CITY OF VERO BEACH, FLORIDA
OCTOBER 5, 2010 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

A G E N D A

1. CALL TO ORDER

A. Roll Call
B. Invocation – Pastor Tristen Holer/First Covenant Church
C. Pledge of Allegiance

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption
B. Proclamations

1. Mulligans to present a Check to the City of Vero Beach to help pay for the cost of this years July 4th Fireworks
2. Rita Ziegler, President of the Arts Club, to present a Plaque to the City Manager
3. Certificate of Appreciation Presented to the City of Vero Beach in recognition of their contributions to the 3rd Annual Treasure Coast Waterway Cleanup

C. Public Comment
D. Adoption of Consent Agenda

1. Regular City Council Minutes – September 21, 2010

2. Regular City Council Minutes – September 7, 2010

3. Special Call City Council Minutes – September 21, 2010

4. Humiston Park

5. Interim City Manager Work Agreement

6. Blue Cross Blue Shield Administrative Services Agreement

7. Administrative Services Agreement – Early Retiree Reinsurance Program

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

3. PUBLIC HEARINGS

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

A) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to participate in a Parking/Access Improvements Project at Building #78 (FDOT #429255-1-94-01).

B) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to Construct an Operations Facility & Hangars (FDOT #420768-1-94-01).

C) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to Rehab Sections of Runway 11R/29L and Taxiway C (FDOT #428512-1-94-01).

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

6. CITY CLERK'S MATTERS

A) Reappointments to Commission/Boards

7. CITY MANAGER'S MATTERS

A) Water and Sewer Service Negotiations with the Town of Indian River Shores

B) City Manager Search

C) Ratification of Coastal Florida Police Benevolent Association Contract

D) Reserve Balances

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

A. Old Business
B. New Business

1. Funding Request from the Tree and Beautification Commission

2. An update of the FEMA audits and the Homeland Security audits which have been conducted with respect to hurricane expenditures and reimbursements – Requested by Councilmember Brian Heady
3. The playing in the public of a video of the 8/12/08 County Commission meeting which I supplied to the City Clerk several months ago. Discussion to follow – Requested by Councilmember Brian Heady
4. An overview of the documents supplied by the City Attorney of the Honest Services requirements under Federal Law and Supreme Court decisions – Requested by Councilmember Brian Heady
5. Update of Federal lawsuit – Requested by Councilmember Brian Heady
6. Interim City Manager – Requested by Councilmember Brian Heady
7. Repeal of restrictions on Councilmembers – Requested by Councilmember Brian Heady
8. Downtown Parking – Requested by Councilmember Brian Heady
9. Advisory Committees – Requested by Councilmember Brian Heady
10. Speed Bumps on City streets – Requested by Councilmember Brian Heady

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters
   1. Correspondence
   2. Committee Reports
   3. Comments

B. Vice Mayor Sabin Abell's Matters
   1. Correspondence
   2. Committee Reports
   3. Comments

C. Councilmember Tom White's Matters
   1. Correspondence
   2. Committee Reports
   3. Comments

D. Councilmember Brian Heady's Matters
   1. Correspondence
   2. Committee Reports
   3. Comments

E. Councilmember Ken Daige's Matters
   1. Correspondence
   2. Committee Reports
   3. Comments

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

CITY OF VERO BEACH, FLORIDA
OCTOBER 5, 2010 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

1. CALL TO ORDER

A. Roll Call

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, present; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Pastor Tristen Holer of the First Covenant Church.

C. Pledge of Allegiance

The audience and the Council joined in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mayor Sawnick made a motion to remove items 9B-3) through 9B-10) off of the agenda because backup material has not been provided. Mr. Abell seconded the motion.

Mr. Heady wanted the record to show that the items being pulled off of the agenda are the items that he added to the agenda and those items are about to be removed.

Mr. Abell felt that it would be appropriate for Mr. Heady, who has been on Council close to eleven months, to provide more information with his items so that they could understand what he wants to talk about. After eleven months, Mr. Heady still refuses to address the issues. He continues to waste time, he doesn't do any research or talk to people to find out what he wants to know. Mr. Abell felt that some of Mr. Heady's items probably would not be taken off of the agenda if he would provide a little more information.

Mayor Sawnick added that the City Clerk would be happy to sit down with Mr. Heady to make sure that the correct information is being presented. He said that it really is not for the Council, but for the public.

Mr. Heady commented that when he used to come to the podium (before he was elected to Council) one of the things that he said was liars, cheats and thieves should not be in

charge of governing agencies. He was pretty clear what he meant by that. He said when you are on the public payroll, if your City staff, you have an obligation to tell the public who pays your salary the truth. He said that Council is on the public payroll and they also have an obligation to tell the public the truth and it would be nice if the Mayor and Vice Mayor would do that. He started with item 9B-3) that the Mayor wished to pull off the agenda.

Mayor Sawnick told Mr. Heady that they were not going to talk about each individual item.

Mr. Heady told the Mayor that if he is going to make statements that he (Mr. Heady) didn't provide documents then he feels that he has the right to counter that when the Mayor is just lying to the public. The Mayor needs to tell the public the truth. He (Mayor Sawnick) consistently lies to the public and he (Mr. Heady) thinks that is outrageous.

Mr. White called the question. Mayor White seconded it. The motion passed 4-1 with Mr. Heady voting no.

Mayor Sawnick reminded Council that there was a motion and second to remove items 9B-3) through 9B-10) off of the agenda. The motion passed 4-1 with Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed 4-1 with Mr. Heady voting no.

B. Proclamations

1. Mulligans to present a Check to the City of Vero Beach to help pay for the cost of this years July 4th Fireworks

Mrs. Anjie Schepers, Representative from Mulligans, informed the Council that Mulligans would be making a donation of $10,000 to be used towards the July 4th fireworks.

2. Rita Ziegler, President of the Arts Club, to present a Plaque to the City Manager

There were three members from the Vero Beach Art Club at today's meeting to recognize Mr. Gabbard for his support of the Art Club over the years. They presented him with a plaque.

3. Certificate of Appreciation Presented to the City of Vero Beach in recognition of their contributions to the 3rd Annual Treasure Coast Waterway Cleanup

Mayor Sawnick presented a Certificate of Appreciation to Mr. Tim Grabenbauer, Marina Director, recognizing his contributions towards the annual Treasure Coast Waterway Cleanup.

3. Plaque given to Jim Gabbard, City Manager

The City Council presented Mr. Gabbard with a plaque for the years of service that he has served as the City Manager.

C. Public Comment

Mrs. Honey Minuse, 27 Starfish Drive, realized that today was Mr. Gabbard's last meeting. She could not let this occasion pass without a public acknowledgement for everything that he has done for this City. She thanked Mr. Gabbard and wished him health and happiness in the future.

Mr. Robert Walsh, Vero Beach, wanted to speak on public dialogue. He asked is there anyone who thinks that this Council is not required to follow the rules and laws founded by Jefferson for Boards and Councils. He asked is there anyone who thinks that this Council is not following them. He said that it has been his past experience in speaking with the Council is like spitting in the wind and therefore he is turning to the public. He asked the public if they knew that they have been cheated of their rights to be included in the Councils' decisions for years. He said that Council does not want to bother dealing with the rules or with the public. He said the City Council fears public dialogue. If a meeting gets too long they hold a special meeting. First rule says constraints like three minutes must have their consent. The Board is to carry out will of govern as determined by them (them is you out there watching us right now). Honest representation requires talking to the govern something some members of this City Council don't do and don't get.

Mr. Joseph Guffanti, 441 Holly Road, said what Council just did to Mr. Heady's items and denying him of those items, they also denied him and all the people who voted for him to represent them. What they did was completely destroy the concept of democracy here. Anytime Mr. Heady wants to get some information to let the public know what is going on they act as little children in trying to keep the information from the public. What Mr. Walsh just stated was very true, but they can disregard it because after November it won't be necessary to think along those lines. He recalled Mr. Gabbard beaming when he told the public and the City Council that the price of natural gas had been locked in. Mr. Gabbard appeared to be proud of the contract that the power suppliers got involved with. But, as it turns out they got locked into a price that is three times what the price of natural gas dropped to. This ended up costing the taxpayers hundreds of thousands of dollars. He did not think Mr. Gabbard would be missed too much by the people who are paying those high power bills.

Mr. Gabbard said the issue that Mr. Guffanti was discussing was the hedging that was done by FMPA and it had nothing to do with his office or any Councilmember.

Mr. Stuart Kennedy, Chairman of the Taxpayer's Association Task Force, personally thanked Mr. Gabbard for his contributions towards the City. He wanted to speak briefly about the water and sewer negotiations. There was considerable discussion at their last meeting and there was concern that any immediate contact with Indian River Shores might be seen as agreeing in principle with the draft agreement. The minutes of that meeting showed a motion passed unanimously not do anything until it went before Finance and Utilities Commission. However, during the joint Finance/Utilities Commission meeting held yesterday, he heard that contact was made with Indian River Shores to make changes to the wording of the draft agreement to satisfy both parties. This seemed to be in conflict with the motion passed by Council. There were also comments made by the Commission members that extra wording should be included in the agreement to ensure that if there were any consideration of consolidation that this agreement should not disrupt that possibility. He hoped that this would be included in the agreement. He said that this whole issue gives him an uneasy feeling. He asked why were they being rushed and for what reason. He asked does it have to do with the fact that they are about to have an election and some people want a decision made before that happens. He expressed that Indian River Shores has until October, 2011 to make a decision. They don't know what Indian River Shores is going to decide and there is no data showing what the implications would be if they choose to go with the County. He asked what it would do to their rates. He said that they were told during yesterday's meeting that if the City was to lose the contract with Indian River Shores, the City might have to put two million gallons of treated wastewater down the Deep Injection Well each day until they find new customers. They were told that if the agreement moves forward, the City would not be able to charge impact fees for any development in Indian River Shores. He asked is this something that City taxpayers should feel comfortable with. They were also told during yesterday's meeting that if Indian River Shores goes along with this agreement, at the end of 99 years the City would give back all the facilities to Indian River Shores at no cost. He asked as Councilmembers, were they comfortable that they have been provided with all the financial implications for the City to continue working with Indian River Shores through this agreement or if they choose to go with the County. He hoped that they were not seeing an example of job protection and that they are working on doing what is right for the citizens. He said that the City Council is here to represent the people, whether they are voters or those who are required and have no option but to use City services. He found this entire matter confusing. He was not sure that Council has been given all the data to make a decision. He was perturbed that the public was not given full awareness of the meeting. He said that the City's website did not have any mention of yesterday's meeting or of today's meeting. He discovered this morning that this information was on the website, but it was in a different area. He asked what is the format for putting information on the website so that the public is aware of what is going on in the City.

