

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 03/29/2021

Contract/Lease Control #: C21-3057-PW

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: EMERALD COAST CHURCH OF CHRIST, INC.

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 03/16/2021

Expiration Date: INDEFINITE

Description of: EASEMENT & RIGHT OF WAY UTILIZATION AGREEMENT

Department: PW

Department Monitor: AUTREY

Monitor's Telephone #: 850-689-5772

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

Closed:

Cc: BCC RECORDS

EASEMENT AND RIGHT OF WAY UTILIZATION AGREEMENT

THIS EASEMENT AND RIGHT OF WAY UTILIZATION AGREEMENT (the "Agreement") is made and entered into as of this 16th day of March, 2021, by and between **Emerald Coast Church of Christ, Inc.**, a Florida corporation ("Owner"), whose address is 300 South Avenue, Fort Walton Beach, Florida 32547, and **OKALOOSA COUNTY**, a political subdivision of the State of Florida, whose address is 1250 North Eglin Parkway, Suite 100, Shalimar, Florida 32579 ("County").

RECITALS

WHEREAS, Owner owns certain real property located on the southwest corner of South Avenue and Merle Circle, on which it owns and operates the Emerald Coast Church of Christ (the "Church"), which real property is more particularly described on **Exhibit "A"** (the "Property") attached hereto and by this reference incorporated herein; and

WHEREAS, South Avenue and Merle Circle are both public right of ways owned and maintained by the County; and

WHEREAS, a portion of the overall parking spaces that serve the Church are contiguous to Merle Circle; and

WHEREAS, some of the parking spaces along Merle Circle partially extend into Merle Circle (the "Parking Spaces"); and

WHEREAS, all of the parking spaces on the Property, including the Parking Spaces, have been utilized in their current configuration for approximately 30 years; and

WHEREAS, the Church desires to add an Americans with Disabilities accessible parking space along Merle Circle; and

WHEREAS, the Church is willing to improve the safety of South Avenue by removing a driveway to South Avenue that causes motorists to enter and exit South Avenue at an angle; and

WHEREAS, the County has agreed to grant an easement within a portion of Merle Circle over which the Parking Spaces overlap into those respective right of ways, pursuant to the terms and conditions more particularly set forth herein.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated into the substantive body of this Agreement.
2. Easement. Subject to the terms hereof, the County hereby grants, sells, and conveys to Owner a perpetual, non-exclusive easement over and across the real property described on Exhibit "B" attached hereto, and by this reference incorporated herein (the "Easement Area"), for the purposes of providing parking for the benefit of the Owner and its invitees on and over that portion of the Parking Spaces within the County right of way, being Merle Circle, and ingress and egress for the Parking Spaces to and from Merle Circle and to and from the Property, such grant to include all and singular the rights and appurtenances thereto anyway belonging, to have and to hold it to Owner and Owner's successors or assigns as long as the Church buildings and Parking Spaces remain unchanged from their configuration on the date of this Agreement.
3. Continued Rights of the County. Notwithstanding the easement rights granted herein to the Owner, the County shall have full right and authority to maintain, alter, or improve Merle Circle and South Avenue in a manner which will not interfere with the rights granted herein, including, but not limited to, the continued maintenance and/or relocation of any above ground, or underground, utilities, sidewalk improvements, drainage improvements, and additional travel lanes.
4. Redevelopment by the Owner. If the Owner redevelops the Church or utilizes the property for a use other than a Church or Church school, the easement becomes null and void.
5. Non-Approval. The easement rights granted herein pursuant to Section 2 hereof, shall not constitute or be deemed to constitute any modification of any County ordinances currently applicable to the ownership and operation of the Property.
6. Continued Maintenance. The Owner shall be responsible for the continued maintenance of the Parking Spaces which will include those portions of the Parking Spaces within the Property and the Easement Area.
7. Police Powers. Nothing contained herein shall be deemed to affect the County's authority to exercise its police powers. Owner shall not by this Agreement obtain any vested rights to use any portion of the Merle right of way other than the easement granted herein over the Easement Area.
8. Successors and Assigns. This Agreement shall be recorded in the Public Records of Okaloosa County, and the rights granted herein shall inure to the benefit of, and the obligations shall be binding upon, the successors, heirs, executors, administrators, representatives or assigns of the Owner, and upon all persons acquiring an interest thereunder.
9. Defaults. Failure by either the County or Owner to comply with or perform any of the terms, conditions, covenants, agreements or obligations contained in this Agreement to

