

CONTRACT FOR PROFESSIONAL SERVICES
FOR THE
RESTORATION OF THE EXTERIOR FAÇADE, CONCRETE REPAIRS, SLIDING GLASS
DOORS & WINDOW REPLACEMENT & WATERPROOFING & SEALING

This Contract is entered into this the 17th day of January 2022, between
Pendleton + Bowman, Inc. ("P+B"), (Architect)
Aquavista of Panama City Beach Owners Association, Inc. ("Association"),

WHEREAS, P+B is a firm providing architectural and building consulting services; and

WHEREAS, Association is a condominium association who desires to have P+B, Inc. develop a Project Manual for the restoration of the façade, waterproofing, & sealing the structure, and oversee the bidding, contracting and performance of said work; and

WHEREAS, Pendleton + Bowman, Inc. is a firm providing architectural and engineering services, and whereas Pendleton + Bowman has retained APEX Engineering Group, P.A. to provide structural engineering services and Nautilus Civil Technologies, Inc. for Drone and other miscellaneous services as necessary/required, and

WHEREAS, P+B has provided a proposal, attached hereto as **Exhibit A dated 27 December 2021**, which outlines its proposed services and fee(s) and that the Association has accepted said proposal in part, agreeing to retain P+B for the performance of the work as follows for a fee(s):

...for the initial project scope of the work for the restoration of the exterior façade, concrete repairs, waterproofing and sealing the structure a lump sum of \$125,000.00.
...and for the scope of work above plus the addition of replacing the sliding glass doors and windows, a lump sum of \$225,000.00.

WHEREFORE, for the mutual considerations contained here the parties agree as follows:

1. **Payment.** Architect fee shall be based on the initial scope of work above and shall be paid the fee of One Hundred and Twenty-five Thousand Dollars (\$125,000.00) for performance of the services set forth as follows:
 - a) Retainer of \$5,000.00 upon signature of this contract.
 - b) Payment of \$10,000.00 upon completion and issuing of the Project Manual for bidding.
 - c) Payment of \$10,000.00 upon signature of the contract agreement for construction. An additional \$15,000.00 would be due at this time if the Board decides to include the doors and windows replacements as part of the work in the construction agreement.
 - d) The balance of the fee would be in equal monthly installments based on the Contractor's schedule of construction plus one month. In the event the Contractor's schedule is lengthened, the installments for Architect's fee shall be lengthened by a corresponding amount of time.

2. **Scope.** Architect shall perform the following services (“Services”) on the Project in exchange for the Payment above:

P+B will perform the Scope of Work set forth in Exhibit A, including without limitation, the preparation of plans and specifications for the scopes of work set forth in Exhibit A, Project Manual detailing General Conditions for a contract or contracts whereby said scopes will be implemented by a contractor or contractors, preparation of a bid proposal and invitation to bid, and conducting and overseeing the bid process and selection. Architect agrees that the scope of services includes all consulting and professional services that may reasonably arise from the services described above, including work that may be necessary in the event unknown or unforeseen conditions arise related to the Scope of Services.

By signature of this Agreement the Owner acknowledges that the Project Manual is the Work Product of the Architect and cannot be used by the Owner without written agreement by the Architect; provided, however, Owner shall have a license to utilize the Project Manual for the subject Project, subject to payment of Architect’s entire fee as set forth herein.

P+B will oversee construction of the various scopes set forth in the Project Manual as set forth in Exhibit A. Not included within P+B’s fee is any third-party consulting work (other than structural) needed by P+B to perform its scope of work. And such consulting services would have to be authorized by the Board in writing. It is not anticipated that these types of services will be required.

P+B will provide photographic narrative reports on a bi-weekly (twice a month) basis for dissemination to the owners

Architect will obtain from the selected contractor and forward to Association the following information received from the contractor:

- a. Affidavits, receipts, releases and waivers of liens and bonds indemnifying Association against liens, as applicable;
- b. Any other documentation required of the contractor under the contract documents including warranties, maintenance manuals and similar materials.

