

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 01/18/2024

Contract/Lease Control #: C24-3936-TDD

Procurement#: N/A

Contract/Lease Type: CONTRACT-INTERLOCAL AGREEMENT

Award To/Lessee: CITY OF NICEVILLE

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 01/16/2024

Expiration Date: INDEFINITE

Description of: MEIGS PARK CONSTRUCTION OF ADA PLAYGROUND

Department: TDD

Department Monitor: ADAMS

Monitor's Telephone #: 850-651-7131

Monitor's FAX # or E-mail: JADAMS@MYOKALOOSA.COM

Closed: _____

CC: BCC RECORDS

**INTERLOCAL AGREEMENT BETWEEN OKALOOSA
COUNTY AND THE CITY OF NICEVILLE FOR THE
REDEVELOPMENT OF MEIGS PARK TO INCLUDE
PROPOSED IMPROVEMENTS, FUNDING,
RESPONSIBILITIES OF THE PARTIES, AND ONGOING
MAINTENANCE THEREOF** C24-3936-TDD

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into by and between **OKALOOSA COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County") and the **CITY OF NICEVILLE**, a municipality organized under the laws of the State of Florida (the "City"). Collectively, the City and County will hereinafter be referred to as the "Parties".

WHEREAS, the City owns Meigs Park at 100 Park Avenue, within the City of Niceville, located in the center of Park Avenue, Deer Street, and Park Avenue E; tax parcel identification number 06-1S-22-1590-0000-PARK and as shown in Exhibit "A" (the "Property" or "Park"); and

WHEREAS, the Board of County Commissioners and the City Council agree that the improvement of a park facility for physically challenged children is a shared goal, the furtherance of which ensures the continued economic viability of the City and County with specific benefits to tourism and the general public; and

WHEREAS, the Parties agree that the Property is primarily open and undeveloped, with an appropriate amount of area available for redevelopment in furtherance of this preeminent goal; and

WHEREAS, the Parties each agree to plan, fund, and construct their portions of the park redevelopment of the Property into a usable tourism and public recreational asset (the "Project"); and

WHEREAS, the County is able to pursue its portion of the Project primarily due to the receipt of a 2023-24 legislative budget appropriation grant for funding in the amount of \$1,250,000.00 (Budget Appropriation Line Item No. 1797A, GAA, FY 2023-2024); and

WHEREAS, the County, within a defined open area, proposes to construct a new large ADA playground, an artificial turf (and/or rubberized surface) miracle network ballfield, a ¼ mile paved (or rubberized surface) walking track, a new large pavilion with a quiet room, conversion of the basketball court into a dual basketball/volleyball court facility, stormwater improvements, and other miscellaneous improvements (Examples shown in Exhibit "B"); and

WHEREAS, the County has received a legislative appropriation for \$1.25 Million for the Project with no required match and additionally will also provide up to \$750,000 from County

Tourism Development District funding with the specific purpose and intent of promoting tourism by building ADA facilities for events and for disabled visitors and residents alike; and

WHEREAS, the City has already created pickleball courts in the Park and subsequently proposes to reconstruct the parking areas, add new bathrooms, and generally improve the existing pavilions and park facilities at the City's expense; and

WHEREAS, this Agreement is intended to formalize the Parties' activities and responsibilities and further describe how the Project will proceed forward.

NOW, THEREFORE, in consideration of the above recitals, mutual covenants, promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the County and the City agree as follows:

SECTION 1. AUTHORITY. This Agreement is entered into pursuant to the provisions of Chapter 163.01, Florida Statutes, and other applicable provisions of law.

SECTION 2. RECITALS. The above recitals are true and accurate and are incorporated herein as essential terms of the Agreement.

SECTION 3. PARTIES. The parties to this Agreement are the County and the City.

SECTION 4. INTENT. The intent of the Parties is to utilize the Property for public recreational/tourism purposes, specifically including ADA facilities. The overall goal of the Project shall be to increase the amount of ADA facilities in the City and County available for use by tourists and the general public. The Park shall be designed, developed, and maintained in accordance with this overall goal. This Agreement shall be construed in a manner that reflects this overall intent.