Mrs. Tammy Vock, City Clerk, explained that the City was in the process of changing their Webmaster. She noted that they would be going back to the way they have been doing the website beginning tomorrow.

Mr. Heady thanked Mrs. Vock for answering the public's questions during the time when the question was posed. He said it is more meaningful to respond to the public when they have questions rather than waiting until the end of public comments and try to go back and remember what was said. This is a much more appropriate way to deal with the public.

D. Adoption of Consent Agenda

Mr. Daige pulled item 2B-5) off of the consent agenda.

Mr. Heady pulled items 2B-1), 2), 3), 5), 6), and 7), off of the consent agenda.

Mr. White made a motion to approve item 2B-4). Mayor Sawnick seconded the motion and it passed unanimously.

1. Regular City Council Minutes – September 21, 2010

Mr. Heady referred to page two, next to the last paragraph. He said that he made the comment to Mr. Vitunac that if he wanted to pull the item off of the agenda to go ahead. They (Council) pulled off most of the other items that he put on the agenda so they might as well add that item also. He certainly did not tell them to pull his items off of the agenda. It was more of a question then anything else. Then on page five, Mr. Solari spoke and there was some dialogue that took place that he feels should be in the minutes. After Mr. Roman spoke there was some dialogue involving the Mayor, Vice Mayor and himself that needs to be added. He said that the Vice Mayor asked that the kids be removed from the meeting.

Mr. Abell interjected and stated that was incorrect.

Mr. Heady continued by saying that he felt that was offensive and the dialogue as recorded should be included in the minutes.

Mr. Heady continued making corrections to the minutes and went to page six, second to the last paragraph, and said that there was some dialogue between the City Manager and the Councilmember from Indian River Shores that needs to be added. On page 19, he said when commas are inserted that the meaning is changed. The meaning in the fifth paragraph, when he said "He would argue that if they send the Town a proposal and don't sign it, when they receive it back they will probably be in some legal trouble." Mr. Heady said that there needs to be some rearrangements of commas. What he said at the meeting was that you can make a legal argument that if they send something to Indian River Shores and they send it back signed that is a done deal. He said that this sentence needs to be corrected to indicate what he said.

Mr. Heady suggested postponing the approval of these minutes giving the Clerk time to make these changes and then bring them back at the next meeting.

Mr. Daige went back to Mr. Abell's comments on removing the children from the Chambers. He said that was not so and he did not hear Mr. Abell say remove the children from the Chambers. He did not want that in the minutes.

Mr. White asked Mr. Abell to tell them what he said. He recalled that Mr. Abell's microphone was not up to his mouth when he was talking and he did not hear that either. He said that Mr. Heady was talking very loud in his microphone and stated that is what Mr. Abell said. Mr. White recalled that there was some clapping and some talking going on and Mr. Abell was talking about the people who were being a little rowdy, which had nothing to do with the students present for their meeting.

Mr. Abell stated that he made a comment on the side to the Mayor to please bring decorum back in the meeting or throw the people out. He said that the people making the noise were not the students. He said that Mr. Heady, in his usual fashion, interjected what he wanted the people to hear and unfortunately an article was published in 32963 that was completely wrong. He asked Mr. Heady to be more careful about what he interjects at a meeting. As he said earlier today, Mr. Heady has been on Council for eleven months and has made no effort to find out anything in the City. All he does is make comments and try to stir up the "fire." In today's Press Journal, Mr. Russ Lemon addressed an issue that he heard occurred at the Florida League of Cities (FLOC) conference held in Hollywood, Florida. Mayor Sawnick interjected and asked Mr. Abell to stay on the topic that is being discussed. Mr. Abell said that he was trying to stay on the topic of Mr. Heady making incorrect statements, walking around this FLOC meeting saying that there is all kinds of corruption going on in Indian River County. He (Mr. Heady) is absolutely wrong.

Mayor Sawnick requested that the Clerk review this part of the meeting and make the corrections to the minutes.

Mr. Heady had some comments to make on what was just said. He said regardless of the explanations and the spin put on by Mr. Daige, Mr. White and Mr. Abell on what his comments were, the minutes are what they are and are a reflection of what happened. Mr. Abell can say now, as well as Mr. White and Mr. Daige, that was not what he meant, that's fine, and he can put into the minutes of this meeting the statements he just made, but the minutes of a meeting are what you said and not what you meant. The recording of the meeting demonstrates what happened and he wants in the minutes the transcript of what was said. He said it was pretty clear to the public what happened. These objections and the spin that they are hearing now were not made at the time that the instance happened.

Mayor Sawnick said that Mrs. Vock will review this and bring back accurate minutes at their next meeting.

Mr. Daige commented on the issue of "spin." He said that people are hearing this quite a bit now and there just was some spin up here on the dais. The City Clerk is going to go back and review the tape of the meeting and put in what was said at the meeting. He said

that anyone can review the DVD. The corrected minutes will be provided at their next meeting.

2. Regular City Council Minutes – September 7, 2010
3. Special Call City Council Minutes – September 21, 2010

Mr. Heady would meet with Mrs. Vock and give her the corrections that he would like made to the minutes. The corrected minutes will be brought back to Council at their next meeting.

4. Humiston Park

This item was approved under the consent agenda.

5. Interim City Manager Work Agreement

Mr. Daige pulled this item off of the consent agenda. He said that when they selected an Interim City Manager at their last meeting there was no contract indicating that the Interim City Manager would be requesting a raise in salary. He said that there are some demands in the contract that Mr. Monte Falls, new Interim City Manager, would like to have. It was his impression that when Mr. Falls was asked to be the Interim City Manager that he had no problems stepping up to the plate. He has a problem with giving a salary increase to Mr. Falls. His current salary is around $128,000 a year and with this increase they are looking at about an additional $6,000. When Mr. Gabbard was hired as Interim City Manager he took no salary increase and he was a very seasoned public servant and has never taken a salary increase. He felt right now it is bad timing to do any type of salary increases. They are trying to keep the budget down so he is not in favor of any increases. He said that this has nothing to do with Mr. Falls' work ethics. He just thinks that the timing is poor. If Mr. Falls wants to step up to the plate and work for awhile as Interim City Manager then it is doable. However, he will not honor this particular demand that Mr. Falls would like to see met.

Mayor Sawnick agreed with the points that Mr. Daige made. However, he felt that the five percent increase was in line with the additional work that Mr. Falls will be undertaking.

Mr. Heady apologized to Mr. Falls for having to listen to this. He said that Mr. Falls has not made demands, what he has done is offered to help the City and $500 a month to do his current job and to do another $200,000 a year job is not too much to ask for. If he (Mr. Heady) has any objections at all to this package it is some of the inclusions in the job description and the minimum requirements attached to it. He said that Mr. Falls has the education and abilities to add two pages of what is needed to do the job. He said that the vote of the Council was 5-0 at their last meeting to appoint Mr. Falls as Interim City Manager. They have all known Mr. Falls for years and they knew what they were doing when they appointed him.

Mr. Heady made a motion to give Mr. Falls the $500 that he has asked for. Mr. White seconded the motion.

Mr. White commented that he has known Mr. Falls for a long time and he is a dedicated hard working employee and has done an excellent job for the City. He said that the five-percent increase is only temporary until a permanent City Manager is hired and then Mr. Falls can go back to his current position. He did not have any problems with any of Mr. Fall's requests as outlined in the agreement.

Mr. Abell felt that Mr. Falls does a great job. He said it is crucial that they have a person in this position that knows how the City operates. He has no problem with agreeing to the conditions outlined in the agreement.

Mr. Daige agreed that Mr. Falls is a hard worker. He said that as a Council they have asked their City employees to do extra work and double up on their duties. He said that everyone is working very hard. They have cut back on a lot of money that goes into the employees pockets and he will stand by his decision to not approve the five-percent increase. He said that every Councilmember is entitled to their thoughts on the matter and he does not think that any of them has a problem with Mr. Falls. He will stick to his guns on this. They have asked all the other employees to make sacrifices, they are doing extra work and that is the reason he is not approving the five-percent increase. He has no problem with Mr. Falls going back to his original position at his original pay and the rest of the items that he has asked for in this agreement. He thanked the Council for their consideration.

Mr. Heady asked Mr. Daige what employees have they asked to double up on their duties.

Mr. Daige said that it is people that they see out in the fields working.

The motion passed 4-1 with Mr. Daige voting no.