Bidding

P+B will pre-qualify up to four (4) contractors for the restoration. P+B shall prepare all necessary bid documents and shall facilitate and attend a bid opening. P+B shall evaluate the bids and make a recommendation to the Board for award.

Inspection of Project

For the projects, P+B will provide on-site inspections to further confirm that the work is being carried out as defined in the Project Manuals. P+B shall inspect the work at least four (4) days of

each week that work is being performed.

Code. Architect shall review all local, state and federal code requirements and compare the existing building conditions to the current code requirements to determine that the work performed by the selected contractor in relation to the Project Manual provided by Architect is in compliance with such codes.

Access to Property and Documentation. Association shall provide access to the property, buildings and personnel necessary for Architect to complete the services required under this Agreement. Association shall provide Architect the data and documentation necessary for Architect's performance of its obligations under this Agreement. Such data and documentation may include, record drawings, shop drawings, operation and maintenance manuals, master plans, operations costs and budgets, building automation systems, maintenance records, etc. Association shall only have an obligation to produce such data and documentation which is in its possession.

Additional Costs. Additional services which are outside the scope set forth above, shall be performed only upon written approval by the Association. Costs for such additional services shall be billed by Architect as follows:

- a. Architect - \$150.00/hour
- b. Engineer - \$125.00/hour
- c. Architect Staff - \$95.00/hour

Laboratory testing. Should Architect determine that laboratory testing is necessary to analyze any problems with this project, Architect will seek prior written approval and authorization from the Association before proceeding. Any charges and costs for laboratory testing will be charged separately at actual cost. Association will receive documentation as to the actual cost prior to payment being required.

Standard of Care. The standard of care for all services performed or furnished by Architect under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

II. LIABILITY

- A. P+B hereby agrees to indemnify and hold harmless Association against claims, damages, bodily injury or property damage caused by any negligent act or willful omission, willful misconduct or breach of this Agreement by P+B, its agents, subconsultants, and its employees. Association hereby agrees to indemnify and hold harmless P+B against claims, damages, bodily injury, or property damage caused by any negligent act, breach of this Agreement, or willful act or omission of Association, or its employees, but expressly excluding any condominium owners, guests, tenants, or unaffiliated third parties on the condominium premises.
- B. Pursuant to Florida Statutes Chapter 558: any employee or agent of Pendleton + Bowman, Inc, may not be held individually liable

for negligence.

- C. The total liability in the aggregate of P+B, its consultants, officers, directors, employees, agents and independent professional associates to Association and any one claiming by, through or under Association for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to P+B's services, the project, or this Agreement, or from any cause or causes whatsoever, including but not limited to negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of P+B or consultants, officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the limit of P+B's current professional liability insurance policy (\$1,000,000.00) or the total compensation received by P+B under this agreement, whichever is greater. P+B's current policy limits are \$1,000,000.00. P+B agrees to maintain professional liability insurance coverage in the amount of \$1,000,000.00 and General Liability insurance of at least \$1,000,000 during the term of this Agreement and to provide copies of certificates of insurance coverage to Association prior to commencing work. In the event of cancellation of P+B's insurance which is required by this Section, P+B's total liability under this contract will not exceed \$1,000,000.00. The Association shall be added as an additional named insured on all policies referenced in this paragraph. P + B represents and warrants that APEX Engineering Group, P.A. and Nautilus Civil Technologies, Inc. each possess professional liability and General Liability insurance in their own names, which policies meet or exceed the minimum policy limit requirements of this paragraph.
- D. In the event of any litigation arising from or related to this Agreement or the services provided under this agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, reasonable attorney's fees and all other related expenses in such litigation, including such costs on appeal.