SECTION 5. PROJECT IMPROVEMENTS. The Project shall consist of the design and construction of improvements within Meigs Park (Niceville) for an ADA Park Facility that may specifically serve special needs children, Special Olympics events and other minor organized events. The facilities will be somewhat modeled after the "field of dreams" concept in other locations around the country and may have a smaller-size, hard surfaced ADA ballfield, large ADA Playground, combined basketball/volleyball facility, a pavilion, bathrooms, landscaping, parking and related stormwater. Examples of some of these improvements are visually shown and further detailed in Exhibit "B".

SECTION 6. DEVELOPMENT AND IMPROVEMENT OF THE PROPERTY.

A. Collaborative Process. The Parties intend to work collaboratively through all phases of redevelopment of the Park to develop an ADA friendly park that is consistent with the intent listed herein. This shall include using best efforts to communicate and coordinate throughout the process to create a win-win for the City, County and Community.

- B. Approval Process - The Project improvements shall follow the site plan and construction per the City's land development code to include the City's building department for building permits and inspection for state building code compliance. The Parties shall work expeditiously on those processes, to include any variances that may be necessary. The City, as owner of the Property, agrees to be the applicant for any necessary City applications for site plan, variance, zoning changes, and similar actions necessary to construct the Project. The County will be the applicant on its Project components for building permit application.

- C. Time is of the Essence/Primary Point of Contact. The Parties agree to utilize best efforts to timely bring the Project into public service/use as quickly as possible, but still in a fiscally responsible manner and following all grant and procurement requirements. As such, the Parties shall each appoint a lead staff person from each agency to spearhead their agency's responsibilities. Such person shall facilitate all aspects of the Project to include, but not be limited to: obtaining all required approvals, payments, legal sign off, signatures, permits – to include fast-tracking all signage, building, land development code permits and all outside agency permits. The County Appointee shall be Jason Autrey, Public Work Director. The City Appointees shall be David Deitch, City Manager and Johnathan Laird, Public Works Director. The lead staff person of either agency may be changed upon written notice to the other agency.

- D. Construction Procurement Process. The City and County shall oversee any procurement of contractors and the construction for their particular areas of responsibility within the Park Project. The City procurement may be combined with the County's procurement as alternate bids should the City Manager request such in writing. As part of the County's construction procurement processes, the County shall make all such procurement documents available to the City for review and vice versa for City improvements. The City and County shall work in good faith in the drafting of the construction bid documents and all such documents shall be designed to further the Project's overall intent.

SECTION 7. CITY AND COUNTY RESPONSIBILITIES FOR THE PROJECT.

County Responsibilities:

- A. Subject to State approval and per a grant agreement with the State, the County agrees to utilize its State legislative appropriation of \$1,250,000.00, plus up to an additional \$750,000 of local County tourism funds available to construct its portion of the Project.

- B. The County agrees to engage a duly qualified and licensed engineering firm from its existing competitively procured service contracts, all in consultation and with the concurrence of the City Appointee for the redevelopment design of the Park for the City and County improvements proposed herein.

- C. The County agrees to fund and construct the County improvements contemplated in Section 5 in a quality and workmanlike manner for public use, generally within the County improvement area as shown in Exhibit D.
- D. The County, depending on park space and construction bids, may optionally construct additional amenities at its expense, with the concurrence of the City appointees, based on the final design, anywhere in the Park. Examples of additional amenities, may include items such as: a multi-purpose field, fitness station off the trail, additional landscaping, a shade for existing play structures, signage, additional benches, trash can, mats or picnic tables.

City Responsibilities:

- A. The City agrees to fund and construct a bathroom facility of a proper size at the Park for the facilities constructed working with the County design firm on the final location and sizing within the County improvement area.
- B. The City agrees to fund and construct a fence around the perimeter of the park and parking for the Park to include the facilities planned at the Park by the County design firm, outside the County improvement area.
- C. Post-construction the City agrees to maintain the Park and all the facilities associated with the Park in a good, safe and operating condition.
- D. Additionally, the City agrees to adhere to, and follow, any post-construction, grant requirements from the State of Florida related to any ongoing use/reuse of the Park and hold the County harmless from adherence to those grant agreement conditions, if any (Exhibit C).

SECTION 8. MAINTENANCE AND OPERATION.

