

**RESOLUTION 16-18**

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA; APPROVING AN AGREEMENT FOR THE PURCHASE OF LAND IN COLONY CLUB FOR \$40,000; AUTHORIZING A BUDGET AMENDMENT FOR SUCH PURPOSE; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

**BE IT RESOLVED** by the City of Panama City Beach, Florida, that:

1. The appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and Joan Marie and Adam Brudnicki, relating to the purchase of a 40' strip of land located on Fairway Boulevard, in the basic amount of Forty Thousand Dollars (\$40,000), in substantially the form attached as Exhibit A and presented to the Council today, draft dated October 23, 2015, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

2. The following budget amendment # 4 is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2015, and ending September 30, 2016, as shown in and in accordance with the attached and incorporated Exhibit B, to reflect the appropriation of funds for the purposes stated herein.

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

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

**CITY OF PANAMA CITY BEACH**

By:   
Gayle F. Oberst, Mayor

**ATTEST:**  
  
Diane Fowler, City Clerk

# Memorandum

To: Mario Gisbert

CC: Holly White, Al Shortt

From: Paul Casto

Date: November 3, 2015

Subject: Land Purchase for Secondary Access to Colony Club

---

The Colony Club subdivision and Panama City Beach have experienced a large amount of growth in the past several years. This has made it challenging for the residents of Colony Club and patrons of the Holiday Golf Course to exit and enter the subdivision due to only having one access point. Over the years, the City has looked into several ways to alleviate the problems associated with the congestion and safety at the Colony Club entrance. Staff was recently tasked to help find another access point for the residents of Colony Club to utilize.

While researching properties to potentially obtain, staff located a large parcel of land with an existing house on it at 229 Fairway Blvd. This owner was willing to work with the City. The City currently has an existing lift station on the parcel adjacent to it to the north, shown as 225 Fairway Blvd. (see attached Exhibit <sup>C</sup>~~A~~). The parcel at 225 Fairway Boulevard is approximately 50' x 134' and has many different utilities crossing through this site. This lift station is in need of repairs and is on this year's list of capital improvement projects to be replaced with a new lift station.

After surveying the land, it was concluded that the northern 40' of 229 Fairway Boulevard would provide the most effective location to combine with the land at 225 Fairway Blvd. This provides the City the opportunity to shift the existing lift station south to the proposed property to be purchased which will make the construction of replacing the existing lift station both easier and more cost effective. This will provide adequate room for the new lift station and leave a 60' right of way for the secondary access. It will also allow the new access point to be aligned with Fairway Circle to create a 4 way stop. This is the first step in obtaining a route to get from Fairway Boulevard west to tie into Nautilus Street. From Nautilus Street, traffic will be directed to a signalized intersection access on to Back Beach Road. (see attached Exhibit <sup>B</sup>~~B~~)

The Real Estate Contract attached is to purchase the northern 40' portion of the property from 229 Fairway Boulevard. The purchase amount is listed as \$40,000 and will be split evenly between the Public Works and Wastewater Departments. A budget amendment is required and is attached which includes the purchase price plus the estimated closing costs for a total of \$50,000. Staff recommends approval of the purchase of this property and associated costs.

REAL ESTATE SALES CONTRACT

STATE OF FLORIDA

COUNTY OF BAY

THIS REAL ESTATE SALES CONTRACT (this "Contract") is made by and between JOAN MARIE AND ADAM M BRUDNICKI, wife and husband ("Seller") and the CITY OF PANAMA CITY BEACH, FLORIDA, a municipal corporation ("Purchaser"), upon the terms and conditions set forth herein.

ARTICLE I

1.01. Seller hereby agrees to sell and convey by statutory warranty deed (the "Deed"), and Purchaser hereby agrees to purchase and pay for, all that certain real estate located in Bay County, Florida described as follows:

SEE ATTACHED EXHIBIT A  
(sometimes referred to as the "Property").

