEAT | <input checked="" type="checkbox"/> TRASH REMOVAL | <input type="checkbox"/> ELEVATOR SERVICE | <input checked="" type="checkbox"/> INITIAL & REPLACEMENT LAMPS, TUBES & BALLASTS & STARTERS | <input checked="" type="checkbox"/> OTHER (Specify below) |
| <input checked="" type="checkbox"/> ELECTRICITY | <input checked="" type="checkbox"/> CHILLED DRINKING WATER | <input checked="" type="checkbox"/> WINDOW WASHING | <input checked="" type="checkbox"/> PAINTING FREQUENCY | See 4.03 below <u>Resilient Floors: twice per year clean per the specifications in main corridors and heavy traffic areas and annually in offices and secondary lobbies and corridors.</u> |
| <input checked="" type="checkbox"/> POWER (Special Equip.) | <input checked="" type="checkbox"/> AIR CONDITIONING | Frequency see 4.03 below <u>Twice per year all interior and exterior and other glass surfaces</u> | Space <u>See 4.08 below</u> | |
| <input checked="" type="checkbox"/> WATER (Hot & Cold) | <input checked="" type="checkbox"/> RESTROOM SUPPLIES | <input checked="" type="checkbox"/> CARPET CLEANING | Public Areas <u>See 4.08 below</u> | |
| <input type="checkbox"/> SNOW REMOVAL | <input checked="" type="checkbox"/> JANITORIAL SERV. & SUPP. <u>See 4.03 below.</u> | Frequency <u>Annually shampoo carpets in corridors and lobbies & every 2 years shampoo carpets in all offices and other non-public areas. Vacuum daily.</u> | <input checked="" type="checkbox"/> PEST CONTROL <u>Pest Control: Control pests as appropriate, using Integrated Pest Management techniques, as specified in the GSA Environmental Management Integrated pest Management Technique Guide (E402-1001).</u> | |
| <input type="checkbox"/> SECURITY & FIRE MONITORING SERVICES | | | | |

4.02 HEATING AND AIR CONDITIONING

A. In all office areas, temperatures shall conform to local commercial equivalent temperature levels and operating practices in order to maximize tenant satisfaction. These temperatures shall be maintained throughout the leased Premises and service areas, regardless of outside temperatures, during the hours of operation specified in the Lease. The Lessor shall perform any necessary systems start-up required to meet the commercially equivalent temperature levels prior to the first hour of each day's operation. At all times, humidity shall be maintained below 60% relative humidity.

B. During non-working hours, heating temperatures shall be set no higher than 55° Fahrenheit, and air conditioning shall not be provided except as necessary to return Space temperatures to a suitable level for the beginning of working hours. Thermostats shall be secured from manual operation by key or locked cage. A key shall be provided to the Government's designated representative.

C. Thermal comfort. During all working hours, Lessor shall comply with the latest edition of ASHRAE Standard 55, Thermal Comfort Conditions for Human Occupancy.

D. The local area network (LAN) Room shall receive cooling at all times (24 hours a day. 365 days a year) for purposes of cooling. The temperature of the room shall be maintained between 68-72 degrees F, with humidity control not to exceed 60% relative humidity regardless of outside temperatures or seasonal changes.

E. Warehouse or garage areas require heating and ventilation only. Cooling of this Space is not required. Temperature of warehouse or garage areas shall be maintained at a minimum of 50° Fahrenheit.

F. Secure storage rooms shall maintain 10 percent exhaust to exterior and negative interior air pressure.

G. The Lessor shall conduct HVAC system balancing after any HVAC system alterations during the term of the Lease and shall make a reasonable attempt to schedule major construction outside of normal hours.

H. Normal HVAC systems' maintenance shall not disrupt tenant operations.

4.03 JANITORIAL SERVICES (JUN 2012)

When operational, the Lessor shall maintain the Premises and all areas of the Property to which the Government has routine access in a clean condition and shall provide supplies and equipment for the term of the Lease, and all renewal periods. The following schedule describes the level of services intended. Performance will be based on the LCO's or DTR evaluation of results, not the frequency or method of performance.

A. Twice a week. Empty trash receptacles. Sweep entrances, lobbies, and corridors. Spot sweep floors, and spot vacuum carpets. Clean drinking fountains. Sweep and damp mop or scrub restrooms. Clean all restroom fixtures, and replenish restroom supplies. Dispose of all trash and garbage generated in or about the Building. Wash inside and out or steam clean cans used for collection of food remnants from snack bars and vending machines. Dust horizontal surfaces that are readily available and visibly require dusting. Spray buff resilient floors in main corridors, entrances, and lobbies. Clean elevators and escalators. Remove carpet stains. Police sidewalks, parking areas, and driveways. Sweep loading dock areas and platforms. Clean glass entry doors to the Space.

- B. Three times a week. Sweep or vacuum stairs.
- C. Weekly. Damp mop floors in restrooms. Sweep sidewalks, parking areas, and driveways (weather permitting).
- D. Every two weeks. Spray buff resilient floors in secondary corridors, entrance, and lobbies. Damp mop and spray buff concrete and resilient floors throughout the inspectional Space, including office Space.
- E. Monthly. Thoroughly dust furniture. Completely vacuum carpets. Sweep storage space. Spot clean all wall surfaces within 70 inches of the floor. Wash all interior and exterior windows and other glass surfaces
- F. Every two months. Damp wipe restroom wastepaper receptacles, stall partitions, doors, window sills, and frames. Shampoo entrance and elevator carpets.
- G. Three times a year. Dust wall surfaces within 70 inches of the floor, vertical surfaces and under surfaces. Clean metal and marble surfaces in lobbies. Wet mop or scrub garages.
- H. Annually. Vacuum or dust all surfaces in the Building more than 70 inches from the floor, including light fixtures. Strip and refinish floors in offices and secondary lobbies and corridors. Shampoo carpets in corridors and lobbies. Clean balconies, ledges, courts, areaways, and flat roofs.
- I. Every two years. Shampoo carpets in all offices and other non-public areas.
- J. As required. Properly maintain plants and lawns. Provide initial supply, installation, and replacement of light bulbs, tubes, ballasts, and starters. Provide and empty exterior ash cans and clean area of any discarded cigarette butts.
- K. Pest control. Control pests as appropriate, using Integrated Pest Management techniques, as specified in the GSA Environmental Management Integrated Pest Management Technique Guide (E402-1001).