- A. General Maintenance. After the completion of the development, the City shall be responsible for the ownership and maintenance of the Park and all improvements therein, ensuring that it is kept in a good, safe and operating condition permitting the general public to access and enjoy the Public Park.
- B. Operation. The City, as owner of the Property, shall operate the Park and enforce all applicable laws, ordinances, rules, and regulations of its jurisdiction through its code enforcement department, law enforcement, and other available legal means. The City may use its short duration, special event permits for events such as weddings, reservations, temporary gatherings, trash pickups and other typically permitted activities as normally seen at public

parks, however, such permits shall not be considered encumbrances on the Property and shall be equally available to all residents of Okaloosa County for use. The City may charge normal and customary fees for this Park usage, without approval of the County, but such fees shall be the same for all permit users, for these improvements, without distinction or preference for residency within the County. At the City's discretion, preference may be given in bookings and fees to targeted ADA groups/individuals which is a prioritized goal of the park improvements contemplated herein.

- C. Parking Fee/Park Entry Fees, and City Resident Only Fees. Because a large portion of the funding is from the State and the County Tourism Funds, the general access to the park shall be free and open to the public. Parking fees, park entry fees, or City resident only permits to use the park shall not be permitted at the Park, unless otherwise agreed to in writing by the County. If such parking/entry fees or park usage permits are approved the same fees shall equally apply to all Park users and any fees collected, must be segregated into a dedicated fund(s) for this specific Park, to be used exclusively to maintain, operate, or otherwise improve the Park.

SECTION 9. TERM. This Agreement shall take effect on the last date of adoption by the respective governing bodies and the warranties and covenants described herein shall continue in perpetuity or until mutually terminated by the Parties.

SECTION 10. OWNERSHIP AND ONGOING GRANT OBLIGATIONS OF THE PROPERTY.

- A. Fee Simple Title. The City verifies it owns fee simple title to the Property.
- B. Covenants. The City agrees it shall execute and record all deed covenants required per the County's FDEP legislative grant agreement and comply with the same thereafter.
- C. Future Sale, Lease, or Encumbrance of the Property. The City agrees to not sell, lease, or otherwise encumber the Property in any manner inconsistent with this interlocal agreement or that would otherwise prevent the use of the Park for its intended public recreational uses and grant assurance above for a period of twenty (20) years from the time of completion without: 1) Fully paying back any FDEP legislative funds or without otherwise obtaining a release of any grant assurances through time or mitigation; and 2) Fully pay back any County TDD funds expended on the Project or without otherwise obtaining a release from the County based on-time proration or mitigation.

SECTION 11. CONDITION PRECEDENT. The Parties understand and agree this Project and Agreement are directly connected to County's award of the legislative funding appropriation for \$1,500,000.00. Should the worst occur and such funding get canceled, rescinded, or otherwise is no longer available to the County, the County and/or City will no longer have an obligation to move forward and/or construct the Park improvements contemplated herein. This shall in no way

relieve the County of paying for any work completed at that time and at its option, doing one or more of the following: 1) Completing any improvements started; 2) Otherwise removing incomplete improvements and restoring those park areas to a pre-construction condition; or 3) Working out some other resolution acceptable to the City.

SECTION 12. RECORDS AND REPORTING.

- A. The Parties agree to maintain books, records, documents and other evidence according to generally accepted governmental accounting principles, procedures and practices which sufficiently and properly reflect all costs and expenditures of any nature, incurred by either party in connection with the Project.
- B. Neither the City, nor the County, shall assume any responsibility for the other entity's failure to respond, timely, or at all, to a public records request. A request upon one entity, shall not be deemed to be a request on the other entity.
- C. The Parties agree to include, in all contracts for services related to the Project, the public records statement as required under section 119.0701, Florida Statutes.

SECTION 13. REPRESENTATIONS AND WARRANTIES. Each party hereby represents and warrants to the other that it has all requisite power, authority and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, and to fulfill any and all of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

SECTION 14. AMENDMENTS. Neither this Agreement nor any portion of it may be modified or waived orally or unilaterally. The provisions hereof may be amended or waived only pursuant to an instrument in writing, approved by the City Council and the Board of County Commissioners, and jointly executed by the parties hereto. This Agreement shall be enforced and be binding upon, and inure to the benefits of, the Parties hereto and their respective survivors and assigns, if any. This Agreement shall not be assigned without the permission of the other party.