6. Blue Cross Blue Shield Administrative Services Agreement

Mr. Heady pulled this item off of the consent agenda. He said that this is an agreement that they are being asked to enter into that is a long term agreement. The agreement is for four years and on page B-2 there is a $100,000 penalty clause and his stance on signing agreements with a penalty clause is pretty clear. He cannot sign anything that gives the taxpayers of this community an exposure to a $100,000 penalty.

Mayor Sawnick made a motion to adopt the Blue Cross Blue Shield Administrative Services Agreement. Mr. White seconded the motion.

Mr. White commented that if they don't sign the agreement then they have to pay an extra $195,000.

Ms. Barbara Morey, Risk Manager, explained that if they don't approve the agreement then their rates would go up considerably.

Mr. Abell added that what he read in the agreement is that there is an opportunity to see a drop in the rates and the drop would add a savings of $180,000 and if they don't sign the agreement then the rates would cost them an additional $195,000.

Mr. Heady commented that Blue Cross Blue Shield was not the only organization that provides these types of services. He would agree to the contract without the $100,000 penalty clause.

Ms. Morey explained that they would have a hard time keeping the three plans that they have now if they don't keep Blue Cross Blue Shield.

Mr. Heady suggested sending back the agreement to Blue Cross Blue Shield without the $100,000 penalty clause. He would be surprised if they would come back and say "no thanks." He felt that there was no reason that they could not send this back with that exclusion.

Mr. Daige asked if the statements just made by Mr. Heady were accurate.

Ms. Morey explained that the penalty clause would come in if they decided to break their contract with Blue Cross Blue Shield, which is a four-year contract. She said that if they don't break the contract then they reap the awards of having $180,000 less fees then they would if they broke the contract.

Mr. Heady brought up the health clinic that was discussed some time back, as well as other ways that were discussed to cut back costs. He said if some other company came to them offering a good plan at a lower cost then what they have now they could not take advantage of it because of this penalty clause. He again said send the agreement back to Blue Cross Blue Shield without the penalty clause. He did not have any problems agreeing to this contract if it did not include the penalty clause.

Ms. Morey understood Mr. Heady's concerns. However, with the employers that are in this community Blue Cross Blue Shield is their best option. She said as time goes by there may be another network that offers better rates and services then Blue Cross Blue Shield. However, at this point in time Blue Cross Blue Shield is their best option.

Mr. Heady made it clear that he was not suggesting that they leave Blue Cross Blue Shield. The only thing that he was suggesting was that this be sent back eliminating the penalty clause.

The motion to approve the agreement passed 4-1 with Mr. Heady voting no.

Mr. Abell asked Ms. Morey what was the total value of the contract over four years.

Ms. Morey thought that there would be a $326,000 increase if this is not accepted. She thought that the total value of the contract was around six-million dollars.

7. Administrative Services Agreement – Early Retiree Reinsurance Program

Mr. Heady pulled this item off of the consent agenda. He asked how many retirees were on this plan.

Ms. Morey said that there is approximately 200 retires and she would say that half of those people are under 65 years old.

Mr. Heady said that there are 200 retirees on the plan right now. He then asked what is the total cost in approving this.

Ms. Morey stated that the total cost to the City is zero.

Mayor Sawnick made a motion to approve the Administrative Services Agreement – Early Retiree Reinsurance Program. Mr. Daige seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

None

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

A) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to participate in a Parking/Access Improvements Project at Building #78 (FDOT #429255-1-94-01).

Mayor Sawnick read the Resolution by title only.

Mr. White asked the Airport Director to explain to them where the building is located.

Mr. Eric Menger, Airport Director, showed some aerials on the doc cam (on file in the Clerk's office). He said that originally this was a World War II building. It has since been renovated. The roof was redone using FEMA funds. What is lacking on this particular site is decent parking. He said that it brings in about $41,000 in revenue every year. The Resolution asks to approve a grant to pay for half of the proposed project. He then showed what improvements would be done. He said that the tenants of this building have been asking for additional parking spaces for years. A budget amendment is also requested to fund this project at $200,000. He said that staff recommends approval.

Mr. Daige asked Mr. Menger what is the length that the tenants have been there.

Mr. Menger was not sure. He said that it has been for many years, but would get the exact number of years for Mr. Daige.

Mr. Heady asked Mr. Menger if it would be possible to include in the design the areas of parking that would allow drainage.

Mr. Menger answered yes. He said that during the design phase he will bring that up to see if it is feasible.

Mayor Sawnick made a motion to approve the Resolution and acceptance of the Joint Participation Agreement. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

B) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to Construct an Operations Facility & Hangars (FDOT #420768-1-94-01).

Mayor Sawnick read the Resolution by title only.

Mr. Menger mentioned that with this project it has been difficult to get all the funding together. He showed on the aerial where the property is located (on file in the Clerk's office). He then showed what this project will entail. He said that this project was initially approved in FY 2008. After the hurricanes three hangars at Airport North were destroyed and rather than replacing the hangars they chose to lease the property to a private party for redevelopment. FEMA approved the City's request to construct the alternate project in 2005 and the budget was approved in 2007, but FDOT funds were not available until recently.

Mr. White asked what will be put in the building.

Mr. Menger said that it would be used as a storage facility.

Mr. White asked if the request has gone before the Airport Commission.

Mr. Menger answered yes, during the budget review in 2008.

Mr. White wondered if Mr. Menger could take it before the Airport Commission for their review.

Mr. Menger explained that could be done, but he asked that the Resolution be approved because of the grant money and the time constraints that they are under.

Mr. Daige made it clear that the maintenance equipment used at the Airport will be stored in the facility.

Mayor Sawnick made a motion to approve the Resolution and acceptance of the Joint Participation Agreement. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

Mr. Heady asked that once they get finished with item 4-C), could they move up item 9B-1) so that Mr. Zimmermann's matter could be discussed. Council had no problem with this request.

C) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation, to Rehab Sections of Runway 11R/29L and Taxiway C (FDOT #428512-1-94-01).

Mayor Sawnick read the Resolution by title only.

Mr. Menger explained that this was a housekeeping measure to bring the FDOT funding in line with the newly accepted funding from FAA. He said that there was no change to the total project amount or the Dickerson bid amount as approved by City Council. He would recommend approval.

Mayor Sawnick made a motion to approve the Resolution. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

At this time item 9B-1) Funding request from the Tree and Beautification Commission was heard.

Mr. Karl Zimmermann, Chairman of the Tree and Beautification Commission, requested permission from the Council to expend funds from the Tree and Beautification account in the amount of up to $350.00 to purchase additional Hibiscus Plants. He explained that a prior request for funds was approved by Council at their June 15th meeting; however the original request was underestimated on the amount of plants and material that would be needed for the project.

Mr. Daige made a motion to approve the request as requested by the Tree and Beautification Commission. Mr. White seconded the motion and it passed unanimously.

Mr. Zimmermann offered his congratulations to Mr. Gabbard and wished him well in his retirement. He also wanted to announce when the next public forum for candidates would be taking place. He was told by the Mayor that announcement was not appropriate at a Council meeting.

Mr. White recalled that after reading the Tree and Beautification Commission minutes, he noticed that there was some discussion about a mission statement. He said if it would

help the Commission that Council could meet with him (Mr. Zimmermann) or his Commission to try and come up with some guidelines.

Mr. Zimmermann stated that any clarification would be helpful.

Council took a five-minute break at 10:58 a.m.

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

None

6. CITY CLERK'S MATTERS

A) Reappointments to Commission/Boards

Airport Commission

Mr. Peter Coxhead, Mr. Sid Greer, and Dr. James Stewart's terms on the Airport Commission expire on October 15, 2010. All members wish to be reappointed to the Airport Commission.

Mr. Daige suggested that in the future they look at adding two more members to the Commission who live in surrounding neighborhoods. He will bring something to Council in the future.

Mr. White made a motion to reappoint Mr. Coxhead, Mr. Greer, and Dr. Stewart to the Airport Commission. Mr. Abell seconded the motion and it passed unanimously.

Board of Adjustment

Mr. Dennis O'Brien, Mr. Steve Smith, Mrs. Nancy Cook, Mr. Al Turner and Mr. Nathan Goldsmith's terms on the Board of Adjustment expire on November 15, 2010. All members wish to be reappointed.

Mr. White made a motion to reappoint Mr. O'Brien, Mr. Smith, Mrs. Cook, Mr. Turner and Mr. Goldsmith to the Board of Adjustment. Mr. Abell seconded the motion and it passed unanimously.

Planning and Zoning Board

Mr. Charles Vogt, Mr. Ed Llerena, and Mr. Kevin Doty's terms on the Planning and Zoning Board expire on November 15, 2010.

Mr. White commented on the meetings that both Mr. Llerena and Mr. Doty have missed.

Mr. Heady suggested moving the two alternate members up on the Board and having Mr. Llerena and Mr. Doty serve as alternate members if they are having trouble attending all of the meetings.

Mrs. Vock said that she would relay to the members the importance that Council wishes that the members attend as many meetings as they are able to.

Mr. White made a motion to reappoint Mr. Vogt, Mr. Llerena, and Mr. Doty to the Planning and Zoning Board. Mr. Daige seconded the motion and it passed unanimously.

Marine Commission

There are two openings on the Marine Commission. There is an opening for a full member and an opening for an alternate member.

Mr. White made a motion to appoint Mr. Brian Cunningham to the Marine Commission as a full member. Mayor Sawnick seconded the motion and it passed unanimously.