Seller also sells and agrees to sell and convey, and Purchaser hereby agrees to pay for, all and singular, the rights and appurtenances pertaining to the Property, including any right, title and interest of Seller in and to adjacent streets, alleys, or rights-of-way, and including any rights of Seller to any oil, gas, and other minerals, together with any improvements and fixtures situated on and attached to the Property or appurtenant thereto (all of such real property, leases, rights, and appurtenances being hereinafter collectively referred to as the "Property"), for the consideration and upon the terms and conditions hereinafter set forth.

*Exhibit A*

## ARTICLE II

### PURCHASE PRICE

#### Amount of Purchase Price

2.01. The purchase price (herein called the "Purchase Price") for said Property shall be the sum of FORTY THOUSAND DOLLARS (\$40,000). As further consideration for the Property, Purchaser agrees to install a 6' solid face fence along the northern boundary of the Property within 24 months of the Closing Date.

#### Deposit

2.02. Purchaser shall deposit with Harrison Sale McCloy, Chtd. the sum of Five Thousand Dollars (\$5,000.00) as an Escrow Deposit that shall be credited to the Purchaser at Closing.

#### Payment of Purchase Price

2.03. Purchaser shall pay at Closing the sum of Thirty Five Thousand Dollars (\$35,000) in cash or certified funds.

## ARTICLE III

### PURCHASER'S OBLIGATIONS

#### Conditions to Purchaser's Obligations

3.01. The obligation of Purchaser hereunder to consummate the transaction contemplated hereby is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing):

#### Title Commitment

3.02. Five (5) days prior to Closing, Purchaser shall secure, at Purchaser's expense, a title insurance commitment ("Title Commitment"). The Title Commitment shall commit to issue to

Purchase an owner's title insurance policy in an amount equal to the total Purchase Price of the Property upon recording of the deed hereinafter called for, free and clear of all liens and encumbrances except the standard exceptions or qualification usually printed in the title insurer's commitment form and permitted exceptions identified herein. Purchaser shall have five (5) days from the date of receiving the Title Commitment to examine same and, if the title is found to be defective, Purchaser shall, within (2) days, notify Seller in writing specifying the defects and Seller shall have thirty (30) days from receipt of notice within which to cure said defects. If Seller is unsuccessful in removing the defects within that time to the reasonable satisfaction of Purchaser, Purchaser shall have the option of either (i) accepting title as it then is, including the title defect, or (ii) terminating this Contract whereupon Purchaser and Seller shall be released from all obligations under the Contract. Seller agrees that it will in good faith use due diligence to correct the title defect within the time provided but Seller shall not be obligated to expend any of Seller's funds to correct any such title defect.

#### Access and Inspection Rights

3.03. Purchaser may, prior to the Closing Date, personally or through its employees, representatives and consultants, make such inspections, tests and investigations of the Property (including, without limitation, environmental inspections, borings and physical samplings) as Purchaser deems necessary or desirable, and Seller shall cooperate fully in such inspections, tests, investigations and examinations and shall instruct its employees, representatives and agents to cooperate fully. Such inspections, tests, investigations and examinations shall be done at reasonable times and under reasonable circumstances.

Furthermore, from and during this Contract, Purchaser shall have the right to enter upon the Property for purposes of conducting any such inspections, tests, and investigations of the Property as Purchaser deems necessary or desirable and such right in Purchaser shall extend to Purchaser's agents, representatives, consultants, and contractors. Any damage to the Property or improvements caused by any such entry, inspections, tests, or investigations shall be repaired immediately by Purchaser. Purchaser shall indemnify Seller and hold Seller harmless from and in respect of any loss, costs, damage or expense as a result of any claim asserted against Seller arising out of such entry, inspections, tests or investigations.

Purchaser understands that it is purchasing the Property in "as-is, where-is" condition and that no stated or implied representations or warranties of any nature whatsoever have been made by the Seller pertaining to the size, shape, location or condition of the Property, or pertaining to the site, environmental matters, toxic waste, radon gas, etc.