SECTION 15. DISPUTE RESOLUTION. The Parties shall attempt to resolve any dispute that may arise under this Agreement in good faith by participating in mediation. This mediation shall be in lieu of the requirements of the "Florida Governmental Conflict Resolution Act." The mediator shall be mutually agreed upon by the Parties and the cost of mediation shall be borne equally between the Parties. In the event the matter is not resolved through the mediation process, each party shall be free to pursue any of its available remedies.

SECTION 16. JURY TRIAL WAIVER. IN THE EVENT THAT LITIGATION IS FILED BY EITHER PARTY TO ENFORCE ANY TERMS OF THIS AGREEMENT, THEN THE PARTIES AGREE THAT THEY HEREBY WAIVE ANY RIGHT TO A JURY TRIAL ON ANY ISSUES ARISING OUT OF THIS AGREEMENT.

SECTION 17. ATTORNEY’S FEES AND COSTS. If litigation is instituted seeking to enforce the terms of this Agreement, or in any way related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney’s fees and costs incurred in the litigation, including fees and cost incurred in any resulting appeal, and any fees and costs incurred litigating entitlement to and the reasonableness of any attorney’s fees and costs.

SECTION 18. SEVERABILITY. If any one or more of the provisions of this Agreement shall be held contrary to any express provision of law or contrary to any policy of express law, then the remainder of this Agreement shall remain in full force and effect.

SECTION 19. GOVERNING LAW AND VENUE. The validity, construction and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in Okaloosa County, Florida.

SECTION 20. NOTICE. If written notice to a party is required under this Agreement, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested.

As to the County as follows:

Okaloosa County
Attn: County Administrator
1250 Eglin Pkwy N
Suite 102
Shalimar, FL 32579

As to the City as follows:

City of Niceville
Attn: City Manager
208 N. Partin Drive
Niceville, FL 32578

SECTION 21. NO MEMBER LIABILITY. Neither the members of the governing body of the County, the City, nor anyone executing this Agreement, shall be liable personally or shall be subject to any accountability for reason of the execution by the County, the City or any executing authority of the County or the City for any act pertaining thereto.

SECTION 22. SOVEREIGN IMMUNITY. The parties further agree that nothing contained herein is intended to nor shall be construed a waiver of the County or City’s rights and immunities under the common law or section 768.28, Florida Statutes, as amended from time to time.

SECTION 23. INSURANCE, LIABILITY AND INDEMNIFICATION.

A. Each party agrees to be fully responsible for all claims, liabilities, damages, costs, actions, suits or proceedings at law or in equity which may occur as a result of the wrongful or negligent acts of their respective officers, employees, representatives, and agents.

B. Any contractor or consultant engaged by the City or County for work on the Project shall be required to protect, defend, indemnify and hold both the City and County harmless from all claims, demands, causes of action or liability resulting from injury to or death of persons or damage to or loss of property sustained as a consequence of the Project and arising from said contractor's operations or as a proximate result of the acts or omissions of the contractor or their employees. Such agreement by the contractor or consultant shall include their indemnification as to any assessment of an administrative fine or penalty by a governmental entity for a violation of conditions of the permit and authorization related to their actions or failure to act in carrying out their contractual duties. The provisions of this section shall be included in all contracts between the City or County and its contractors and consultants for work or services to occur on the Project.

SECTION 24. CONSTRUCTION. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

SECTION 25. NO THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue to or for the benefit of any third party that is not a formal party hereto. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give any person or corporation other than the Parties any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions of it; and all of the provisions, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties.

SECTION 26. FILING. The County is hereby authorized and directed after approval, to file this Agreement with the Clerk of the Circuit Court of Okaloosa County, Florida, for recording in the public records of Okaloosa County, Florida as provided in Section 163.01 (11), Florida Statutes.

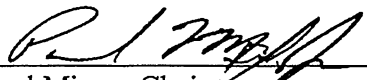
SECTION 27. WAIVER. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

SECTION 28. FORCE MAJEURE. The Parties shall not be required to perform any obligation under this Agreement or be liable to each other for damages so long as the performance or nonperformance of the obligation is delayed, caused or prevented by an act of God or force majeure. An "act of God" or "force majeure" is defined as hurricanes, earthquakes, floods, fire, wars, insurrections and any other cause not reasonably in the control of the claiming party and which by exercise of due diligence the non-performing party is unable in whole or in part to prevent or overcome.

IN WITNESS WHEREOF, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement on the date and year last written below.