4.04 SELECTION OF CLEANING PRODUCTS (OCT 2016)

The Lessor shall use cleaning products (including general purpose cleaners, floor cleaners, hand soap, etc.) that comply with either the Green Seal standard, the UL/EcoLogo standard, EPA's Safer Choice designation, or a substitute acceptable to the LCO. Hand soap products shall also be USDA Certified BioPreferred.

4.05 SELECTION OF PAPER PRODUCTS (APR 2015)

The Lessor shall select paper and paper products (e.g., restroom tissue and paper towels) conforming to the Green Seal Standard (GS-1), or a substitute acceptable to the LCO.

4.06 SECURITY MONITORING AND INTRUSION DETECTION SYSTEM (APR 2017)

Lessor agrees to provide and maintain the following:

- 1) An intrusion detection system (IDS) that is connected to a 24-hour, staffed, central monitoring station, which in the event of an alarm, will immediately notify the Lessee. This must be a stand-alone system zoned specifically for and under the direct control of CBP;
- 2) A stand-alone video surveillance system that provides the following:
 - a. Exterior View: A sufficient number of camera's to monitor the entire facility perimeter, as well as each access point, ensuring cameras are in a position to capture the image of each individual entering.
 - b. Interior View: Ensure the coverage by cameras of any "strong-rooms" identified by the Lessee.
 - c. Monitoring Station: The operator of the CCTV system shall be capable of providing all command related functions such as pan/tilt/zoom to the cameras, as well as retrieving recorded video.
 - d. Digital Video Recorder: Provide 30-days of internal storage for each camera view. 24-hour time lapse high resolution colored monitoring with 30-day Digital Video Recorder (DVR) capabilities.
- 3) Physical Access Control Systems (PACS): Access points into the facility and strong rooms shall be controlled by card readers under the sole control of CBP using a standalone management platform.
 - a. The PACS **must** comply with Homeland Security Presidential Directive 12 (HSPD-12), Federal Information Processing Standards Publication 201-1 (FIPS 201-1), Government Smart Card Interoperability Specification (GSC-IS V2.1) and GSA Schedule 70 for products and service components.
 - b. Only vendors with a Certified System Engineer ICAM/PACS (CSEIP) can be used to design, purchase and install a PACS equipment. [HTTPS://WWW.SECURETECHALLIANCE.ORG/ACTIVITIES-CSEIP-REGISTRY/](https://www.securetechalliance.org/activities-cseip-registry/)
 - c. Only equipment approved by the Government Services Administration (GSA), and listed on the idmanagement.gov, approved product list (APL) can be used. [HTTPS://WWW.IDMANAGEMENT.GOV/IDM/IDMFICAMPRODUCTSEARCHPAGE](https://www.idmanagement.gov/IDM/IDMFICAMPRODUCTSEARCHPAGE)

4.07 MAINTENANCE AND TESTING OF SYSTEMS (SIMPLIFIED) (JUN 2012)

The Lessor is responsible for the total maintenance and repair of the leased Premises, including the site and private access roads. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative, upon request, at the Lessor's expense.

4.08 MAINTENANCE OF PROVIDED FINISHES

- A. Paint. Lessor shall maintain all high performance paint coatings in "like new" condition for the life of the Lease. All painted surfaces, shall be repainted at the Lessor's expense, including the moving and returning of furnishings, any time during the occupancy by the Government if the paint is no longer in "like new" condition. In addition to the foregoing requirement,
1. Lessor shall repaint common areas at least every four (4) years.
 2. Lessor shall perform cyclical repainting of the Space every eight (8) years of occupancy. This cost, including the moving and returning of furnishings, as well as disassembly and reassembly of systems furniture per manufacturer's warranty, shall be at the Lessor's expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents.
- B. Flooring.
1. The Lessor shall repair or replace flooring at any time during the Lease term when:
 - a. Backing or underlayment is exposed;
 - b. It has curls, upturned edges, or other noticeable variations in texture;
 - c. Tiles are loose or broken; or,
 - d. Tears or tripping hazards are present.
 2. Notwithstanding the foregoing, the Lessor shall replace all carpet and base coving in the Space every **10** years with a product which meets the requirements in the "Floor Coverings and Perimeters" paragraph in this Lease.
 3. Repair or replacement shall include the moving and returning of furnishings, including disassembly and reassembly of systems furniture per manufacturer's warranty, if necessary, at Lessor's expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents.

4.09 ASBESTOS ABATEMENT (APR 2011)

If asbestos abatement work is to be performed in the Space after occupancy, the Lessor shall submit to the Government the occupant safety plan and a description of the methods of abatement and re-occupancy clearance, in accordance with OSHA, EPA, DOT, state, and local regulations and guidance, at least 4 weeks prior to the abatement work.

4.10 ONSITE LESSOR MANAGEMENT (APR 2011)

The Lessor shall provide a locally designated representative available to promptly respond to deficiencies, and immediately address all emergency situations.