Mr. Abell made a motion to appoint Mr. Daniel A. Thomas as an alternate member to the Marine Commission. Mr. White seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) Water and Sewer Service Negotiations with the Town of Indian River Shores

Mr. Rob Bolton, Water and Sewer Director, reported that the City received the water and sewer agreement from the Town of Indian River Shores with a deadline of October 8th. He said that there have been some statements as to why they were in a rush. He explained that this process began one year ago and it was not a rush. He said that he reviewed the agreement, the firm of Gray Robinson reviewed it, and the City Attorney reviewed it. He reported that there was a joint Finance Commission/Utilities Commission held yesterday regarding the agreement, which there was a lot of discussion and questions asked. Mr. Bolton said there is a question regarding the impact fees. He explained that the existing Indian River Shores customers cannot be charged impact fees because they have already paid the impact fees. There also was a question of why would Indian River Shores get the utilities back after the 90 year lease. If they look at the appraisal of the utilities, there service life is 75 years. Therefore, at the end of the 90 years there is a zero value on those lines. Anything that the City replaces would become the City's assets. He reported that the Finance Commission and the Utilities Commission voted in favor of the agreement, with one exception, which was that they wanted to add some language and Mr. Vitunac came up with the language to include in the agreement.

Mr. Vitunac said that they would like to add the following sentence to the agreement, "Vero Beach reserves the right to sell all or part of its utility system to another qualified utility provider, provided that the buyer assumes all the obligations of the City of Vero Beach to the Town of Indian River Shores under this franchise agreement." He felt that

this would keep the options open if they wanted to enter into discussions with the County or someone else regarding selling the City's system.

Mayor Sawnick said there are a lot of people who are stating that the City is pushing this through too quickly. He asked Mr. Bolton to discuss the time frame of what is actually happening.

Mr. Bolton reported that he attended an Indian River Shores meeting and they would still like a response from the City by October 8, 2010. He noted that the response could be that the City conceptually agrees on the terms of the contract and includes comments from the City for Indian River Shores to review. Sometime after October 19, 2010, Indian River Shores would hold a Special Call meeting to discuss the City's response and the County's response. He noted that by the City Council voting on this today, they would not be voting on the agreement. What he would like is to have a letter sent to Indian River Shores from the Mayor stating that the City Council voted on the concept of the agreement and to request that they advice the City on the next steps.

Mayor Sawnick said that this could be going back and forth multiple times.

Mr. Bolton said that was correct. He said that each time he would present it to Council because he did not want to be criticized that this was being done by staff.

Mayor Sawnick asked Mr. Bolton if he was confident that nothing would be done within the next month.

Mr. Bolton said that Indian River Shores would not be meeting until the end of the month and they would have to respond back to the City. He did not see the City taking any further action until after the City Council election.

Mr. Daige asked how is Indian River Shores assessed for drinking water used for irrigation now and in the future with this possible agreement.

Mr. Bolton explained that Indian River Shores currently receives drinking water, sewer service and reclaimed water. The City also sells bulk reclaimed water to John's Island Water Management, who has their own irrigation system for all of John's Island. Outside John's Island on the north, receives potable water, sewer service and most of their irrigation is through potable water. When they look at conservation, they fall under the St. John's Water Management District for the north part. John's Island still has conservation issues because they are a regulated utility. The City deals with the north end, the center of the Town is dealt with by John's Island and the south end is not regulated.

Mr. Daige said when the City sends Indian River Shores treated water for irrigation, the City is guaranteeing two million gallons each day.

Mr. Bolton said that was correct.

Mr. Daige said that is the treated water. It is not supplemented with fresh water, where the rest of the City's customers would be penalized where their bills would increase.

Mr. Bolton said any supplementation the City does, they do as a whole. He said there are a lot of people who are seasonal and there is a large wastewater flow that the City has to treat and provide as reclaimed water. However, the drought occurs when the seasonal customers go back up north and therefore they are not generating any water. Those periods of the drought is where the City supplements and pump treated water into the tank and that cost is metered and charged against the reclaimed water system. All the reclaimed water customers pay for that supplementation.

Mr. Daige asked if he was correct that Mr. Bolton went over the appraised values of the assets that the City owns that is in the backup material.

Mr. Bolton answered yes. He said that it is in the agreement provided.

Mr. Daige did not have a problem with moving forward with the concept and language suggested by the City Attorney.

Mr. Abell made a motion that they move forward and that there be a letter created by the Mayor to indicate what the process is with the amendment of the new language included. Mr. White seconded the motion.

Mr. White said that they were not rushing through this. He felt that it was important that the City does respond because there is a deadline of October 8th.

Mr. Heady said that he attended the Joint Utilities/Finance Commission meeting that was held yesterday. He said that Mr. White stated there were statements made that he (Mr. White) could not believe. He asked Mr. White to identify the statements that were incorrect.

Mr. White said that he was not going debate with Mr. Heady. He said there were some comments made from the public that surprised him. He noted that the City does advertise their meetings and they were not rushing through this. What the City is doing here is trying to have a contract with Indian River Shores, who are balancing between the City and the County. He said that Mr. Everett did an excellent job chairing yesterday's meeting. He said that they have never left the public out. When someone wants to speak, usually Council allows them to speak. He noted that the Council does a lot of studying and tries to make sure that everything is done correctly and in the best interest for the City residents and ratepayers. He appreciated the time that Mr. Bolton has put into this. He felt that they were moving forward in the correct way.

Mr. Heady said this was the opportunity where Councilmembers get to debate an issue that is before them and Mr. White made the comment that he is not going to debate him on this.

Mr. White said that he would not debate on the comments made during the Joint Utilities/ Finance Commission meeting that was held yesterday. He said that he would debate the proposed agreement. They are here to look at the agreement, not what was discussed during a meeting that was held yesterday.

Mr. Heady said the meeting yesterday was the Utilities Commission and Finance Commission and they were to look at this and make a recommendation to Council. He said that Mr. White stated that he could not believe what was said.

Mr. White said …

Mr. Heady asked to let him finish.

Mayor Sawnick asked to hang on one second.

Mr. Heady said that he wished Mayor Sawnick would hang on one second and let him finish his statement.

Mayor Sawnick said it might not be what was said, but how it was said. He said that they should always be polite and responsible. If Mr. White does not want to answer any questions, then they need to move on to Mr. Heady's next item for discussion.

Mr. Heady said that Mr. White stated that he couldn't believe what was said and what he (Mr. Heady) wanted to know was whether or not there was anything relevant to this issue that was said so that he would make a decision based on things that pertain to this issue. With respect to that statement on freedom of speech, whether or not those things were accurate or not to him was not important. When Mr. Glenn Heran was at the podium (during yesterday's meeting) and he was giving some facts about this issue and about rates and Mr. Bolton stating that he didn't know what it was, his (Mr. Heady) concern was that they have people in the public that have clearly demonstrated some abilities and when they have done studies, he would think that staff would take the time to meet with those individuals so they do know what those things were. He understood that Mr. White did not think that it is relevant and Mr. Bolton doesn't think that it is relevant, but as one of the decision makers he clearly felt that the rates are relevant to this discussion because they were talking about entering into an agreement with another political subdivision on water and sewer that is going to lock this City into an agreement for 30 years with two 30 year extensions for a total of 90 years. He said that if the City is going to lock themselves into a 90 year agreement then some of these things are relevant. He said that he would give some spread sheets to the City Clerk to have them attached to today's meeting minutes. He said asked Mr. Bolton to explain stranded assets.

Mr. Bolton stated that all the stranded assets were listed in the purchase.

Mr. Heady asked what the bottom line on the total purchase price is that the City buying into.

Mr. Bolton said it is 2.588724 and that is located in the agreement under item C), which states $2,588,724.

Mr. Heady said the agreement calls for a reduction in the rates of 10%.

Mr. Bolton said yes, they would shut off their surcharge.

Mr. Heady said that is a decrease in the income. He asked annually, what is that dollar amount.

Mr. Bolton answered $306,000 for 13 years.

Mr. Heady said that is close to $4,000,000.

Mayor Sawnick said that paying for the purchase of the assets.

Mr. Bolton said that they (Indian River Shores) were financing it at a payment of 10%, which comes out to 13 years.

Mr. Heady said that the City was eliminating that percentage of income for 13 years. He said the elimination of the impact fee does not apply to existing homes or businesses because they have already paid an impact fee.

Mr. Bolton said the elimination "does" apply to the existing customer.

Mr. Heady thanked Mr. Bolton. He did mean to misstate that. He said as an example, if they live on a dirt road and the County or City decides to pave the road, there is going to be an impact fee applied to properties.

Mr. Bolton said there would be an assessment fee, which is different than an impact fee.

Mr. Heady asked if something happens on a particular street where the City had to replace all of the lines, then they would not have to worry about an impact fee because that would be an assessment fee.

Mr. Bolton said in the utility business replacement of assets is done through rates. The City budgets a certain amount of money to replace lines. The City assesses the lines to try to come up with a schedule and they replace the lines according to the schedule.

Mr. Heady said once the City owns the assets and the assets self destruct, the cost of replacement would then be spread over the rates, which includes the City ratepayers.

Mr. Bolton said that it would include all ratepayers.

Mr. Heady asked how much potable water on an annual basis does the City pump into the irrigation.

Mr. Bolton said the City pumps a maximum of 90 million gallons of potable water each year.

Mr. Heady asked in that 90 million gallons, do they (ratepayers) pay for the irrigation water.

Mr. Bolton explained that they (customers) pay the cost of the 90 million gallons through their rate structure. He said that the potable water sales to the reclaimed water system is under utilities as a line item in the budget. Therefore, all the electric cost plus the water and sewer bill is part of the expenditure. He stated that the ratepayer on the reclaimed water system is paying for the supplemented water.