III. MISCELLANEOUS

- A. Association and P+B bind themselves, their agents, successors, assigns and new representatives to this Agreement.
- B. This contract is governed by the laws of the State of Florida.
- C. In any dispute regarding this contract, venue shall lie exclusively in a court of competent jurisdiction in Bay County, Florida.
- D. This Agreement and any attachments hereto, which are explicitly referenced in the Agreement, constitute the entire contract and understanding between the parties and no statements, promises, or inducements made by any party hereto which is not contained herein shall be binding or valid.
- E. This Agreement may not be modified in any way, except in writing signed by all parties.

- F. This Agreement may not be assigned by either party without the express written permission of the other party.
- G. By signing this Contract, P+B hereby certifies that this agreement is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation other than the parties to this Agreement; and, that no person acting for, or employed by, the Association has a monetary or non-monetary interest in, or is concerned with, this Contract other than as specifically stated herein; and, that no person or persons, firm or corporation, other than the undersigned, have or are interested in this Agreement.
- H. Architect warrants and represents that it is familiar with the physical characteristics of the project site and has familiarized itself with the existing conditions at such site and the character of operations to be carried out and that it fully understands the facilities, difficulties, and restrictions attendant to the execution of the Scope of Services. Architect further acknowledges that it is familiar with the requirements of the various governmental agencies, departments, and bureaus having jurisdiction.
- I. In the event of any conflict between this Agreement and the attached Proposal, this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date set forth above.

Pendleton + Bowman, Inc.

P.O. Box 4877
 Santa Rosa Beach, FL 32459

Signature: *VBowman* Printed Name: Victor Bowman

Title: Project Manager

Aquavista of Panama City Beach Owners Association, Inc.

17155 Front Beach Drive
 Panama City Beach, FL 32550

Signature: *Lou Christian* Printed Name Lou CHRISTIAN

Title: PRESIDENT

Pendleton + Bowman, Inc.
CONDOMINIUM RESTORATION SERVICES

29 November 202/Revised 27 December 2021

MEMO EXHIBIT A

TO: **Aquavista of Panama City Beach Owners Association, Inc.**

Lou Christian, President
Jim Boone, Vice President
Steve Nesman, Secretary
Thomas Hildebrandt, Treasurer
William Hardacre, Director

% Carol Scicchitano, CAM

Subject: Proposal for Professional Services: Concrete Repairs, Sliding Glass Doors and Windows Replacement, Deck and Building Waterproofing, and Replacement of Sealants.

Please accept this as our proposal to provide professional services to prepare a Project Manual for the design and construction details including bid documents and specifications and for the construction supervision for the subject scope of services.

This was developed after completing the building survey attached to this document for your review. We were pleased to know that you have replaced your roof and have applied waterproof deck coating to the balconies. This waterproof coating has provided important protection for concrete balcony slabs. As you will see later in this proposal are recommendations for this type of application on the parking, pool, and walkway decks. Without this application you will soon see additional serious concrete spalling. Please note that this type of spalling occurs exponentially over time. Fortunately, it appears that taking action in the near future will forestall future significant damage.

In addition to the concrete repairs, we are strongly recommending the owners consider replacement of their sliding glass doors (SGDs) and windows, as they are well past their service life and are impossible to repair. Although discussed in the building survey, your single pane glass units are adding excessive expense to your owners, both in the summer and winter in the operation of your mechanical units.

Your condominium documents state that the doors and windows belong to the owners (just as over 95% of condominiums in this area), making their replacement somewhat difficult in the management of how this can be accomplished.

Please know this requirement in your condominium documents is a holdover from years ago before Hurricane Katrina. It was much easier then for owners to simply call a door

manufacturer or supplier and arrange for the replacement of the particular door. This is not the case today. In 2004 the state of Florida adopted testing protocols for any material to be used on the roof, the building façade, and especially on openings such as doors and windows. Thus, every product to be used on the exterior of the building must have test data that proves the product can withstand a given amount of wind pressure and water resistance without compromising the interior of the building.