4.11 IDENTITY VERIFICATION OF PERSONNEL (OCT 2016)

A. The Government reserves the right to verify identities of personnel with routine and/or unaccompanied access to the Government's Space, including both pre and post occupancy periods. The Lessor shall comply with the agency personal identity verification procedures below that implement [Homeland Security Presidential Directive-12](#) (HSPD-12), Office of Management and Budget (OMB) guidance [M-05-24](#) and [M-11-11](#), and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended. These policies require the Government to conduct background investigations and make HSPD-12 compliant suitability determinations for all persons with routine or unaccompanied access to Government leased Space. By definition, this includes at a minimum each employee of the Lessor, as well as employees of the Lessor's contractors or subcontractors who will provide building operating services requiring routine access to the Government's leased Space for a period greater than 6 months. The Government may also require this information for the Lessor's employees, contractors, or subcontractors who will be engaged to perform alterations or emergency repairs in the Government's Space.

B. Application Process: The background investigation will be done using the Government's prescribed process. The Lessor must provide information on each of their contractor/personnel meeting the above criteria to the Government, whereupon each identified contractor/personnel will be notified with instructions for completing the identity verification application within a given time frame. The application process will include completing supplemental information forms that must be inputted into the identity verification system in order for the application to be considered complete. Additionally, the Lessor must ensure prompt completion of the fingerprint process for their contractor/personnel. Email notifications will be sent with instructions on the steps to be taken to schedule an appointment for fingerprinting at an approved regional location along with instructions on how to complete the background investigation application.

C. The Lessor must ensure the Lease Contracting Officer (or the Lease Contracting Officer's designated representative) has all of the requested documentation timely to ensure the completion of the investigation.

D. Based on the information furnished, the Government will conduct background investigations. The Lease Contracting Officer will advise the Lessor in writing if a person fails the investigation, and, effective immediately, that person will no longer be allowed to work or be assigned to work in the Government's Space.

E. Throughout the life of the Lease, the Lessor shall provide the same data for any new employees, contractors, or subcontractors who will be assigned to the Government's Space in accordance with the above criteria. In the event the Lessor's contractor or subcontractor is subsequently

replaced, the new contractor or subcontractor is not required to have persons re-apply who were cleared through this process while associated with the former contractor or subcontractor in accordance with GSA policy. The Lessor shall require each cleared person to re-apply and obtain a new clearance in accordance with GSA policy.

F. The Lessor is accountable for not allowing contractors to start work without the successful completion of the appropriate background investigation as required by GSA policy.

G. Access Card Retrieval/Return: Upon an Entry on Duty notification, the Government will issue a Personal Identity Verification (PIV) credential that is sometimes referred to as a GSA Access card. Lessors are responsible for all PIV credential issued to their contractors/personnel pursuant to this Lease. Lessors are specifically responsible for ensuring that all GSA PIV access cards are returned to the Lease Contracting Officer or their designee whenever their employees or a contractor no longer require access to the Space (such as When no longer needed for contract performance, upon completion of the Contractor employee's employment, and upon contract completion or termination). Additionally, the Lessor must notify the Lease Contracting Officer or their designee whenever a GSA PIV Access card is lost or stolen in which event the Lessor may be responsible for reimbursing the Government for replacement credentials at the current cost per PIV HSPD12 credential. Unreturned PIV Access cards will be considered as lost or stolen cards.

H. The Government reserves the right to conduct additional background checks on Lessor personnel and contractors with routine access to Government leased Space throughout the term of the Lease to determine who may have access to the Premises.

I. The Lessor shall insert this paragraph in all subcontracts when the subcontractor is required to have physical access to a federally controlled facility or access to a federal information system.

4.12 SCHEDULE OF PERIODIC SERVICES (JUN 2012)

Within 60 days after occupancy by the Government, the Lessor shall provide the LCO or DTR with a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly, or monthly.

4.13 LANDSCAPE MAINTENANCE (APR 2011)

Landscape maintenance shall be performed during the growing season at not less than a weekly cycle and shall consist of watering, weeding, mowing, and policing the area to keep it free of debris. Pruning and fertilization shall be done on an as-needed basis. In addition, dead, dying, or damaged plants shall be replaced.

4.14 RECYCLING (SIMPLIFIED) (JUN 2012)

Where state or local law, code, or ordinance requires recycling programs for the Premises, Lessor shall comply with such state and/or local law, code, or ordinance. During the Lease term and all renewal periods, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Space.

4.15 SAFEGUARDING AND DISSEMINATION OF SENSITIVE BUT UNCLASSIFIED (SBU) BUILDING INFORMATION (SEP 2013)

This paragraph applies to all recipients of SBU Building information, including: bidders, awardees, contractors, subcontractors, Lessors, suppliers, and manufacturers.

A. MARKING SBU. Contractor-generated documents that contain Building information must be reviewed by CBP to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the LCO may direct the contractor, as specified elsewhere in this contract, to imprint or affix SBU document markings to the original documents and all copies, before any dissemination.

B. AUTHORIZED RECIPIENTS. Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such information. Those with a need to know may include Federal, state, and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with CBP. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to CBP or performing work under a CBP contract or subcontract. Contractors must provide SBU Building information when needed for the performance of official Federal, state, and local government functions, such as for code compliance reviews and for the issuance of Building permits. Public safety entities such as fire and utility departments may require access to SBU Building information on a need to know basis. This paragraph must not prevent or encumber the dissemination of SBU Building information to public safety entities.

C. DISSEMINATION OF SBU BUILDING INFORMATION:

1. BY ELECTRONIC TRANSMISSION. Electronic transmission of SBU information outside of the CBP firewall and network must use session (or, alternatively, file) encryption). Sessions (or files) must be encrypted with an approved NIST algorithm, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules. Encryption tools that meet FIPS 140-2 are referenced on the NIST web page found at the following URL: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>. All encryption products used to satisfy the FIPS 140-2 requirement should have a validation certificate that can be verified at <http://csrc.nist.gov/groups/STM/cmvp/validation.html#02>. (Not all vendors of security products that claim conformance with FIPS 140-2 have validation certificates.) Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database at <https://www.acquisition.gov> that have a need to know such information. If a subcontractor is not registered in SAM and has a need to possess SBU Building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license.