Mr. Heady said that they pay a rate pay for irrigation water that is different than potable water.

Mr. Bolton said that was correct.

Mr. Heady asked if the rate they pay for irrigation water is lower than potable water.

Mr. Bolton answered yes.

Mr. Heady said in order to meet the demand there are times when the City has to pump in potable water into the irrigation water.

Mr. Bolton said that was correct.

Mr. Heady said when the City does this, the rate at that time doesn't change because the City is pumping potable water in and they are paying the irrigation rate.

Mr. Bolton said that was not correct. He that this is an expenditure.

Mr. Heady said there are times in the year where the City does not pump in potable water because there is plenty of reuse water to satisfy the demand. There are other times in the course of a year when in order to meet a demand, they have to pump in potable water. His question was that during those times, the rate doesn't change. The rate is a fixed rate per year.

Mr. Bolton said that was correct.

Mr. Heady said any time they enlarge something or they buy a water sewer district, anytime they change it in terms of customers, size, equipment, etc., they are going to change the asset. He said they are in the situation where they look at the projections for the average user and they look at the rates, by the time they get to the year 2013 they are

considerably higher. One thing that was a concern for the ratepayer is whether or not a consolidation with the County would be beneficial to the City and they are now locking the City into changing the asset. He felt that in consideration of the current mood to look into consolidation that for the City to tie themselves into a 90 year contract, even if it is assignable, it changes. He was not sure if this gives the City better leverage or if it hurts the City. He asked Mr. Bolton to answer that question before he votes on this.

Mr. Bolton said during the CCNAC process, they looked at consolidation. The CCNAC fell apart, but part of their discussions would have been the formation of a Utility Authority and at that point all of the assets would be either purchased by the Utility Authority or there would be different agreements that would take place. The City purchasing the assets doesn't change anything. Now, there would be discussion on two entities, three entities or even a private entity could come in and purchase the assets in the future. The language in the agreement allows for this transfer and whoever would purchase the system would have to pay the City.

Mr. Heady said whoever was looking to purchase this might look at the two point five eight million dollar asset and feel it is only worth one million dollars.

Mr. Bolton said that five years from now the City would have paid down a certain amount and there would be an appraisal done at that point.

Mr. Heady said the point is that a buyer of the City's system or if the City was to get into meaningful negotiations with the County in terms of consolidation, they might look at the value of these assets differently.

Mr. Bolton said it would be fair market value.

Mr. Heady said when they discuss fair market value in the electric for example; there are numbers all over the playing field as to what that might be. He felt that was something arguable. He said that this agreement, at a time when consolidation is a question, this agreement would tie the City into a 90 year agreement. There really is no rush for Indian River Shores. Their franchise agreement with the City is up in the year 2016.

Mr. Bolton explained that the City is only responding to a request made by Indian River Shores.

Mr. Heady said one of the things they should be responding to is the idea of consolidation with the County. His point is that he felt the City is entering into an area where the City is going to somewhat tie their hands and he was not sure if this gives the City better leverage with the County or if it hurts the City's leverage with the County. He said that the City ratepayers are paying more for water than the County residents. He said that it was like the electric issue.

Mr. Bolton disagreed that the City residents were paying more than County residents.

Mr. Heady had information on residential water.

Mr. Daige called for point of order. He asked Mr. Heady to site his source and what report he was reading from.

Mayor Sawnick asked Mr. Heady to please site the source of the information he was reading from.

Mr. Heady said that he was not reading from anything. He said the source was from yesterday's meeting. He said that Mr. Bolton cited a 30,000 gallon number that should be used during yesterday's meeting. He said that there was a 6,000 gallon number given during yesterday's meeting.

Mr. Bolton thought that what happened was that someone said to plug in some numbers, like 15,000 gallons and he (Mr. Bolton) stated that they should use 30,000 gallons. He said the City's water rates are lower than the County's over 6,000 gallons.

Mr. Heady said that is why a meaningful discussion with some of the members of the public is necessary, rather than state that they (staff) don't know about those things. He said the numbers he has seen showed at 6,000 gallons, the City residents are paying more. He said that there is a point which the sewer is no longer charged as part of the water. He said that it is assumed that the extra water is for irrigation.

Mr. Bolton said there are two different customers. Some customers have their own irrigation bill, so they would have two meters. They would have a water and sewer meter and an irrigation meter. He said that the County does not allow irrigation meters. Therefore, the people on the City's system benefits because they are not charged for sewer on the irrigation side.

Mr. Heady said the rates were kind of discounted as being meaningless during yesterday's meeting. He did not think that the rates are meaningless and they should be part of the discussion. He felt that maybe they should have a Special Call meeting for anyone in the public that has something could plug into the debate. He didn't think that they should be making a decision to tie the City into a bigger system until they know whether or not there is going to be meaningful dialogue between the City and the County regarding consolidation.

Mr. Daige said thanked the Utilities and Finance Commission members for their services. He said that the people on these Commissions are very qualified and are all volunteers. He felt that they got slammed during the meeting, but they did their job. He felt that they had the best interest of the City taxpayers and the ratepayers at heart. He said that the people who spoke at the podium were not experts in the field of water and sewer. They were strictly giving their analysis. He said that Mr. Bolton sites his source on how he reaches his figures. He said that Mr. Bolton is very well qualified in his field and he watches out for the City taxpayers and the ratepayers. For comments to come across that the Finance and Utilities Commission members were not concerned with rates and that

they are meaningless, they are very concerned with the rates. He said that this agreement is simply for the City, in concept, to see if the City is agreeable to it or if they want to add things to the agreement. Indian River Shores are good customers for the City and they have asked the City to look into this. They sent this paperwork with a time frame to the City. He felt that it was good business that the City responds. He said that nothing is locked into place. There is not enough time for this current City Council to make a rock hard decision. He said that consolidation is a nice large campaign, but it costs money. He said that consolidation is not free and the City's rates could go up. Anything that is going to be done in the future, they are going to have to look at how it is going to impact the people who are currently on the system. He said that he would like to see what the County has to say. The City is not signing a contract, it is a concept.

The motion passed 4-1 with Mr. Heady voting no.

Mr. Abell said that he received the minutes from yesterday's meeting this morning. He asked Mr. Bolton to address the issues of rates and give some comparisons.

Mr. Bolton said that he would send that information to Council.

B) City Manager Search

Mr. Robert Anderson, Human Resources Director, did a Power Point Presentation entitled "Responses to Request for Proposals to Conduct a Search for City Manager" (attached to original minutes). The City issued the RFP on August 27, 2010 and the proposals were opened on September 9, 2010. There were seven firms that responded to the RFP. The question has been asked why retain a firm to conduct a search. Mr. Anderson felt that was best answered by The Mercer Group when they said that "The purpose for engaging the services of an executive search firm is to seek out and recruit experienced candidates and to assist the City in selecting highly qualified individuals who meet the profile and needs of the City and which might not otherwise apply." Mr. Anderson went over the factors used to evaluate the RFP's which were qualifications of the consultants, experience in conducting searches, similar recruitments previously done by the firm, proposed methodology for conducting the recruitment and selection process, timeline and estimated completion time, proposed fees for services and expenses, specific costs that will not be paid by the proposer, and guarantee of services. Mr. Anderson commented that the proposed methodologies of all the firms were remarkably similar. Some offered more intricate assessment techniques for additional services, but any of the proposed processes would work. On page five and six it listed the ratings of the respondents from the highest ranking to the lowest. His recommendation would be for Council to go with Colin Baeingzer & Associates, who are located in Wellington, Florida. Their fee is $21,500, which includes all expenses and advertising. Council's options would be to select from one of the top four respondents, invite one or more respondents to make a presentation to the Council or look at other options.

Mayor Sawnick mentioned that the School Board has hired a firm to help them in hiring a new School Superintendent and they are only being charged a fee of $6,000 and they are only looking in the State of Florida.

Mr. Anderson clarified that the School Board has contracted with an Executive Director of the School Board Association to do the search. He said that they offer this service to School Boards throughout the State of Florida, but they are not a search firm.

Mr. White asked Mr. Anderson how he came up with his ratings.

Mr. Anderson explained that he used rating sheets and then scored each firm. The higher the number the better.

Mr. Heady asked to see the work sheets where Mr. Anderson tallied this.

Mr. Anderson said that he would provide him with a copy because he did not have the rating sheets with him.

Mayor Sawnick felt that they should go with the top rated firm as suggested by Mr. Anderson and he recommended that they keep their search just in the State of Florida.

Mr. White wanted the company to also be located in Florida.

Mr. Anderson explained by limiting their search just to the State of Florida, it will not save them too much in expenses.

Mr. White also felt in order to keep costs down that they need to look at someone who has experience in the State of Florida.

Mr. Anderson made it clear that these fees do not include the costs of interviewing the applicants (transportation, lodging, etc.). He said that some of the consultants themselves also charge for their travel expenses.

Mr. Daige agreed to keep the search just in the State of Florida. He asked in doing the search, can the expenses be limited.

Mr. Anderson said that you can pay for whatever you want to pay for. He said that the fee for Colin Baeingzer & Associates would be no more than $21,500 because expenses are included in that price.

Mr. Daige made a motion to go with the firm Colin Baeingzer & Associates. Mayor Sawnick seconded the motion.

Mr. Heady still wanted to review the worksheets to see what factors were used to come up with these ratings. Mr. Anderson has those worksheets in his office. He suggested taking a five-minute break to allow Mr. Anderson to go and get the worksheets. He also

commented that the Florida League of Cities sends out postings of different jobs throughout the State of Florida and it is free advertising. They could put out this job opening in the Florida League of Cities listing and see who applies for the job before they spend a lot of money. He noted that Mr. Falls has agreed to do the job until they find someone. He suggested putting off hiring a search firm for a month or month and a half and advertise the open position in the State of Florida.