be performed by each of them, respectively, shall constitute a default under this Agreement, and (i) if such default is not cured or remedied within thirty (30) days after the non-defaulting party provides written notice to the defaulting party specifying with particularity the nature of such default, or (ii) if such default cannot be reasonably cured or remedied within such thirty (30) day period, the defaulting party fails to commence to cure or remedy the default within such thirty (30) day period and thereafter fails to diligently and expeditiously pursue such cure or remedy, the non-defaulting party, in its sole discretion, shall be entitled to exercise any and all rights and remedies available to it under this Agreement, at law in equity.

10. **Venue and Applicable Law.** Any and all legal action necessary to enforce this Agreement will be held in Okaloosa County, Florida, and the Agreement shall be interpreted according to the laws of Florida.
11. **Entire Agreement and Binding Effect.** This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein.
12. **Counterparts.** This Agreement may be executed in duplicate counterparts each of which shall be deemed an original.
13. **Notices.** Formal written notice, demands, correspondence and communication between the County and the Owner shall be sufficiently given if sent by certified mail, return receipt requested, or reliable overnight courier to the other party at the following address:

If to the County: Okaloosa County Public Works
1759 S. Ferdon Boulevard
Crestview, Florida 32536
850-689-5772
Email: jautrey@myokaloosa.com

If to the Owner: Emerald Coast Church of Christ, Inc.
300 South Avenue
Fort Walton Beach, Florida 32547
Attention: Cecil R. Belk
850/496-6963
Email: eccofc@embarqmail.com
14. **Recording.** This Agreement shall be recorded by the County, at the Owner's expense, in the Public Records of Okaloosa County, Florida within ten (10) days after this Agreement is approved by the County and executed by all parties hereto.
15. **Non-Waiver of Sovereign Immunity.** Nothing contained in this Agreement or any instruments executed pursuant to the terms of this Agreement shall be construed as a

waiver or attempted waiver by the County of its sovereign immunity under the constitution and laws of the State of Florida.

16. Indemnification and Hold Harmless. Owner agrees to hold harmless, indemnify, and defend the County and its representative from any and all claims, losses, penalties, demands, judgments, and costs of suit, including attorneys' fees for any expense, damage or liability incurred by them, whether for personal injury, property damage, direct or consequential damages, or economic loss, arising directly or indirectly on account of or in connection with the rights granted under this Agreement.

COUNTY:

OKALOOSA COUNTY, a political
subdivision of the State of Florida

By: Carolyn N. Ketchel
Carolyn N. Ketchel, Chairman



ATTEST:

By: [Signature]
D. Peacock II, Clerk



APPROVED AS TO FORM:

By: [Signature]
Lynn M. Hoshihara, County Attorney

Signed, sealed and delivered
in the presence of:

Sherril L. Belk
Print Name: Sherril L. Belk

Samantha Mortimer
Print Name: Samantha Mortimer

OWNER:

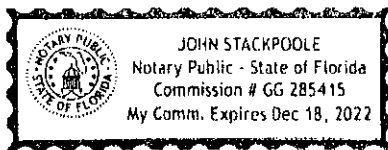
Emerald Coast Church of Christ, Inc.
a Florida Corporation

Emerald Coast Church of Christ, Inc.
By: Cecil R. Belk
Name: Cecil R. Belk
Its: Authorized Representative

STATE OF FLORIDA

COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 16th day of February, 2021, by Cecil R. Belk, as Authorized Rep. of Emerald Coast Church of Christ, Inc, a Florida Corporation, on behalf of said company, who [] is personally known to me or [] produced Florida Driver License as identification and did not take an oath.