2. BY NON-ELECTRONIC FORM OR ON PORTABLE ELECTRONIC DATA STORAGE DEVICES. Portable electronic data storage devices include but are not limited to CDs, DVDs, and USB drives. Non-electronic forms of SBU Building information include paper documents.

a. By mail. Utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

b. In person. Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database that have a need to know such information.

3. RECORD KEEPING. Contractors must maintain a list of the state, Federal, and local government entities and the firms to which SBU is disseminated under sections C1 and C2 of this paragraph. This list must include at a minimum:

- a. The name of the state, Federal, or local government entity or firm to which SBU has been disseminated;
- b. The name of the individual at the entity or firm who is responsible for protecting the SBU Building information, with access strictly controlled and limited to those individuals having a need to know such information;
- c. Contact information for the named individual; and
- d. A description of the SBU Building information provided.

Once work is completed, or for leased Space with the submission of the as built drawings, the contractor must collect all lists maintained in accordance with this paragraph, including those maintained by any subcontractors and suppliers, and submit them to the LCO.

D. RETAINING SBU DOCUMENTS. SBU Building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a need to know such information.

E. DESTROYING SBU BUILDING INFORMATION. SBU Building information must be destroyed such that the marked information is rendered unreadable and incapable of being restored, or returned to the LCO, when no longer needed, in accordance with guidelines provided for media sanitization available at <http://csrc.nist.gov/publications/PubsTC.html#Forensics>. At the Web site, locate SP 800-88, Guidelines for Media Sanitization, available at [HTTPS://CSRC.NIST.GOV/PUBLICATIONS/DETAIL/SP/800-88/REB-1/FINAL](https://csrc.nist.gov/publications/DETAIL/SP/800-88/REB-1/FINAL), and click on the file name NISTSP800-88_REV1.pdf. From there, you can choose to "Save" or "Download" the file. If SBU Building information is not returned to the LCO, examples of acceptable destruction methods for SBU Building information are burning or shredding hardcopy; physically destroying portable electronic storage devices such as CDs, DVDs, and USB drives; deleting and removing files from electronic recycling bins; and removing material from computer hard drives using a permanent-erase utility such as bit-wiping software or disk crushers.

F. NOTICE OF DISPOSAL. The contractor must notify the LCO that all SBU Building information has been destroyed, or returned to the LCO, by the contractor and its subcontractors or suppliers in accordance with section (e) of this paragraph, with the exception of the contractor's record copy. This notice must be submitted to the LCO at the completion of the contract in order to receive final payment. For Leases, this notice must be submitted to the LCO in writing at the completion of the Lease term.

G. INCIDENTS. All improper disclosures of SBU Building information must be reported immediately to the LCO. If the contract provides for progress payments, the LCO may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of SBU Building information. Progress payments may also be withheld for failure to comply with any provision in this paragraph until the contractor provides a corrective action plan explaining how the contractor will rectify any noncompliance and comply with the paragraph in the future.

H. SUBCONTRACTS. The Contractor must insert the substance of this paragraph in all subcontracts.

4.16 INDOOR AIR QUALITY (OCT 2016)

A. The Lessor shall control airborne contaminants at the source and/or operate the Space in such a manner that the GSA indicator levels for asbestos, mold, carbon monoxide (CO), carbon dioxide (CO₂), and formaldehyde are not exceeded. The indicator levels for office areas shall be: Asbestos 70 s/mm²; mold (see paragraph entitled "Mold"); CO 9 ppm; CO₂ 700 ppm above outdoor air; formaldehyde 0.016 ppm.

B. The Lessor shall use available odor-free or low odor products when applying paints, glues, lubricants, and similar wet products. When such equivalent products are not available, lessor shall use the alternate products outside normal working hours. Except in an emergency, the Lessor shall provide at least 72 hours advance notice to the Government before applying chemicals or products with noticeable odors in occupied Spaces and shall adequately ventilate those Spaces during and after application.

C. The Lessor shall serve as first responder to any occupant complaints about indoor air quality (IAQ). The Lessor shall promptly investigate such complaints and implement the necessary controls to address each complaint. Investigations shall include testing as needed, to ascertain the source and severity of the complaint.

D. The Government reserves the right to conduct independent IAQ assessments and detailed studies in Space that it occupies, as well as in space serving the Space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by:

1. Making available information on Building operations and Lessor activities;
2. Providing access to Space for assessment and testing, if required; and
3. Implementing corrective measures required by the LCO.

E. The Lessor shall provide to the Government safety data sheets (SDS) upon request for the following products prior to their use during the term of the Lease: adhesives, caulking, sealants, insulating materials, fireproofing or firestopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finish for wood surfaces, janitorial cleaning products, pesticides, rodenticides, and herbicides. The Government reserves the right to review such products used by the Lessor within:

1. The Space;
2. Common Building areas;

3. Ventilation systems and zones serving the Space; and
4. The area above suspended ceilings and engineering space in the same ventilation zone as the Space.

F. Where hazardous gasses or chemicals (any products with data in the Health and Safety section of the SDS sheets) may be present or used, including large-scale copying and printing rooms, segregate areas with deck-to-deck partitions with separate outside exhausting at a rate of at least 0.5 cubic feet per minute per SF, no air recirculation. The mechanical system must operate at a negative pressure compared with the surrounding spaces of at least an average of 5 Pa (pascal) (0.02 inches of water gauge) and with a minimum of 1 Pa (0.004 inches of water gauge) when the doors to the rooms are closed.

4.17 RADON IN AIR (OCT 2016)

If Space planned for occupancy by the Government is on the second floor above grade or lower, the Lessor shall, prior to occupancy, test the leased Space for 2 days to 3 days using charcoal canisters. The Lessor is responsible to provide Space in which radon levels in air are below the GSA action levels of 4 picoCuries per liter (pCi/L) for childcare and 25 pCi/L for all other space. After the initial testing, a follow-up test for a minimum of 90 days using alpha track detectors shall be completed. For further information on radon, go to: [HTTPS://WWW.EPA.GOV/RADON](https://www.epa.gov/radon).