These tests can be easily looked up on the Florida Building Code Online website. A manufacturer may have a number of windows and doors listed that show the maximum wind pressure a particular unit can withstand if installed as shown in the details of the installation requirements. This includes the type of fasteners to be used given the various wall materials and each with its own center spacing dimension around the perimeter of the window and door.

This makes installation by an owner extremely difficult, given that the replacement of even a single door requires a building permit and must be installed by a certified general contractor who has the knowledge to install a door and provide the correct waterproofing sealant necessary to seal the door.

As stated, these requirements increase the cost for a single installation of the door extremely costly and without proper oversight can lead to significant water intrusion.

Hence, these are the reasons to be used in discussion with your owners. We think you will find that after the cost in these issues is known, it will make it much easier for owners to agree to their replacement.

Please know that many Boards have faced this issue. Some have used provisions in the documents to say that the replacement is an emergency declaration. Others carry on with a vote of the membership. Both of these could be employed by the Board. Of course, you would have to discuss this with your attorney to see what other possibilities may exist.

In any case the first question that your owners will ask is: How much will it cost to replace my doors and windows? Without this cost it creates an uncertainty leading to a never-ending discussion with poor results.

To resolve this issue, we recommend that the Price Proposal Form that will be part of the restoration Project Manual will include the replacement of the sliding glass doors and windows as an add-on option in the bidding process. In addition, it will identify not only the total cost for the doors and windows including installation, but it will also provide the cost for each individual type of unit since you have different numbers of doors and windows in each unit.

Lastly, there will be another cost as part of the bid form for those window and door glass units that are responsibility of the Association. If all doors and windows in the building are replaced, the wind mitigation forms especially with the new roof can be provided to

your insurance company which most likely will reduce your wind insurance costs up to twenty percent.

By providing this information, it will be much easier for the Board to have detailed discussions with your owners to justify the multiple reasons for replacing the doors and windows at one time, which of course is also a significant savings for all, given the economy of scale.

Even if this work is not undertaken, at least the Board will have the information to build the cost into your reserve study to be undertaken for a future date.

A note about the scheduling date for this project: We understand that CRA is undertaking the complete restoration of Front Beach Road, which is not scheduled to be completed until late summer of 2022. In addition, we also understand that the beach nourishment restoration will start in the near future and probably go on well into 2022. This obviously will create significant pressure in providing a quality environment for future renters of your units.

Due to these projects ongoing throughout 2022, we encourage the Board and the unit owners to consider undertaking this project throughout the spring and summer of this coming year, since rentals may be modest requiring discounts and access to the road and beach will be limited.

Also, there is possible significant savings in construction cost; contractors are always looking to maintain their staff since summer work is usually not available with most condominiums having heavy rentals in the summer and do not wish to undertake construction. Given that third parties are interfering with your rental opportunity, taking advantage of cost savings would help offset the loss of rentals.

Hopefully your unit owners will take the long vision of the much-needed restoration of your building. If all the work we are recommending is to be undertaken, your building will be in some cases much better than the original construction.

Turning to how we undertake our projects:

Many of our projects require a structural engineer. This is extremely important for your project given the complexity of the concrete repairs. Apex Engineering will fulfill this roll as part of our team and their cost is included as part of our fee.

As a brief outline, the following are some specific services that will take place as part of our investigation to develop the structural criteria and installation details for doors and windows if they are to be removed:

Our first task is for our structural engineer to develop the negative and positive wind load pressures for every door and window in the building. This information will be displayed over each window on the elevations of each building. These elevations will be included in the Project Manual.

Our specifications of doors and windows will include several manufacturers whom we feel will provide the owners a long-term quality product. This would include minimum standards not only for water and wind resistance, but also a high condensation resistance factor, and a quality aluminum paint finish/vinyl composition material, and with a long-term glass warranty. Once bids are received, we will have detailed discussions with the Board as to each manufacturer for consideration of their quality as compared to their cost.