#### **ARTICLE IV**

#### **CLOSING**

4.01. The Closing shall be at the offices of Harrison Sale McCloy, 304 Magnolia Avenue, Panama City, Florida, on or before December 31, 2015, unless the parties agree in writing to another date and place for Closing.

4.02. Real property taxes, water rates and sewer charges, and rents, if any, shall be prorated and adjusted on the basis of thirty (30) days of each month, Seller to have the last day, to the date of Closing. Taxes for all prior years shall be paid by Seller. If the Closing shall occur before the tax rate is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, with the proration to be adjusted

between the parties based on actual taxes for the year in which Closing occurs at the time such actual taxes are determined. Assessments, either general or special, for improvements completed prior to the date of Closing, whether matured or unmatured, shall be paid in full by Seller. All other assessments shall be paid by Purchaser.

4.03. At the Closing, Seller shall:

(a) Deliver to Purchaser a duly executed and acknowledged special warranty deed conveying good and marketable title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, other than the mortgage and liens in favor of The Bank which Seller shall discharge or release prior to Closing.

(b) Deliver to Purchaser an Affidavit of Non-Foreign Status of Seller executed by Seller.

(c) Deliver to Purchaser and the Closing Agent affidavits by knowledgeable persons that there are no liens and encumbrances, existing or contingent, against the Property.

(d) Deliver to Purchaser possession of the Property.

4.04. At the Closing, Purchaser shall:

(a) Deliver to Seller the cash portion of the Purchase Price.

4.05. Each party shall pay any attorney's fees incurred by such party. Purchaser shall pay for the following: documentary tax stamps affixed to the Deed; the cost of the Title Insurance Policy and related charges for examination, search and closing; and the cost of recording the Deed. All other costs and expenses of Closing the sale and purchase and loans shall be borne and paid by the party requesting the item or service.

## **ARTICLE V**

### **LEGISLATIVE ACTION**

5.01. This agreement and purchase is wholly contingent upon the Panama City Beach City Council voting to approve this Contract on or before December 10, 2015. If the decision is "yes," this Contract shall continue in full force and effect. If the decision is "no," this Contract shall terminate and neither party shall have any further obligations hereunder.

## **ARTICLE VI**

### **BREACH BY SELLER**

6.01. If Seller fails or refuses to comply fully with the terms of this Contract, because of failure to clear title, as outlined in Paragraph 3.02 contained herein, to Property or for any other cause other than Purchaser's default, Purchaser may, at its option, (a) rescind this Contract and recover from Seller the Deposit, or (b) proceed with this Contract and take the Property as-is, or (c) pursue a suit for specific performance.

## **ARTICLE VII**

### **BREACH BY PURCHASER**

7.01. If Purchaser shall default in the performance of any of the terms and conditions of this Contract, or if the Closing shall not occur through the fault of Purchaser, Seller may, as their sole remedy, retain the Deposit as liquidated damages, and this Contract shall be cancelled.



**ARTICLE VIII**

**MISCELLANEOUS**

Survival of Covenants

(a) The terms of this Agreement shall merge into the closing documents, notably, the deed, and shall not survive the Closing.

Notice

(b) Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Seller or the Purchaser, as the case may be, at the addresses set forth herein below:

IF TO SELLER:

Greg Brudnicki  
[ ]

IF TO PURCHASER:

Mario Gisbert, City Manager  
City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, Florida 32407

With Copy To:

Amy E. Myers, Esquire  
Harrison Sale McCloy  
304 Magnolia Avenue  
Post Office Box 1579  
Panama City, Florida 32402

Governing Law and Jurisdiction

(c) This Contract shall be construed and enforced in accordance with the laws of the State of Florida.

Parties Bound

(d) This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

(e) In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Integration

(f) This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter. This Contract cannot be modified or changed except by the written consent of all of the parties.

Time of Essence

(g) Time is of the essence of this Contract. All times calculated in days hereunder shall be calendar days.