4.18 HAZARDOUS MATERIALS (SEP 2013)

A. The leased Space shall be free of hazardous materials, hazardous substances, and hazardous wastes, as defined by and according to applicable Federal, state, and local environmental regulations. Should there be reason to suspect otherwise, the Government reserves the right, at Lessor's expense, to require documentation or testing to confirm that the Space is free of all hazardous materials.

B. Lessor shall, to the extent of its knowledge, notify Government of the introduction of any hazardous materials onto the Property by Lessor or others, including but not limited to, co-tenants occupying Space in the Building.

4.19 MOLD (SIMPLIFIED) (OCT 2016)

A. Actionable mold is airborne mold of types and concentrations in excess of that found in the local outdoor air or non-problematic control areas elsewhere in the same building.

B. The Lessor shall provide Space to the Government that is free from actionable mold and free from any conditions that reasonably can be anticipated to permit the growth of actionable mold or are indicative of the possibility that actionable mold will be present (indicators).

4.20 OCCUPANT EMERGENCY PLANS (SEP 2013)

The Lessor is required to cooperate, participate and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and if necessary, a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP. The Plan, among other things, must include an annual emergency evacuation drill, emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

SECTION 5 ADDITIONAL TERMS AND CONDITIONS

5.01 LIABILITY

A. The Lessor may seek remedy for claims against the Government in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 2671 et. seq. The Lessor, to the extent allowed by law including Ohio law, shall save harmless and indemnify the Government from any claimed or adjudged liability arising out of the maintenance of the Premises

5.02 AVAILABILITY OF FUNDS

In accordance with 31 U.S.C. § 1341 and 41 U.S.C. § 6301, and other applicable federal laws, CBP's liability under this Lease and every term and condition herein is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. Nothing in this Lease may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. Nothing in this Lease may be construed or interpreted to obligate the Government to any current or future expenditure of funds in advance of, or in excess of, the availability of appropriations, nor does this Lease obligate the Government to spend funds for any particular project or purpose, even if funds are available.

5.03 SOVEREIGN IMMUNITY

Nothing in this Lease constitutes or can be construed as a waiver of sovereign immunity.

5.04 NO PRIVATE RIGHT OR BENEFIT CREATED

The parties agree that this Lease is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by an outside party against either the Lessor or the Government.