Our on-site survey of the structure has given us a head start in determining quantities of work for each item to include within the Price Proposal Form which will consist of approximately 30 to 40 items to be priced by the contractor. An example would be the determination of square footages for concrete and/or stucco repairs such as the linear footage of crack repairs that will be included within that cost item. These quantities will establish a bid base price for each item. During the construction process our team will keep track of the amount repaired.

Throughout the activities above we will be developing the specification sections of the Project Manual. This includes the general conditions of the Contract and detailed specifications for the means and methods for each item. And as important today, is the section which defines the requirements for Temporary Facilities and Virus Controls.

After approval of the Project Manual by the Board, it will be issued to our prequalified contractors who specialize in this type of work.

During construction, P+B will observe construction to the extent required to ensure that the construction is proceeding in a manner to meet the requirements of the Contract Documents. Due to the scope of the project, we plan to be on site at least 4 to 5 days a week.

If it is decided to undertake the restoration of the buildings and replacement of the doors and windows this coming spring and summer, we suggest that the award of the contract for construction be as early in 2022 as possible. We took the liberty of discussing delivery times from one door and window manufacturer if they received an order in late February; if so, doors and windows could be delivered by late May. Before this delivery, other work could start in March, given the significant amount of concrete repair and slab waterproofing.

As the construction progresses, our team members will ride the swing stages throughout construction. As each window is installed, we will inspect the setting beds of sealants, the installation of fasteners, and their locations to insure they meet both the tested Product Approval installation requirements for the doors and windows and our installation and structural details.

Please know that we realize that the scope of this project will require a great deal of time in the field for our personnel. Each day will present different problems and will require immediate analysis and resolution to not delay the contractor.

Our services will include:

- Development of Project Manual to include:
 - General Conditions of the Contract.
 - Specifications for Construction.
 - Bid Proposal Form (Schedule of Values).
 - Invitation to Bid.
- Contract form.
- Pre-qualification of Contractors.
- Overseeing of the bidding process.
- Receipt and analysis of bids.
- Recommendation for award to Board.
- Development of Contract for Construction.
- Observation in field through-out construction.
- Bi-weekly photos and reports for posting to your website, providing owners with progress of the work.
- Review of Contractor's monthly pay request.
- Issue of Change Orders as required.
- Development of Punch List.
- Issue of Substantial Completion.

Also included in our fee:

- Meeting and coordination with Aquavista's vendors and third-party contractors to aid in assistance in coordinating their work during/before the restoration construction in the Fall of 2022.
- Meetings with Board of Directors throughout the project.
- Briefings for the Owners during the annual meeting.

Fee:

Our fee includes structural engineering and all reimbursable costs of local travel, telephone, and printing and reproduction. There should be no additional fee unless there is a significant change in the scope of work.

Our proposed fee with the replacement of sliding glass doors and windows, concrete repairs, and for the waterproofing and sealing is a lump sum of \$225,000.00. If this scope of work does not include the sliding glass doors and windows, our proposed fee would be a lump sum of \$125,000.00.

A percentage of the fee will be earned prior to construction. A \$5,000.00 retainer will be due upon signature of our agreement, another \$25,000.00/\$10,000.00 (with/without sliding glass doors and windows), upon issue of the Project Manual, and

\$15,000.00/\$10,000.00 upon signature of the construction contract. The balance of the fee would be prorated over the length of construction plus one month.

With the acceptance of this proposal, we will develop a draft contract for our services to be reviewed by your attorney.

Our team would like the chance to discuss any of the subjects above and to answer any questions which board members or owners may have.

Thank you for the opportunity to submit this proposal, and we look forward to working with you.

Sincerely,

Victor S. Bowman AIA NCARB

AR-0010138 Registered Architect
CGC 042225 Certified General Contractor
CCC 057542 Certified Roofing Contractor
Infrared Thermographer

Pendleton + Bowman, Inc. • AA-0002907
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