Mayor Sawnick stated that he was prepared to vote on this item. The information that Mr. Heady would like to review is available.

At this time, Council took a short break so that Mr. Anderson could provide them with the rating sheets that he used.

Mr. Heady asked Mr. Anderson if this was the same consulting firm that recruited him.

Mr. Anderson answered yes.

The motion passed 4-1 with Mr. Heady voting no.

C) Ratification of Coastal Florida Police Benevolent Association Contract

Mr. Anderson reported that the City and the Coastal Florida Police Benevolent Association (PBA) have reached a tentative agreement for the amendment of the provisions of wages and insurance in the current Collective Bargaining Agreement. They will be taking eight furlough days instead of twelve furlough days. He recommended that Council ratify the agreement.

Mr. White made a motion to ratify the agreement. Mayor Sawnick seconded the motion.

Mr. Daige wanted to make it clear that there would be no monies coming out of their reserves to supplement this.

Mr. Gabbard stated that there would not be.

Mr. Daige thanked the Police Department for working hard and making these cuts.

Mr. Heady referred to Section 24.04 (A) of the tentative agreement. He asked what is the cost estimate to that item (All employees who retire under the Vero Beach Municipal Police Officers' Retirement Plan and who are actively drawing an annuity from the Plan and all employees who would have been eligible for an immediate annuity had they been participates in the Retirement Plan at the time of retirement shall be eligible to continue their health care insurance under the City's group plan).

Mr. Anderson did not have the cost estimate on that. However, he told Mr. Heady that he would get that information for him.

Mr. Heady referred to Section 24.04 (B) and asked the same question.

Mr. Anderson explained that this was existing language in the contract.

Mr. Heady's only other question was in Section 32.03, where it states that the furlough days will occur during the months of January, February, May, June, July, August, and September, 2011. He asked why March was not included as one of those months.

Mr. Gabbard said probably because of spring break. He expressed that the Police Officers agreed not to take furlough days during the holidays.

Mr. Anderson added that this was their request.

Mr. Heady still wanted to see the dollar amounts to his questions in Section 24.04 (A) and (B).

The motion passed 4-1 with Mr. Heady voting no.

D) Reserve Balances

Mr. Steve Maillet, Finance Director, handed out a copy of the City of Vero Beach Summary of Investments dated 08/31/10 and City of Vero Beach Summary of Investments and Interest Earnings dated 08/31/10 (both on file in the Clerk's office).

Mr. Daige asked what is their current bond rating.

Mr. Maillet thought it was AA-.

Mr. Maillet said that the funds are where they need to be and he could sit down and show them how he came up with these calculations.

Mr. Heady felt that these summaries would be more meaningful if they could see a statement showing where they are today and where they were a couple of years ago. He said this way they could see what the trend is.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1. Funding Request from the Tree and Beautification Commission

This item was discussed earlier in the meeting.

2. An update of the FEMA audits and the Homeland Security audits which have been conducted with respect to hurricane expenditures and reimbursements – Requested by Councilmember Brian Heady

Mr. Maillet gave an update on the FEMA audits. He said that there are some people from FEMA (both State and Federal) working on closing some old projects. An audit is being done on monies approved by FEMA back in 2004 and 2006.

It was requested from Council that if any further documents came in that they be provided copies.

Items 9B-3) through 9B-10) were removed from the agenda and not heard.

3. The playing in the public of a video of the 8/12/08 County Commission meeting which I supplied to the City Clerk several months ago. Discussion to follow – Requested by Councilmember Brian Heady
4. An overview of the documents supplied by the City Attorney of the Honest Services requirements under Federal Law and Supreme Court decisions – Requested by Councilmember Brian Heady
5. Update of Federal lawsuit – Requested by Councilmember Brian Heady
6. Interim City Manager – Requested by Councilmember Brian Heady
7. Repeal of restrictions on Councilmembers – Requested by Councilmember Brian Heady
8. Downtown Parking – Requested by Councilmember Brian Heady
9. Advisory Committees – Requested by Councilmember Brian Heady
10. Speed Bumps on City streets – Requested by Councilmember Brian Heady

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters
1. Correspondence
2. Committee Reports
3. Comments

Mayor Sawnick reported that he attended a Mayor's beach cleanup day, he spoke to a third grade class at Glendale Elementary and he will be attending Coffee with the Council on October 8th.

Mayor Sawnick mentioned that the items taken off of the agenda under New Business were removed because backup material was not provided. The items that remained on the agenda had backup.

B. Vice Mayor Sabin Abell's Matters

1. Correspondence
2. Committee Reports
3. Comments

C. Councilmember Tom White's Matters
1. Correspondence
2. Committee Reports
3. Comments

Mr. White reported on his Beach & Shore's meeting. He requested that whoever replaces him on this Commission that they attend the meetings. He continued by reporting on the Florida Municipal Insurance Trust meeting that he attended and also the Treasure Coast Regional League of Cities meeting.

D. Councilmember Brian Heady's Matters
1. Correspondence
2. Committee Reports
3. Comments

Mr. Heady commented that apparently there was some correspondence to him via email. He does not open any of his City emails, but this email made it to the front page of the newspaper. He doesn't have the time or desire to discuss it right now. He will discuss it on his television program when there is not a gavel coming down on his head. The comments that he would have is that once again the City Council limits the Councilmembers, the nonsense that there wasn't backup is just that. It is not true, but because the man with the gavel in his hand is allowed to gavel down and stop debate the public is led to believe something that is just not factual.

E. Councilmember Ken Daige's Matters
1. Correspondence
2. Committee Reports
3. Comments

Mr. White excused himself from the meeting at 12:50 p.m.

Mr. Daige mentioned that he would have no problem serving on the Beach and Shores Committee when Mr. White is no longer on Council.

Mr. Heady commented that would be for the new Council to decide and he would only be eligible if he was elected.

Mr. Daige recalled that he sent Mrs. Amy Brunjes, Representative from FP&L, a letter with some questions that he had on some things that he heard. He said that the letter is on file in the Clerk's office. He proceeded to read some of the answers that he received back from FP&L.

Mr. Heady asked Mr. Daige what is his basis for making the statement that was a question or statement of his. He asked where he made the statement that FP&L was waiting for a new Council.

Mr. Daige explained that these questions stemmed from a taping of a show on a local television program. He mentioned that he also sent a copy of the DVD of this television program to Mrs. Brunjes so that FP&L could take a look at it in order to properly respond to his questions.

Mr. Heady asked him if he (Mr. Heady) made an affirmative statement that FP&L was waiting for a new Council to get elected.

Mr. Daige recommended that Mr. Heady go back and review the DVD.

Mr. Heady reiterated that his question to Mr. Daige was did he make that statement.

Mr. Daige again recommended to Mr. Heady that he go back and review the DVD.

Mr. Heady said that this is a yes or no question.

Mr. Daige continued reading the letter. All of his correspondence is on file in the Clerk's office.

A prepared copy of the meetings and seminars that Mr. Daige attended is attached to the minutes.

11. ADJOURNMENT

Mayor Sawnick made a motion to adjourn today's meeting at 1:05 p.m. Mr. Abell seconded the motion and it passed unanimously.

/tv

2D-4)

COUNCIL AGENDA REPORT
MEETING OF OCTOBER 5, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: September 27, 2010

SUBJECT: HUMISTON PARK

Attached is a memorandum from Monte Falls, dated September 27, 2010, which provides background information and a recommendation on the construction of improvements at Humiston Park.

It is the recommendation of the City Manager's Office that Council authorize the reduction in retainage from 10% to 5% and also to authorize the use of the remaining funds ($4,261.01) for replacing freeze damaged landscape material.

James M. Gabbard

JMG:jav

xc: Monte Falls

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DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager
DEPT: City Manager

FROM: Monte K. Falls, PE, Director
DEPT: Public Works MKFalls 9/27

DATE: September 27, 2010

RE: Humiston Park

Recommendation:

- Place this item on the October 5, 2010 City Council agenda;
- Authorize reduction in retainage to 5%;
- Authorize use of the remaining funds $4,261.01 for replacing freeze damaged landscape material.

Funding:

Funding will come from the $1,000,000 contribution from Flamevine Properties I, LLC.

Background:

On April 3, 2008 Flamevine Properties I, LLC contributed $1,000,000 for the construction of improvements at Humiston Park. On March 12, 2010 that work was substantially complete and a grand opening was held. To date all work has been completed with the exception of some modifications (shielding) of the parking lot lighting required by the Florida Fish and Wildlife Conservation Commission.

We recommend reducing the retainage held to 5% ($42,550.53) for assurance that this outstanding item is completed and further ask for approval to use the remaining fund balance of $4,261.01 to replace freeze damaged landscape material.

A copy of the project accounting is included for your review.