Attorney's Fees

(h) Any party to this Contract which is the prevailing party in any legal proceeding against any other party to this Contract brought under or with relation to this Contract or

transaction shall be additionally entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

Gender and Number

(i) Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Date of Contract

(j) The term "date of this Contract" as used herein shall mean the latest of the dates on which this Contract is fully signed by Seller or Purchaser, as indicated by their signatures below, which latest date shall be the date of final execution and agreement by the parties.

(k) Notwithstanding anything herein to the contrary, Seller's obligations under this Contract are specifically conditioned upon Seller's ability to procure from First Capital Bank, its successors and assigns and First City Bank, its successors and assigns, partial releases of the existing mortgages encumbering the Property in favor of both banking institutions. In the event Seller is unable to procure said partial releases, Seller shall so notify Purchaser and thereafter this Contract shall be null, void and of no further force or effect and the Escrow Deposit shall be returned to Purchaser.

Executed on the dates set forth at the signatures of the parties hereto.

DATED as to Seller this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**Witnesses**

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

**SELLER:  
JOAN MARIE BRUDNICKI**

\_\_\_\_\_

**Witnesses**

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

**SELLER:  
ADAM M. BRUDNICKI**

\_\_\_\_\_

DATED as to Purchaser this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**ATTEST:**

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

**PURCHASER:  
PANAMA CITY BEACH, FLORIDA**

By: \_\_\_\_\_  
**Mario Gisbert, City Manager**

EXHIBIT A

Legal Description:

THE NORTH FORTY FEET OF THE FOLLOWING PARCEL DESCRIBED IN ORB 1701 PAGE 1883:

THE NORTH 30 FEET OF LOT 19, ALL OF LOT 20 AND THE SOUTH 50 FEET OF LOT 21, BLOCK "A", GREENS WEST, ACCORDING TO THE PLAT THERE OF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF BAY COUNTY, FLORIDA IN PLAT BOOK 11, PAGE 100.

CITY OF PANAMA CITY BEACH  
BUDGET TRANSFER FORM BF-10

No. BA # 4

FUND	GENERAL ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED BUDGET	BUDGET ADJUSTMENT	NEW BUDGET BALANCE
TO	001-4100-541.61-10	Land	0.00	25,000.00	25,000.00
FROM	001-8100-999.96-00	Reserves Available for Expenditures	7,058,921.50	(25,000.00)	7,033,921.50
			0.00	0.00	0.00
			0.00	0.00	0.00
FUND	UTILITY		0.00	0.00	0.00
	ACCOUNT NUMBER		0.00	0.00	0.00
TO	401-3500-535.61-10	Land	75,000.00	25,000.00	100,000.00
FROM	401-8100-999.96-00	Reserves Available for Expenditures	41,667,513.00	(25,000.00)	41,642,513.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
Check Adjustment Totals:			48,801,434.50	0.00	48,801,434.50

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:

To amend the street department and wastewater department budgets for the purchase of land located at 229 Fairway Blvd

Purchase price of \$40,000 plus closing and other costs estimated at \$10,000

(appraisal \$1,750, closing \$3,000, legal \$3,000 and other miscellaneous \$2,250)

