

GOODWYN, MILLS & CAWOOD, INC.

Professional Services Agreement

PART 1. GENERAL

THIS AGREEMENT, including attachments as hereinafter noted, made and entered into and between Goodwyn, Mills & Cawood, Inc. and the Client identified herein, provides for the Professional Services described under Part 3 of this Agreement.

Client: City of Gulf Shores

Address: PO Box 299

City/State/Zip Code: Gulf Shores, AL 36547

Contact Person: Mark Acreman are

Phone: (251) 968-1443 **Email:** macreman@gulfshoresal.gov

Short Title: Laguna Cove/Little Lagoon, or the "Project"

PART 2. GENERAL DESCRIPTION OF PROJECT SITE:

Parcels 68113 & 229018
West Beach Boulevard
Gulf Shores, AL

PART 3. DESCRIPTION OF PROFESSIONAL SERVICES to be provided by Goodwyn, Mills & Cawood, Inc. are identified below:

See Attachment A

PART 4. THE COMPENSATION TO BE PAID Goodwyn, Mills & Cawood, Inc. for providing the requested Services shall be as follows:

See Attachment A

IN WITNESS WHEREOF, this Agreement, which is subject to the General Terms and Conditions (Part 5.) is accepted on the later date written below.

CITY OF GULF SHORES

SIGNED:

TYPED NAME:

Robert Craft

TITLE:

Mayor

DATE:

GOODWYN, MILLS & CAWOOD, INC.:

SIGNED:

TYPED NAME:

Douglas A. Bailey, P.E.

TITLE:

Project Manager

DATE:

March 25, 2020

PART 5. TERMS AND CONDITIONS

- 5.1 DATE OF COMMENCEMENT AND DURATION:** The Date of Commencement of this Agreement shall be the date last appearing on the signature page. This Agreement shall remain in effect for 12 months from the acceptance date of this agreement, or until terminated as provided herein, or extended by mutual agreement in writing.
- 5.2 IF GOODWYN, MILLS & CAWOOD, INC. 's SERVICES UNDER THIS AGREEMENT ARE DELAYED** for reasons beyond GOODWYN, MILLS & CAWOOD, INC. 's control, the completion date specified in this Agreement shall be modified accordingly and the fees shall be renegotiated for any unfinished services as of the effective date of such change.
- 5.3 COMPENSATION DEFINITIONS:** Reimbursable costs include: fees of Professional Subcontractors (whose expertise is required to complete the project) and out-of-pocket expenses, the cost of which shall be charged at actual costs plus an administrative charge of ten percent (10%) and shall be itemized and included in the invoice.
- 5.4 INVOICE PROCEDURES AND PAYMENT:** Goodwyn, Mills & Cawood, Inc. shall submit invoices to the Client for Services accomplished during each calendar month. For Services provided on a Lump Sum basis, the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby Goodwyn, Mills & Cawood, Inc. will estimate the percentage of the total Services (provided on a Lump Sum basis) accomplished during the invoicing period. Monthly invoices shall include, separately listed, any charges for Services for which time charges and/or unit costs shall apply. Such invoices shall also include, separately listed, any charges for Professional Subcontractors and reimbursable costs. Goodwyn, Mills & Cawood, Inc. shall submit such invoices as soon as possible after the end of the month in which the Services were accomplished and shall be due and payable by the Client upon receipt.
- The Client, as owner or authorized agent for the owner, hereby agrees that payment will be made for said Services within thirty (30) days from the date of the invoice; and, in default of such payment, hereby agrees to pay all costs of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The Client hereby acknowledges that unpaid invoices shall accrue interest at twelve percent (12%) per annum after they have been outstanding for over sixty (60) days. If an invoice remains unpaid ninety days (90) after the date of the invoice, Goodwyn, Mills & Cawood, Inc. may, upon giving seven (7) days written notice of its intent to do so, suspend all Services on the Client's project. This suspension shall remain in effect until all unpaid invoices are paid in full. If an invoice remains unpaid one hundred and twenty days (120) after the date of the invoice, Goodwyn, Mills & Cawood, Inc. may, upon giving seven (7) days written notice of its intent to do so, terminate this Agreement and pursue its remedies for collection.
- 5.5 EXPERT WITNESS SERVICES:** It is understood and agreed that Goodwyn, Mills & Cawood, Inc. services under this Agreement do not include participation, whatsoever, in any litigation. Should such services be required, a Professional Services Agreement Addendum may be negotiated between the Client and Goodwyn, Mills & Cawood, Inc. describing the services desired and providing a basis for compensation to Goodwyn, Mills & Cawood, Inc. .
- 5.6 COST ESTIMATES:** Client hereby acknowledges that Goodwyn, Mills & Cawood, Inc. cannot warrant that estimates of probable construction or operating costs provided by Goodwyn, Mills & Cawood, Inc. will not vary from actual costs incurred by the Client.
- 5.7 LIMIT OF LIABILITY:** The limit of liability of Goodwyn, Mills & Cawood, Inc. to the Client for any cause or combination of causes resulting from the Services hereunder rendered, shall be, in total amount, limited to the fees paid under this Agreement.
- 5.8 CONSTRUCTION SERVICES:** If, under this Agreement, professional services are provided during the construction phase of the project, Goodwyn, Mills & Cawood, Inc. shall not be responsible for or have control over means, methods, techniques, sequences, or procedures; or for safety precautions and programs in connection with the Work. Nor shall Goodwyn, Mills & Cawood, Inc. be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for Contractor's failure to comply with applicable laws, ordinances, rules or regulations. Under no circumstances will Goodwyn, Mills & Cawood, Inc. have any direct contractual relationship with the contractor, any subcontractors or material suppliers.
- 5.9 INSURANCE:** Goodwyn, Mills & Cawood, Inc. shall at all times carry, on all operations hereunder, worker's compensation insurance, public liability and property insurance, automotive public liability and property damage insurance, and professional errors and omissions insurance. At the request of the Client, Goodwyn, Mills & Cawood, Inc. will have the client listed as additional insured where appropriate.
- 5.10 ASSIGNMENT:** Neither the Client nor Goodwyn, Mills & Cawood, Inc. will assign or transfer its interest in this Agreement without the written consent of the other. Goodwyn, Mills & Cawood, Inc. , however, does reserve the right to subcontract any portion of the Services.
- 5.11 SUSPENSION, TERMINATION, CANCELLATION OR ABANDONMENT:** In the event the Project described in, or the Services of Goodwyn, Mills & Cawood, Inc. called for under this Agreement, is/are suspended, canceled, terminated, or abandoned by the Client, Goodwyn, Mills & Cawood, Inc. shall be given seven (7) days prior written notice of such action and shall be compensated for the Services provided up to the date of suspension, termination, cancellation, or abandonment including reimbursable expenses in accordance with the provisions of this Agreement.
- 5.12 ENTIRETY OF AGREEMENT:** This Agreement embodies the entire Agreement and understanding between the parties, their successors and assigns hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto. The laws of the State of Alabama shall govern this Agreement unless specifically stated otherwise. This Agreement includes this document.
- 5.13 HOLD HARMLESS:** The Client will hold harmless and indemnify Goodwyn, Mills & Cawood, Inc. for any design changes, construction changes, or damages resulting from the use of a topographic survey or other information prepared by others and provided by the Client.
- 5.14 GENERAL CONDITIONS:** GMC will not provide a certification letter(s) for Site Plans designed by GMC without verifying, at a minimum and not limited to the following: finished floor elevations, storm sewer pipe sizes and invert elevations, sanitary sewer pipe sizes and invert elevations, water line pipe sizes, detention and outfall structure dimensions and elevations, curb and asphalt elevations.