Attachment

Cc: Steve Maillet, Finance Director

MKF/ntn

V:\LAND_PROJECTS\2003\2003-22 Humiston Park\Docs\Agenda_Reduce Retainage & Remaining Funds_JGabbard_Sep 23 2010.docx

HUMISTON PARK
PROJECT ACCOUNTING

Flamevine Properties I, LLC Contribution		$1,000,000.00
Contractor Earned to Date	$851,010.68	
Current Retainage Held	77,690.21	
Contractor Paid to Date		$773,320.47
Engineer Paid to Date		$87,000.00
Total Funds Remaining		$139,679.53
Reimbursement to COVB for Materials Used		$57,728.31
Subtotal		$81,951.22
Retainage to be Released		$35,139.68
Retainage Held (5% of Contractor Earned to Date)		$42,550.53
Balance		**$4,261.01**

All funds released to Flamevine Properties I, LLC

COST SUMMARY

HUMISTON PARK IMPROVEMENTS

Flamevine Properties I, LLC

INVOICE DATE	INVOICE #	INVOICE AMOUNT	TOTAL TO DATE	TOTAL REMAINING
				$1,000,000.00
10-Aug-09	1	$ 99,340.00	$ 99,340.00	$ 900,660.00
10-Sep-09	2	$ 77,610.00	$176,950.00	$ 823,050.00
07-Oct-09	3	$ 31,245.60	$208,195.60	$ 791,804.40
28-Oct-09	4	$ 46,393.40	$254,589.00	$ 745,411.00
22-Dec-09	5	$ 160,348.55	$414,937.55	$ 585,062.45
14-Jan-10	6	$ 190,559.56	$605,497.11	$ 394,502.89
09-Feb-10	7	$ 145,103.73	$750,600.84	$ 249,399.16
16-Mar-10	8	$ 16,677.30	$767,278.14	$ 232,721.86
16-Sep-10	9	$ 93,042.33	$860,320.47	$ 139,679.53
		$ 860,320.47		

2D-5)

INTERDEPARTMENTAL CORRESPONDENCE

To: The Honorable Mayor Kevin D. Sawnick and City Council Members

From: Robert B. Anderson, Human Resources Director RBA

Re: Interim City Manager Work Agreement

Date: October 5, 2010

On September 21, 2010 the City Council appointed Monte K. Falls to the position of Interim City Manager. Mr. Falls accepted the appointment contingent on acceptable terms and conditions of the appointment. I recommend that Council specify the terms and conditions of his service in this position in a written agreement between the Council and Mr. Falls. I have attached such an agreement, and I request that Council authorize the Mayor to sign the agreement on behalf of the City.

Attach: Written Agreement
City Manager Job Description

C: James M. Gabbard, City Manager

WORK AGREEMENT BETWEEN THE CITY OF VERO BEACH AND MONTE K. FALLS

The City and Mr. Falls agree to the following terms and conditions for the duration of his service as Interim City Manager:

1. As Interim City Manager, Mr. Falls will perform the duties and responsibilities as outlined in the attached City Manager job description.

2. At such time as Mr. Falls is no longer needed as Interim City Manager, he will return to the position of Director of Public Works with no loss of pay or benefits.

3. Due to the duties and time demands of the position of Interim City Manager, Mr. Falls will not lose any annual leave he would have otherwise been allowed to accrue.

4. Mr. Falls will receive a temporary five percent increase in his salary while serving as Interim City Manager. The temporary increase will end when he returns to the position of Public Works Director.

Approved by:

_____ _____

Kevin D. Sawnick, Mayor Date

_____ _____

Monte K. Falls, Interim City Manager Date

CITY OF VERO BEACH
EXEMPT JOB DESCRIPTION

Job Title:	**City Manager**		
Dept./Division:	City Manager's Office	**Reports to:**	City Council
Job Code:	1011	**Effective Date:**	October 2002

PRIMARY FUNCTION:

Reports directly to the City Council and implements the various policies established by this legislative body. Under administrative direction, manages and directs the overall operations of the City of Vero Beach, including the utilities departments; and performs related duties as assigned.

PRINCIPAL RESPONSIBILITIES:

The following duties have been provided as examples of the essential types of work performed by positions within this job classification. Management reserves the right to add, modify, change or rescind work assignments as needed.

- Plans, organizes, and provides overall direction for City operations including developing internal policies, reviewing operating procedures, long range planning, and coordinating activities of City Departments to maximize efficient/effective service delivery.
- Directs and oversees the development of the City budget with all its enterprise operations. Current combined budgets exceed $135 million for FY 2003.
- Works with City Council members and citizens to identify and resolve a variety of problems and meet the ongoing service needs of the community.
- Reviews and evaluates service delivery methods and systems including identifying opportunities for improvement and recommending improvement to systems and standard operating procedures to enhance operations and customer service.
- Conducts staff meetings to coordinate operations and inform staff of a variety of organizational issues.
- Represents the City at various meetings and conferences and interacts with a wide range of officials, regulatory agencies, department directors, coworkers and the public.
- Establishes City operational priorities, monitors overall City financial status, and develops and monitors City operating and capital improvement budgets.
- Reviews, coordinates, and manages overall personnel, legal, and related organizational issues impacting the City.
- Monitors strategic plans for utility operations and oversees the delivery of electricity, water, sewer, and solid waste collection services.
- Develops and shapes an appropriate organization structure to support current and future City objectives.
- Provides administrative direction and supervises managerial, professional and support employees. Appraises employee performance and reviews subordinate supervisors' appraisals. Identifies and resolves staff differences, conflicts and deficiencies. Enforces personnel rules and regulations and work behavior standards firmly and impartially.

KNOWLEDGE, ABILITIES AND SKILLS:

Managerial/technical/professional:

- Comprehensive knowledge of federal, state and local laws, regulations, rules and ordinances related to local government operations.
- Comprehensive knowledge of local government operations, budgeting, fiscal administration, management and long-range/strategic planning policies, practices and procedures.
- Comprehensive knowledge of overall City of Vero Beach organization and operations.

- Considerable knowledge of public administration principles and practices.
- Considerable knowledge of capital project management principles and practices.
- Basic knowledge of municipal utility operations management principles and practices.
- Knowledge of computer hardware and software systems as they relate to effective City management and utility operations.

KNOWLEDGE, ABILITIES AND SKILLS (Continued):

Problem Solving:

- Skill in analyzing problems, identifying alternative solutions, projecting consequences of proposed actions, and implementing recommendations in support of goals.
- Skill in researching, evaluating, and using new methods and techniques for operational improvements.
- Ability to interpret oral, written, technical information and data dealing with complex variables to identify, analyze and solve management problems of considerable difficulty.

Human Resource Management:

- Considerable knowledge of management/supervisory techniques, and pertinent federal, state and local human resource management rules.
- Skill in planning, organizing, assigning and coordinating the activities of managerial, supervisory, professional, and technical staff.

Communication:

- Skill in dealing constructively with conflict and responding with tact, composure and courtesy when dealing with individuals who may be experiencing significant stress.
- Ability to establish and maintain effective working relationships with government and business officials, department directors, regulatory agencies, employees and the general public.
- Ability to express ideas clearly when providing oral and written reports and recommendations on administrative, financial, and technical issues.

MINIMUM REQUIREMENTS:

Education/Experience: Graduation from an accredited college or university with a Bachelor's degree in business or public administration or a related field and seven (7) years full time executive management level work in a local government organization; or an equivalent combination of training and experience. A Master's Degree in management, finance or public administration is desired.

Licenses/Certification: Possession of a valid Florida Driver's License. Professional certifications in finance or management areas desired.

SIGNATURES/APPROVALS:

	Date		Date
H/R Analyst:	_____	Department Director:	_____
Immediate Supervisor:	_____	Director, Human Resources:	_____

2D-6)

COUNCIL AGENDA REPORT
MEETING OF OCTOBER 5, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, Interim City Manager

DATE: September 29, 2010

SUBJECT: BLUE CROSS BLUE SHIELD ADMINISTRATIVE SERVICES AGREEMENT

Please find attached a memorandum from Barbara Morey, dated September 28, 2010, which includes a copy of the above-referenced agreement.

It is the recommendation of the City Manager's Office that Council approve the Administrative Services Agreement between Blue Cross and Blue Shield of Florida, Inc., and the City of Vero Beach.

James M. Gabbard

JMG:jav
Attachments

xc: Barbara Morey
Robert Anderson
Stephen Maillet

N:\Agenda\HumanResources\BCBS Administrative Services Agreement.doc

CORRESPONDENCE

TO: Jim Gabbard, City Manager

FROM: Barbara J. Morey, Risk Manager

SUBJECT: Blue Cross Blue Shield Administrative Services Agreement

DATE: September 28, 2010

Attached please find a new Administrative Services Agreement between Blue Cross Blue Shield of Florida and the City of Vero Beach.

As the TPA for our self-insured health insurance, Blue Cross is paid through a "per member per month" (pmpm) rate. This Agreement indicates two changes:

- The rate will drop from $72 pmpm to $65 pmpm for the first 2 years. It will increase to $66.95 pmpm for the next two years. The savings for the City will be approximately $180,000 over the life of the Agreement based on the current number of participants and the current rate being paid. If we elect not to sign this contract, our rates will cost us at least an additional $195,250 over the same four year period.

- The Administrative Agreement will be for 4 years, with penalties for early termination.

EXHIBIT "B"

to the
ADMINISTRATIVE SERVICES AGREEMENT
between

BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC.

and
CITY OF VERO BEACH

FINANCIAL ARRANGEMENTS

I. Effective Date

The effective date of this Exhibit is October 1, 2010.

II. Monthly Payments.

A. Each month, BCBSF will notify the Employer of the amount due to satisfy the previous month's paid claims liability. BCBSF also will provide the Employer with a detailed printout of the previous month's claims payments. The Employer agrees to pay the full amount of the bill within ten (10) days of the written notification. If the payment is not received by BCBSF by the payment due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, BCBSF will immediately suspend claims until payment is received by BCBSF.

B. The Employer agrees to pay to BCBSF, each month during and after the term of this Agreement, an administrative fee, as set forth below. The Employer agrees to pay to BCBSF, each month, the administrative fee within ten (10) days of the written notification of the amount due. If payment is not received by BCBSF by the due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, BCBSF will immediately suspend claims until payment is received by BCBSF.