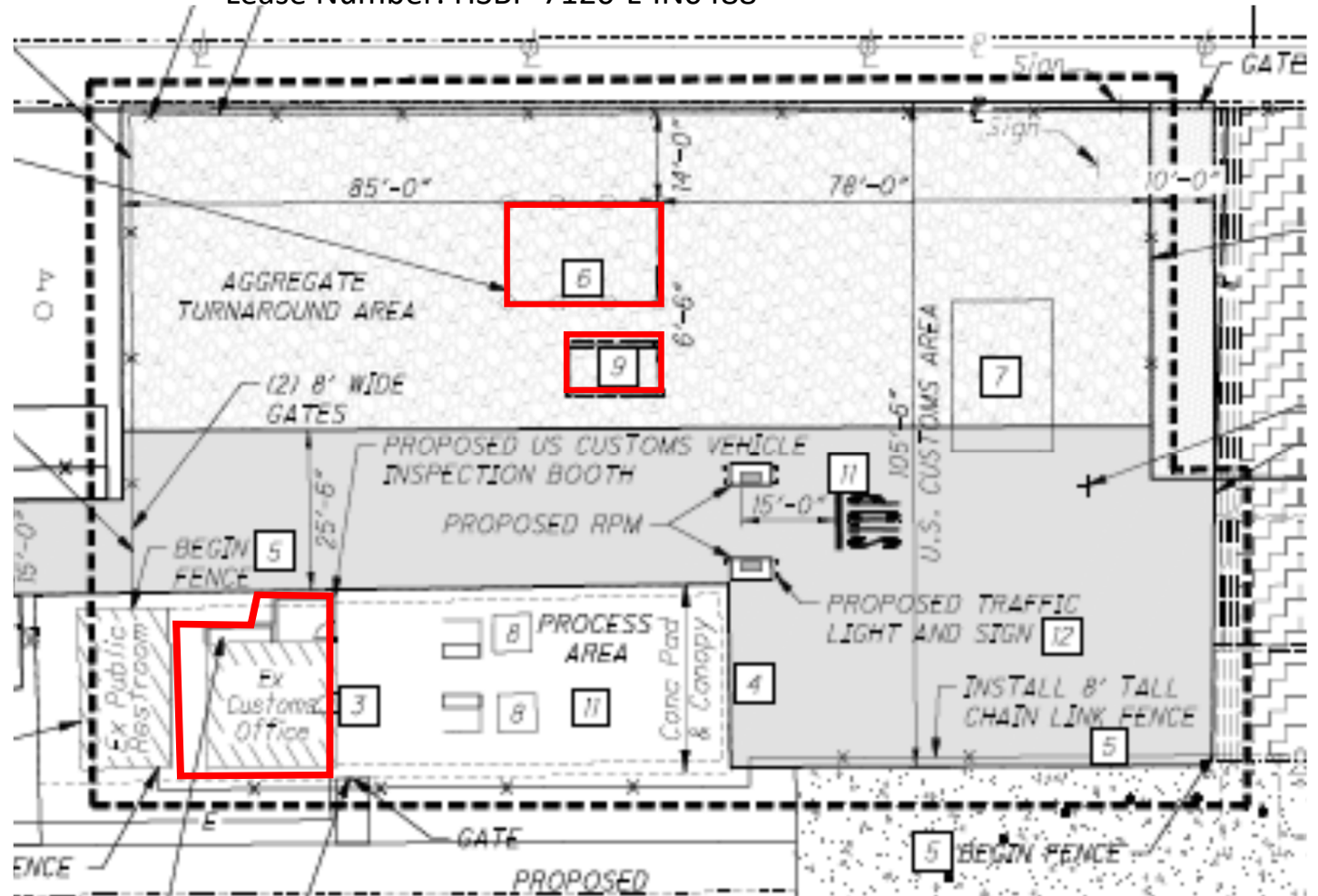
LEGEND

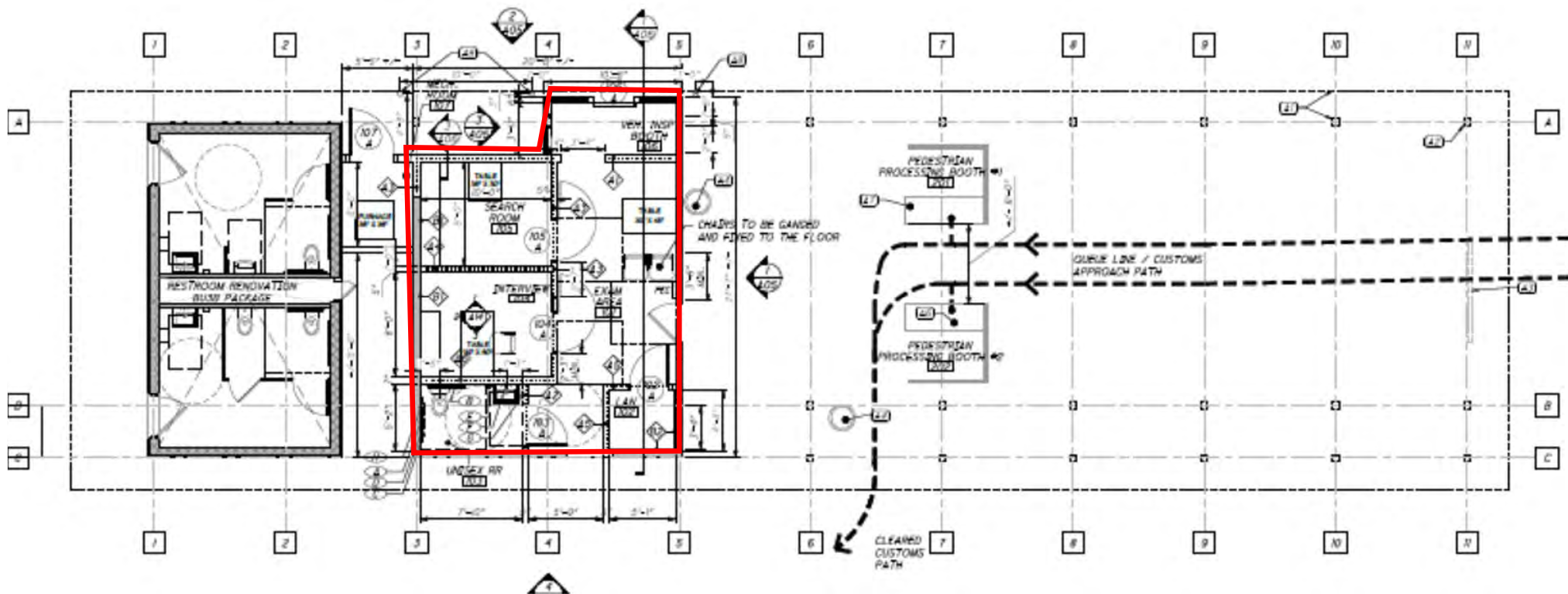
-  U.S. CUSTOMS AREA
-  U.S. CUSTOMS ASPHALT PAVEMENT SECTION
-  U.S. CUSTOMS GRAVEL PAVEMENT SECTION
-  CITY ASPHALT PAVEMENT SECTION

The CBP Inspection Area is approximately 21,000 SF with three CBP controlled buildings, a pavilion and a Radiation Portal Monitor (RPM).

Vehicle Inspection Building #6 is 384sqft and #9 is 43sqft

Exhibit A – CBP Area Plan and Main Building Floor Plan
Lease Number: HSBP-7120-L-IN0488





CBP Inspection Building is approximately 548 SF

LEGEND






-  U.S. CUSTOMS AREA
-  U.S. CUSTOMS ASPHALT PAVEMENT SECTION
-  U.S. CUSTOMS GRAVEL PAVEMENT SECTION
-  CITY ASPHALT PAVEMENT SECTION
-  CBP PARKING AREA (THOUGH CBP VEHICLES CAN BE PARKED ANYWHERE WITHIN THE CBP PERIMETER)