////////////////// Signature Pages Follow //////////////////

OKALOOSA COUNTY, FLORIDA

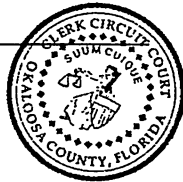
By: 
Paul Mixon, Chairman



Date: 16 January 2024

ATTEST:


J.D. Peacock II, Clerk



APPROVED AS TO FORM:


Lynn M. Hoshihara, County Attorney

CITY OF NICEVILLE, FLORIDA

By: Daniel Henkel
Daniel Henkel, Mayor

Date: 9 January 2024

APPROVED:

David Deitch
David Deitch, City Manager

ATTEST:

Dan Doucet
Dan Doucet, City Clerk

**EXHIBIT "A" Property - Meigs Pak - Niceville
100 Park Avenue**

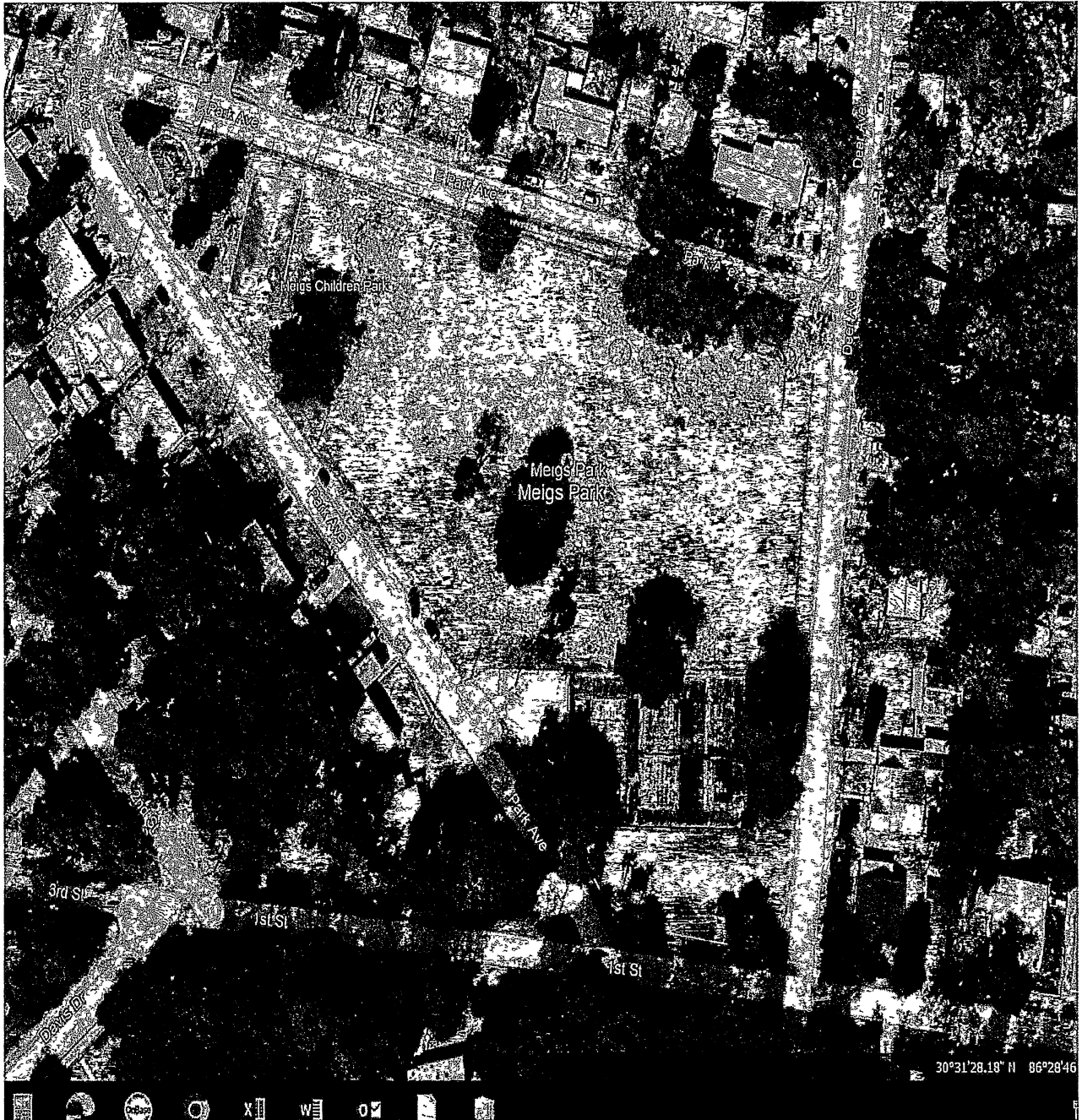
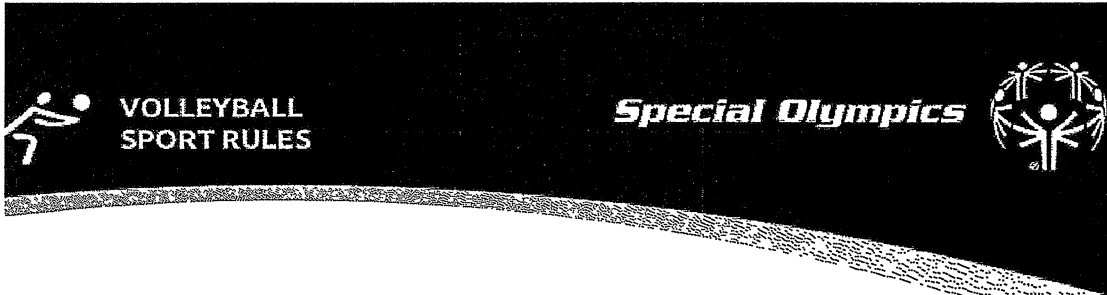