John Stackpoole
Print Name John Stackpoole
Title: Notary Public
Serial Number, if any: 66 285415
My Commission Expires: Dec 18, 2022

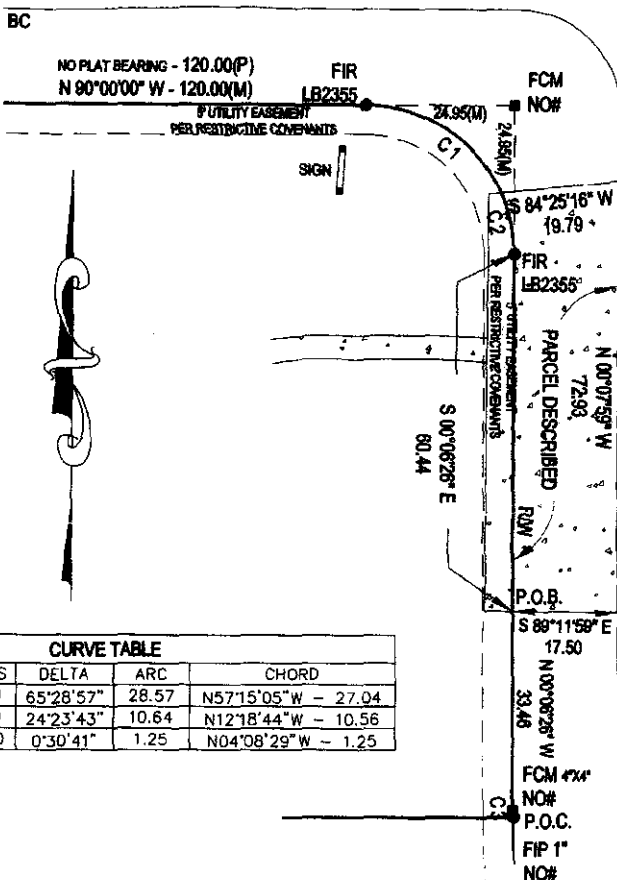
Exhibit B

This is to certify that I have consulted National Flood Insurance Rate Map, effective December 6, 2002, for Okaloosa County, Florida, Map No. 12091C0461 H, and found the property described hereon to be located in Zone "X", area determined to be outside 500-year flood plain.

LEGAL DESCRIPTION:

PARKING EASEMENT WITHIN RIGHT-OF-WAY OF MERLE CIRCLE DESCRIBED AS FOLLOWS:
 COMMENCE AT A 4" X 4" CONCRETE MONUMENT MARKING THE WEST RIGHT-OF-WAY OF CURVATURE NEAR THE SOUTHEAST CORNER OF LOT 18, BLOCK 2, SECOND ADDITION TO GARNIERS BEACH, AS RECORDED IN PLAT BOOK 2, PAGE 46, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA; THENCE N - 00°06'26" - E ALONG SAID RIGHT-OF-WAY A DISTANCE OF 33.46 FT TO THE POINT OF BEGINNING; THENCE S - 89°11'59" - E A DISTANCE OF 17.50 FT TO THE BACK OF CURB LOCATED WITHIN MERLE CIRCLE (60' R/W); THENCE N - 00°07'59" - W ALONG BACK OF CURB A DISTANCE OF 72.93 FT; THENCE S - 84°25'16" - W A DISTANCE OF 19.79 FT TO A POINT ON THE CURVED RIGHT-OF-WAY AT INTERSECTION OF MERLE CIRCLE AND SOUTH AVENUE; THENCE SOUTHEASTERLY ALONG SAID CURVED RIGHT-OF-WAY HAVING A RADIUS OF 25.00 FT, A CENTRAL ANGLE OF 24°23'43", A CHORD BEARING AND CHORD OF S - 12°18'14" - E - 10.56, AN ARC DISTANCE OF 10.64 FT TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S - 00°06'26" - E ALONG SAID WEST RIGHT-OF-WAY A DISTANCE OF 60.44 FT TO THE POINT OF BEGINNING.