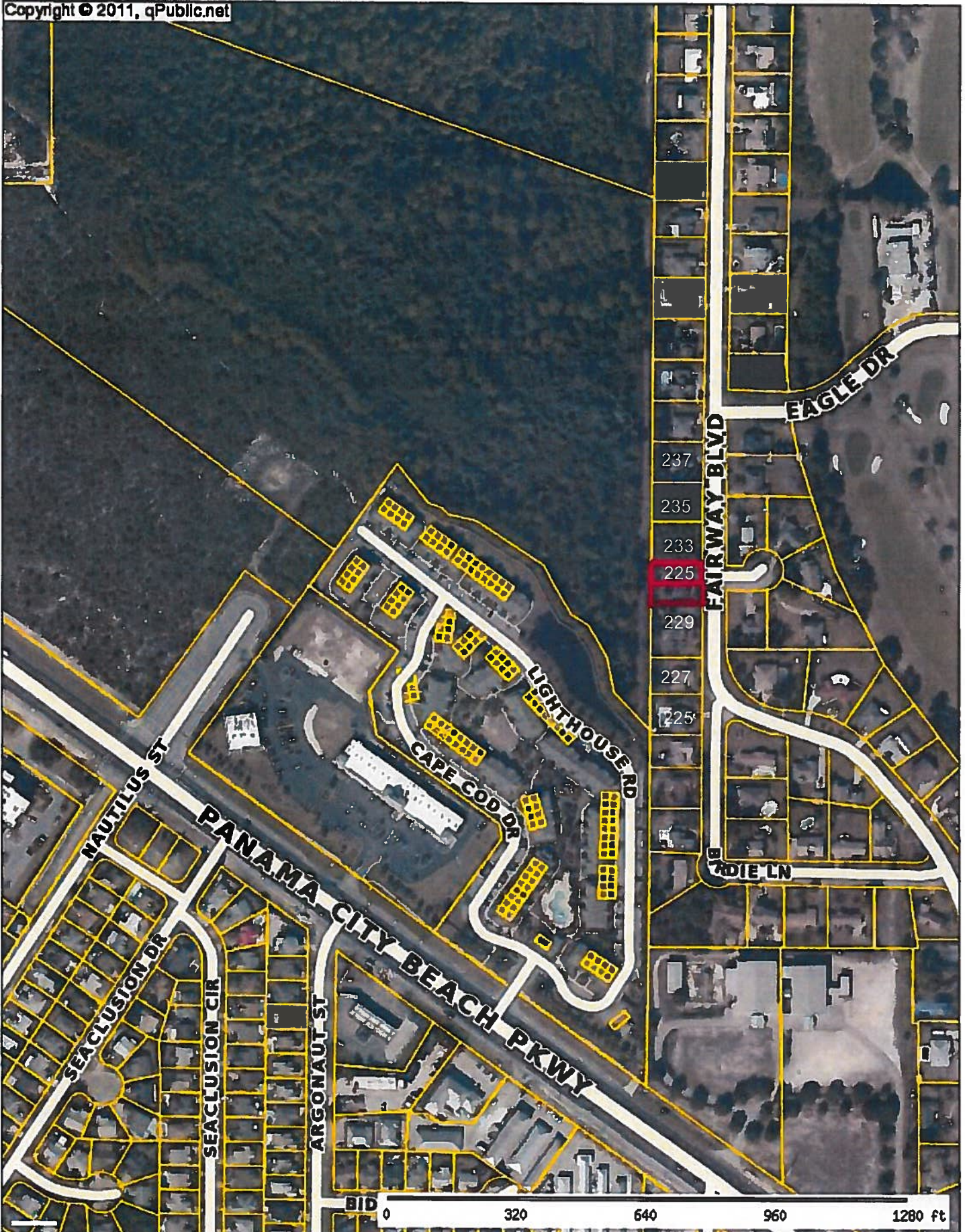
ROUTING FOR APPROVAL

DEPARTMENT HEAD \_\_\_\_\_ DATE \_\_\_\_\_ CITY MANAGER \_\_\_\_\_ DATE \_\_\_\_\_

FINANCE DIRECTOR \_\_\_\_\_ DATE \_\_\_\_\_

Exhibit B





Bay County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.  
Date printed: 10/08/15 : 10:23:46





CITY OF  
**PANAMA CITY BEACH**

110 SOUTH ARNOLD ROAD

PANAMA CITY BEACH, FLORIDA 32413

DATE:	10-10-15
SCALE:	N.T.S.
DESIGNED BY:	K.P.J.
DRAWN BY:	M.A.S.
CHECKED BY:	P.C.
FILE NO:	COLONY CLUB_LIN17.dwg

**EXHIBIT 'B'**

COLONY CLUB  
 NAUTILUS CONNECTION ROAD