Unless specifically detailed in the Scope of Work for this contract, the fees for these services are considered separate from and in addition to all other services and will be paid for by Client as a negotiated lump sum fee or hourly per the attached Rate Schedule.

Initials_____

5.15 ADDITIONAL SERVICES NOT REQUIRING OWNER'S WRITTEN AUTHORIZATION: When necessary GMC will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, GMC need not request or obtain specific advance written authorization from Owner. GMC shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner. Additional services shall be compensated in accordance with the hourly rates presented in attached Exhibit, or by a lump sum fee if requested by the Owner.

- A. Services in connection with work change directives and change orders to reflect changes requested by Owner.
- B. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
- C. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
- D. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
- E. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
- F. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
- G. Services during the Construction Phase rendered after the original date for completion of the Work.
- H. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
- I. While at the Site, compliance by GMC and its staff with those terms of Owner's or Contractor's safety program provided to GMC subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

Initials_____

ATTACHMENT A
SCOPE OF SERVICES

Goodwyn, Mills & Cawood, Inc. (GMC) shall perform the following professional services.

Improvement Design Services: Lump Sum \$120,000

GMC will provide the professional architectural and engineering services required to design and obtain permitting for the proposed restroom structures, the kayak launch, boardwalks, pathways, and public parking area. The proposed layout will be based upon the sketch plan that was provided to GMC by the City. It is our understanding that some of the elements of the plan will be rearranged based upon meeting(s) with the City to formulate the final plan.

Construction Inspection: Lump Sum \$10,000

It is our understanding that the City will provide the day-to-day inspection and oversight of the project through the Public Works and Building Departments and will utilize GMC on an as needed basis. GMC proposed to provide two site visits during the environmental/dune restoration process, two site visits during the grading/paving, two site visits during the boardwalk/kayak launch construction, and four site visits during the vertical construction phase.