**300 SOUTH AVENUE
(60' RIGHT-OF-WAY)**



**MERLE CIRCLE
(60' RIGHT-OF-WAY)**

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD	
C1	25.00	65°28'57"	28.57	N57°15'05"W - 27.04	
C2	25.00	24°23'43"	10.64	N12°18'44"W - 10.56	
C3	140.00	0°30'41"	1.25	N04°08'29"W - 1.25	

LEGEND

- R/W = RIGHT OF WAY
- CLF = CHAIN LINK FENCE
- MPP = WOOD PRIVACY FENCE
- DUJ = DRAINAGE & UTILITY
- PB = PLAT BOOK
- SMBT = SHADENIT
- EOP = EDGE OF PAVING
- BC = BACK OF CURB
- FP = FOUND IRON PIPE
- FIP = FOUND IRON PIPE
- FMBD = FOUND MAIL & DMC
- TYP = TYPICAL
- ELEV = ELEVATION
- CL = CENTERLINE
- UNLESS OTHERWISE NOTED ALL IRON RODS ARE 1/2" DIAMETER
- LS = LAND SURVEYOR LICENSE NUMBER
- LB = LAND SURVEY BUSINESS NUMBER
- COE = CORPS OF ENGINEERS
- MHW = MEAN HIGH WATER LINE
- POC = POINT OF COMMENCEMENT
- POB = POINT OF BEGINNING
- POL = POINT ON LINE
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY
- PFC = POINT OF BEGINNING CURVE
- BL = BUILDING SETBACK LINE
- RC = RESTRICTIVE COVENANTS
- PI = POINT OF INTERSECTION (PI OR PLAT) = PLATTED
- DO (OR DONG) = DESCRIPTION (D) OR (DONG) = MEASURED OR BOX = OFFICIAL RECORDS BOOK
- PCP = PERMANENT CONTROL POINT
- PRM = PERMANENT REFERENCE MONUMENT
- NAD = NORTH AMERICAN VERTICAL DATUM
- NVD = NATIONAL GEODESIC VERTICAL DATUM
- DOT = DEPARTMENT OF TRANSPORTATION
- DEP = DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOURCE OF DESCRIPTION: PREPARED BY UNDERSIGNED BASIS OF BEARINGS: RAW LINE OF SOUTH AVENUE AS BEING N-90°00'00"-W

DESCRIPTION: PER ABOVE

OKALOOSA COUNTY, FLORIDA

SECTION 12 TOWNSHIP 2-S RANGE 24-W RECORDED PLAT BOOK 2 PAGE 46

OBVIOUS ENCROACHMENTS: NONE

UNDERGROUND ENCROACHMENTS (NOT LOCATED):

SCALE 1"=20' SURVEY DATE 10/16/2015

ORDERED BY: EMERALD COAST CHURCH OF CHRIST

F.B. 15-9 PG. 42-44 W.O. 2015-0877

F.C.

TYPE OF SURVEY: SPECIFIC PURPOSE

PURPOSE: PARKING EASEMENT

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE STANDARDS OF PRACTICE OF THE FLORIDA BOARD OF SURVEYORS AND MAPPERS. (S.J.-17 .050 - .052 F.A.C.)