Exhibit B: CBP Parking Diagram
Lease Number: HSBP-7120-L-IN0488

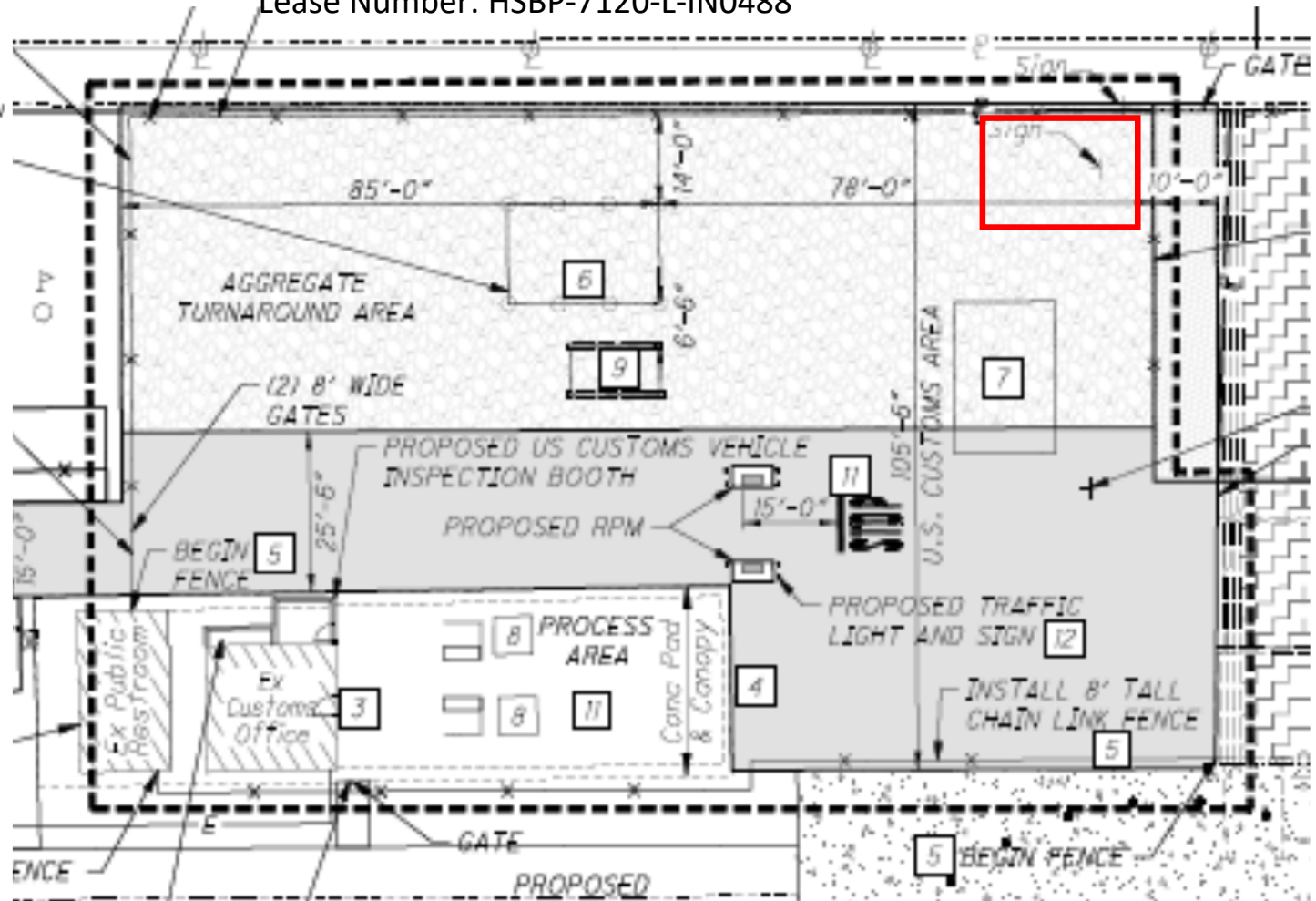


Exhibit C

ADDENDUM to the System for Award Management (SAM) REPRESENTATIONS AND CERTIFICATIONS (Acquisitions of Leasehold Interests in Real Property)	Request for Lease Proposals Number HSBP-7120-L-IN0488	Dated
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Complete appropriate boxes, sign the form, and attach to offer.

The Offeror makes the following additional Representations. NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

1. ANNUAL REPRESENTATIONS AND CERTIFICATIONS FOR LEASEHOLD ACQUISITIONS (APR 2015)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 531120, unless the real property is self-storage (#531130), land (#531190), or residential (#531110).
- (2) The small business size standard is 38.5 Million in annual average gross revenue of the concern for the last 3 fiscal years.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) The System for Award Management (SAM) is a centrally located, searchable database which assists in the development, maintenance, and provision of sources for future procurements. The Offeror, by signing this addendum, hereby certifies he is registered in SAM.
- ☐ Registration Active and Copy Attached

2. 552.203-72 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION) (OCT 2013)

- (a) In accordance with Sections 630 and 631 of Division of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), and Section 101 of the Continuing Appropriations Act, 2014 (Pub. L. 113-16) none of the funds made available by the Continuing Appropriations Act 2014 may be used to enter into a contract action with any corporation that---
- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government, or
- (2) Was convicted, or had an officer or agent of such corporation acting on behalf of the corporation convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation or such officer or agent and made a determination that this action is not necessary to protect the interests of the Government.
- (b) The Contractor represents that—

Exhibit C

- (1) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- (2) It is [] is not [] a corporation that was convicted, or had an officer or agent of the corporation acting on behalf of the corporation, convicted of a felony criminal violation under any Federal law within the preceding 24 months.

OFFEROR OR LEGALLY AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE)	TELEPHONE NUMBER

**Representation Regarding Certain Telecommunications and Video Surveillance Services
or Equipment (Acquisitions of Leasehold Interests in Real Property)**

Complete appropriate boxes, sign the form, and return form, along with any other required disclosure information, to LCO or his/her designee. The Offeror makes the following additional Representations.

NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2019)

- (a) *Definitions.* As used in this clause-
"Covered telecommunications equipment or services", "Critical technology", and "Substantial or essential component" have the meanings provided in FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.
- (b) *Prohibition.* Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractors are not prohibited from providing-
 - (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (c) *Representation.* The Contractor shall notify the Contracting Officer if it [] will or [] will not [Contractor to complete] provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract, order, or other contractual instrument resulting from this contract. This representation shall be provided as part of the proposal and resubmitted on an annual basis from the date of award.
- (d) *Disclosures.* If the Contractor has responded affirmatively to the representation in paragraph (c) of this clause, the Contractor shall provide the following additional information to the Contracting Officer--
 - (1) All covered telecommunications equipment and services offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);
 - (2) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of this provision;

LESSOR: _____ GOVERNMENT: _____

- (3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and
- (4) For equipment, the entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known).