EXHIBIT "B" Examples of Proposed County ADA Improvements Pictures and/or Details

COMBINED BASKETBALL AND VOLLEY BALL COURT



3.4 Official Court Dimensions

3.4.1 18 meters by nine meters, surrounded by a free zone of a minimum of three meters wide on all sides.

3.4.2 For Special Olympics World Games, the free zone shall measure a minimum of five meters from sidelines and eight meters from end lines.

Special Olympics Basketball Court

The Court

- 5 v 5: Maximum is 28 meters (94 feet) long by 15 meters (50 feet) wide; minimum is 25.6 meters (84 feet) long by 15 meters (50 feet) wide.
- 3 v 3: (Half-court) Maximum is 14m (47 feet) long by 15 m (50 feet) wide; minimum is 12.8 meters (42 feet) long by 15 meters (50 feet) wide.
- For both: The court should be properly marked with sidelines, free-throw lanes, center circle and three-point field goal arc.
- The three-point field goal arc is a semi-circle that has a radius of 6.25m (19 feet 9 inches) from a point in the middle of the free-throw lane and directly below the center of the basket.
- There are two field goal baskets on backboards, one at each end of the court and each at 3.05 m (10 feet) above the floor.

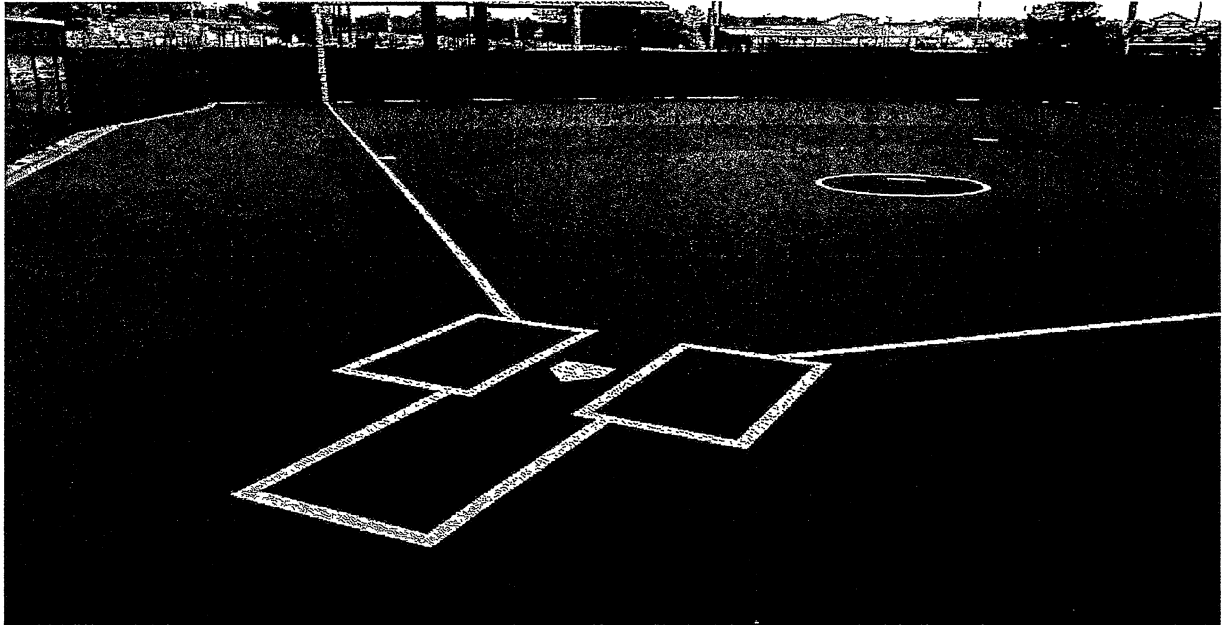
MIRACLE LEAGUE ADA PLAYGROUND



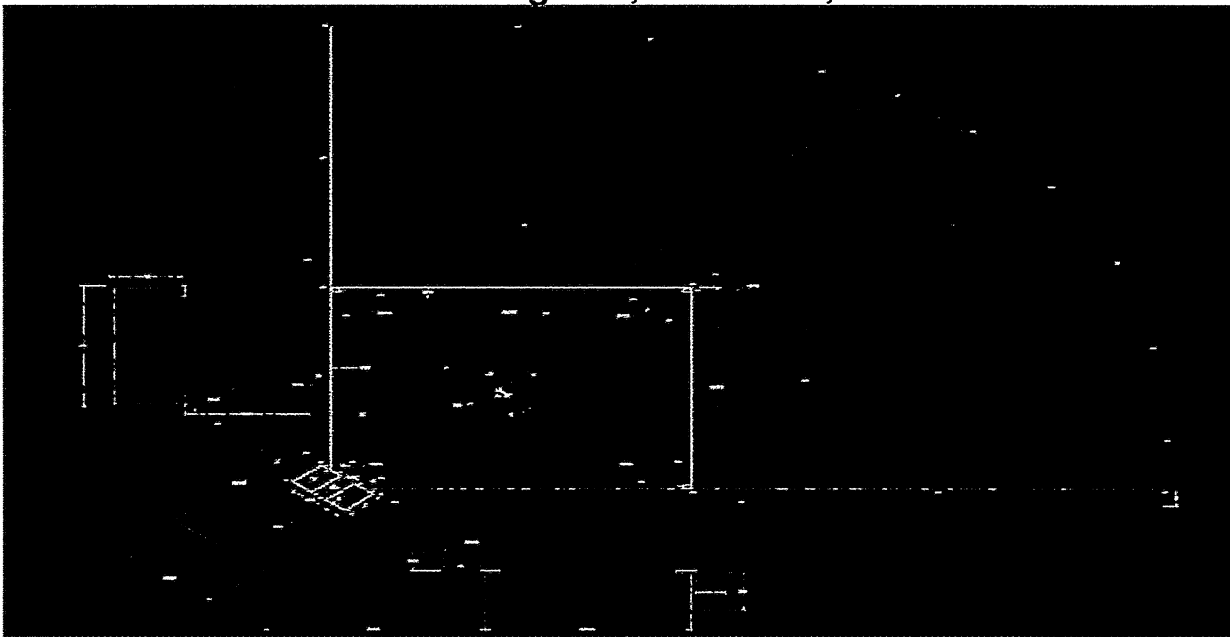
150ft by 130ft

Approximately

MIRACLE LEAGUE ADA BALLFIELD
Approximately 200ft by 200ft



Dimensions would include dugouts, bleachers, and extra room on outside.



OTHER

- 8-10FT WIDE ¼ MILE PAVED WALKING TRACK
- LARGE PAVILION WITH STORAGE AND QUIET ROOM
- LANDSCAPING, STORMWATER

EXHIBIT C
COUNTY'S STATE APPROPRIATION GRANT AGREEMENTS

EXHIBIT D
COUNTY'S PRIMARY AREA OF IMPROVEMENTS
Generally, within the park property lines, west of the basketball court
and north of redeveloped pickleball courts.