Edward E. Rice

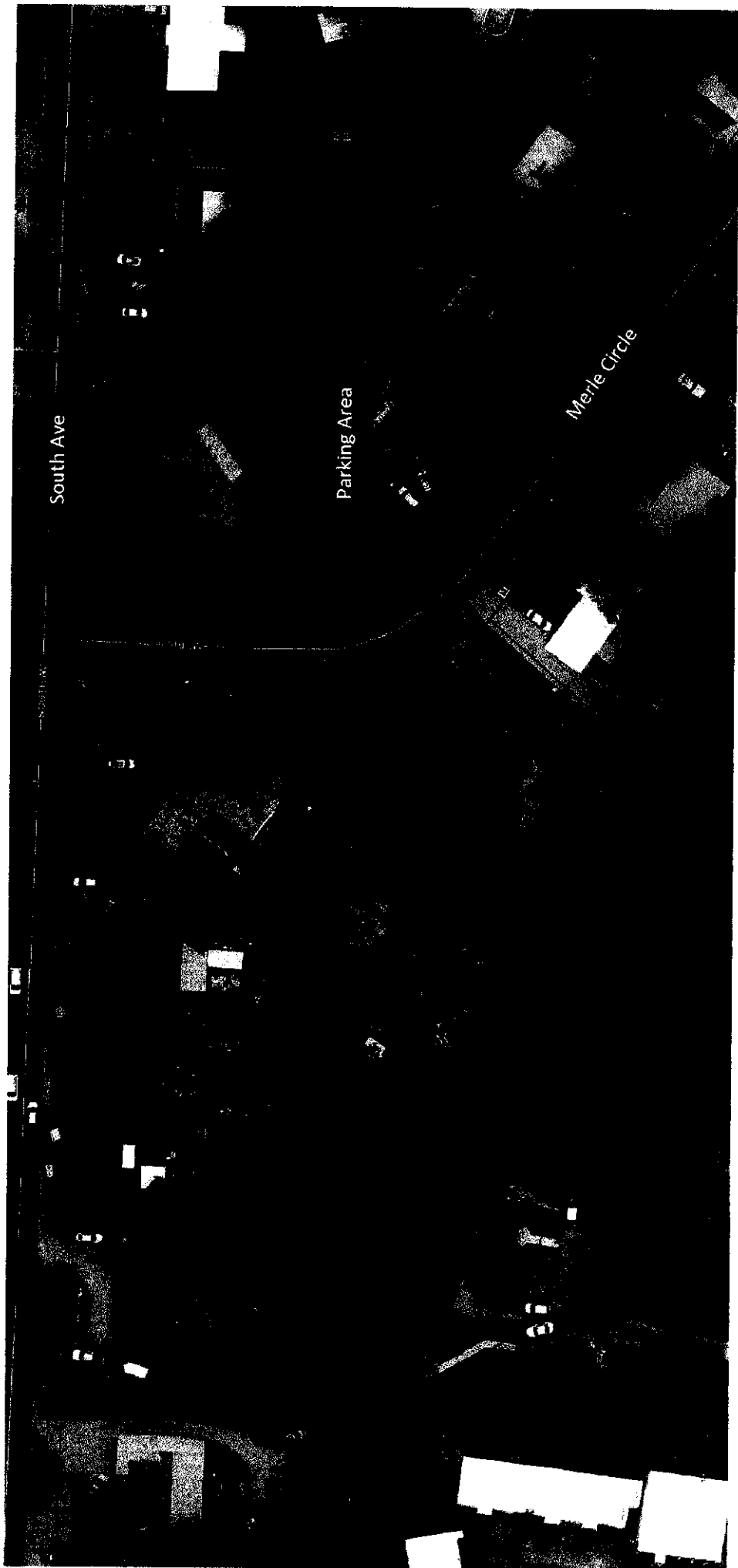
EDWARD E. RICE LS3420

RECEIVED DATE 11/12/2020 W.O. 2020-1475

ORDERED BY: AGAPE CHRISTIAN ACADEMY

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

CAD - RESTORED - G
GARNIERS BEACH 2ND



South Ave

Parking Area

Merle Circle