OFFEROR OR LEGALLY AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE)	TELEPHONE NUMBER
	<hr/> Signature	<hr/> Date

LESSOR: _____ GOVERNMENT: _____



U.S. Customs and
Border Protection

**Project Facility Understanding Acknowledgement – Jackson Street Ferry
Inspection Facility, Sandusky, OH**

1. I have received a copy of the U.S. Department of Homeland Security, U.S. Customs and Border Protection ("CBP"), *Design Standards for Cruise Ship Passenger Processing Facilities*, as well as the *Land Port of Entry Design Standard* and understand that these are the minimum facility design requirements and are intended to be used as guidelines. Any additional facility requirements required by local, state or federal law, code, standards or statute must be incorporated into the Jackson Street Ferry Inspection Facility ("facility").
2. I understand that the facility is provided by the City of Sandusky ("port authority") at no cost to the government and will be constructed as a "turn-key" project. A turn-key project includes, but is not limited to: complete design documents, interior and exterior construction, finishes, signage, furniture, office equipment, appliances, enforcement computers and equipment, security systems, CCTV, emergency power supply, data networking and cabling, phones and data lines. The facility shall be complete, fully operational, inspected by all applicable parties and ready for occupancy.
3. I understand that the complete design, procurement and installation of the information technology infrastructure required for CBP operation of the facility will be performed by CBP and that all costs incurred by CBP for this equipment and work will be reimbursed to CBP by the airport authority.
4. I understand that the facility must be adequately maintained (i.e. all monthly utilities, phone and data service, housekeeping, maintenance, finishes) at the Port Authority/Operator and/or their approved agent's expense.
5. I understand that complete design and construction documents must be submitted, reviewed and approved by all CBP points of contact in writing prior to moving to the next stage in the design/construction process.
6. I understand that my point of contact for this project is to be the CBP Project Manager.

Eric Wobser

City Manager

Print Name

Signature

Title

Date

Print Name

Signature

Title

Date

U.S. Customs and Border Protection Office of Information & Technology Cost Sign-Off Document*

(*Actual costs will be derived from actual obligations)

This is a Rough Order of Magnitude Estimate.

Final costs will be determined once the network designs are completed

Site: SDK002A- JACKSON STREET PIER-SEASONAL 239 W SHORELINE DR, SANDUSKY OH. 44870

Date Prepared: 3/26/2020

Preparer: Chris Crouch

Data Costs Equipment Costs (OCC-31)

1	Performance Laptop (512 GB SSD, 16 GB RAM)	4	\$2,800.00	\$11,200.00
2	Port Replicator/Dock Station	4	\$200.00	\$800.00
3	3M Passport Reader Model AT9000MK2 (BRAND NAME or EQUIVALENT)	4	\$2,500.00	\$10,000.00
4	Integrated Biometrics Kojak 10-Print Scanner w/Bracket (BRAND NAME or EQUIVALENT)	3	\$1,500.00	\$4,500.00
5	Logitech C920 Pro WebCam w/5' Cable (BRAND NAME or EQUIVALENT)	4	\$150.00	\$600.00
6	Havis Camera Mount Flex Arm (BRAND NAME or EQUIVALENT)	4	\$100.00	\$400.00
7	HP LaserJet Pro M404dn B/W Printer (BRAND NAME or EQUIVALENT)	1	\$300.00	\$300.00
8	HP Multi-Function B/W LaserJet Pro M425dn (BRAND NAME or EQUIVALENT)	1	\$450.00	\$450.00
9	Havis Camera Mount Flex Arm (BRAND NAME or EQUIVALENT)	4	\$100.00	\$400.00
10	Cables To Go 10' Cat6 550MHz Blue Patch Cable; per Cable (BRAND NAME or EQUIVALENT)	10	\$11.00	\$110.00
11	3/4"x 6" Uline Velcro Cable Ties (BRAND NAME or EQUIVALENT)	10	\$30.00	\$300.00
12	APC P7V 7-Outlet 840 Joule Surge Suppressor (BRAND NAME or EQUIVALENT)	4	\$30.00	\$120.00
13	Cisco Aironet 1815 Series Office Extend Access Point w/License (BRAND NAME or EQUIVALENT)	1	\$600.00	\$600.00
14	APC Smart-UPS 1500VA (BRAND NAME or EQUIVALENT)	1	\$700.00	\$700.00
15	10% Cost Contingency for Equipment	1	\$3,048.00	\$3,048.00
Total Data Equipment Cost:				\$33,528.00

Circuit Costs (OCC-23):

No Data Circuit Costs - CBP intends to use Office Extend Access Point (OEAP) over the internet connection. It is the Sandusky - Jackson Street Pier responsibility to provide the following for CBP connections:

1. Minimum 100Mb Up and 100Mb Down dedicated Internet Service Provider (ISP) Ethernet Connection.
2. Router with Ethernet Port connection.

Voice Equipment Costs (OCC-31):

Sandusky - Jackson Street Pier shall provide all Voice phones and service to support the CBP operations.

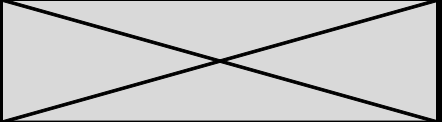
TOTAL ESTIMATED INITIAL EQUIPMENT AND SERVICES COSTS

\$33,528.00

NOTE: The OIT Cost Sign-Off Document and the associated estimated costs listed above expires 90 days from the above Date Prepared or at the end of the Governments current fiscal year, whichever comes first. After such time, a new OIT Cost Sign-Off Document is required.

Acceptance

By signing below, I accept any and all costs associated with the purchase and installation of equipment itemized above.

Authority Signature:	Date:
<i>Aaron M Klein</i>	<i>5/6/2020</i>
Authority Printed Name:	
<i>Aaron M Klein</i>	
Phone/Email Address:	
<i>419-627-5829 aklein@ci.sandusky.oh.us</i>	

OIT REFERENCE Number: SDK002A-OFO-20179C

Document Expiration Date: 6/24/2020