III. Funding Information

A. Method of Funding Transfer: ACH

IV. Administrative Fees:

A. Administrative fees during the term of the Agreement:

$65.00 per enrolled employee per month from October 1, 2010 through September 30, 2012
$66.95 per enrolled employee per month from October 1, 2012 through September 30, 2014

B. Administrative fees after the termination of the Agreement: 18.0% of claims paid.

C. If the Agreement is canceled prior to September 30, 2014, Employer will pay $100,000 penalty fee.

V. Late Payment Penalty

A. A daily charge of .00038 times the amount of overdue payment.

VI. Expected Enrollment

A. The administrative fees referenced above are based on an expected enrollment of: 625.

B. If the actual enrollment is materially different from this expected enrollment, BCBSF reserves the right to adjust the administrative fees as set forth in the Agreement. Actual administrative fees will be charged based on actual enrollment.

AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT

THIS AMENDMENT, entered into on _____, 2010 is by and between Blue Cross and Blue Shield of Florida, Inc. (hereinafter called the "Administrator") and City of Vero Beach (hereinafter called the "Employer"). In consideration of the mutual and reciprocal promises herein contained, the Administrative Services Agreement between the Administrator and the Employer (hereinafter "Agreement") effective October 1, 2002 is amended as follows:

1. Section I, subsection A, is hereby amended to extend the term of the Group Health Plan until September 30, 2014 unless the Agreement is terminated earlier in accordance with the terms of the Agreement.

2. Exhibit B to the Agreement is hereby amended, effective October 1, 2010. The revised Exhibit B is attached to this Amendment and replaces the Exhibit B previously attached to the Agreement.

3. Except as otherwise specifically noted in this Amendment, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed by the duly authorized representatives of the parties.

BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC.	CITY OF VERO BEACH
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

CITY OF VERO BEACH	APPROVED	DATE
City Manager		9/29/10
City Atty		9.29.10
City Clerk		
Utilities		
Public Works		
Finance		
Human Resources		
Planning		

2D-7)

COUNCIL AGENDA REPORT
MEETING OF OCTOBER 5, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, Interim City Manager

DATE: September 29, 2010

SUBJECT: ADMINISTRATIVE SERVICES AGREEMENT – EARLY RETIREE REINSURANCE PROGRAM

Please find attached a memorandum from Barbara Morey, dated September 28, 2010, which includes a copy of the above-referenced agreement.

It is the recommendation of the City Manager's Office that Council approve the Agreement to Provide Administrative Services for the Early Retiree Reinsurance Program with Blue Cross and Blue Shield of Florida, Inc.

James M. Gabbard

JMG:jav
Attachments

xc: Barbara Morey
Robert Anderson
Stephen Maillet

N:\Agenda\HumanResources\Administrative Services Agreement - Early Retiree Reinsurance Program.doc

CORRESPONDENCE

TO: Jim Gabbard, City Manager

FROM: Barbara J. Morey, Risk Manager

SUBJECT: Administrative Services Agreement – Early Retiree Reinsurance Program

DATE: September 28, 2010

Attached please find an Administrative Services Agreement between Blue Cross Blue Shield of Florida and the City of Vero Beach.

The Department of Health and Human Services Department has established a temporary reimbursement program to allow Plan Sponsors (City of Vero Beach) to offset costs for claims due to early retirees. I am attaching a Gehring Group bulletin to provide more detailed information regarding this Program.

Blue Cross Blue Shield will report the claims to the Department to assist us in our attempt to get the reimbursements allowed. There is no cost to the City for this service.

I am requesting your approval of the Agreement.

GEHRING GROUP
PROFESSIONAL SERVICES

EARLY RETIREE REINSURANCE PROGRAM
BlueCross BlueShield of Florida Clients

Pursuant to the federal Health Reform legislation signed into law in March 2010, a temporary reinsurance program - the Early Retiree Reinsurance Program (ERRP), has been established to assist plan sponsors (employers) to offset the health care costs associated with early retiree coverage. Qualified plan sponsors have the opportunity to be reimbursed for the cost of eligible claims paid for early retirees ages 55 to 64 and their eligible dependents covered under their active employee group medical insurance plan. If qualified and accepted to participate in the ERRP, the Program may reimburse up to 80% of early retiree and eligible dependent claims costs that exceed $15,000 but do not exceed $90,000 during a plan. The maximum amount reimbursed per claimant would be $60,000.

A copy of a Draft Application, Instructions, and FAQ's about the ERRP have been made available on-line by the Department of HHS. They may be accessed through under the Early Retiree Reinsurance Program section on the OCIIO webpage on the Department of HHS website: http://www.hhs.gov/ociio/regulations/index.html. The Department of Health and Human Services (HHS) has indicated on their FAQ sheet that the "draft" application currently listed is reflective of the required information to be submitted for the official application. The only anticipated change to the "official" application to be released any day is the addition of an address WHERE the Application can be sent; direction on WHEN the application can be submitted (funds are first come first serve), and the submission method (HOW) through which applications needs to be filed.

Gehring Group has been working with the various carriers to ascertain the information and reporting that will be available to assist our clients in the application process and with the reporting requirements throughout the life of the program. It has been estimated by the Department of Health and Human Services that the application and reporting process per participant may take between 40 and 100 work-hours to complete.

Consistent with a methodology used by the nationwide BlueCross BlueShield Association, BlueCross BlueShield of Florida has developed an actuarial calculation based upon their book of business, an estimate of the potential reimbursement each group could receive (see attached). The calculations for your group have been provided by BCBSFL to assist you in completing the application. Your group's reimbursements may be higher or lower depending on your group's actual claims experience beginning June 1, 2010. We have attached a copy of the BCBSFL estimate for your use. The current two year estimate for your group is:

Group Name:	CITY OF VERO BEACH
Plan Information:	Plan 1: BlueChoice Hlth Plan 101
Reimbursement Estimate:	Year 1: $ 64,900.00
	Year 2: $135,700.00

11505 Fairchild Gardens Avenue, Suite 202, Palm Beach Gardens, FL 33410
Tel: (561) 626-6797 / (800) 244-3696 Fax: (561) 626-6970

We have also included a copy of the document entitled *Early Retiree Reimbursement Program 2 Year Projection Support* which BCBCSL prepared to assist you in understanding how the values they have provided as projected reimbursement amounts were developed. When reviewing this information with their Program lead, they confirmed that greater than 70% of the employers with early retirees utilized for this calculation are BCBSFL public sector clients. BCBS also applied a 10% trend rate which is consistent with medical inflation in Florida. Although the ERRP allows for plan sponsors to remit for reimbursement of medical costs based on both the employer and retiree payments, BCBSFL has only included the employer portion of paid costs in their actuarial calculation. As proof of payment must be remitted with a request for reimbursement, it is anticipated that most plan sponsors will not remit for the insured retiree payment portion of eligible medical costs due to the administrative burden.

It has been projected that funding for this program will go quickly and we are encouraging all interested clients to act quickly in determining whether or not they will participate in the program. We are committed to providing you with assistance throughout the process so you can take advantage of this program. The program has been allocated $5 billion, beginning June 1, 2010, and will continue to provide reimbursements until January 1, 2014, or until the allocated funds have been distributed, whichever comes first.

All groups, both self-funded and fully-insured can apply. In order to become eligible to receive reimbursement, the group must:

- Maintain the level of effort in contributing to support their applicable plan or plans for their early retirees. Part of the application (Section E) includes the sponsor's description of the intended use of the ERRP reimbursements they might receive.
- Have a program or programs in place to generate potential cost savings for high cost chronic conditions (i.e. wellness programs, attached BlueCross BlueShield of Florida document)
- Have policies and procedures in place to detect fraud, waste, and abuse (attached as provided by BlueCross BlueShield of Florida)
- Be able to project their reimbursements for the first two years (attached as provided by BlueCross BlueShield of Florida)
- Submit an acceptable application (one application per "plan" identifying the plan year cycle for which the group is applying) – If the group has more than one plan, multiple applications will need to be completed.

NEXT STEPS

Qualified plan sponsors wishing to claim reimbursement for early retirees can rely on the Gehring Group to provide guidance and support. Gehring Group has worked with BlueCross BlueShield of Florida to ascertain they will assist the client with all reporting throughout the Program process at no charge to the client.

The Gehring Group will provide the following assistance:

- Support throughout the application process
- Assistance in completing the written agreement required by BlueCross BlueShield of Florida in order to participate
- Provide the two-year estimation from BlueCross BlueShield of Florida of projected reinsurance reimbursements (attached)
- Provide the documentation of the BlueCross BlueShield of Florida Care & Wellness Solution(s) Overview (attached)
- Providing the documentation of the BlueCross BlueShield of Florida Fraud, Waste, and Abuse programs in the event of an audit (attached)
- Assist in the coordination of the submission of claims costs to the client and/or the Department of Health and Human Services in the required formats
- On-going communication on the status of the program and any procedural changes

Once you have had the opportunity to review the information provided, please feel free to contact your Gehring Group representative or Kate Grangard, Chief Financial Officer for further details and assistance. Again, the Official Application is expected to be released this week and applications will be approved on a first come, first serve basis. Only complete applications will be considered. If you plan to participate in this Program please print, review, and complete the draft application available at http://www.hhs.gov/ociio/Documents/application.pdf now (if you have not already done so), in order that it is ready for submission once the "official" application is released.

AGREEMENT TO PROVIDE ADMINISTRATIVE SERVICES FOR THE EARLY RETIREE REINSURANCE PROGRAM

1. Purpose

This agreement (the "Agreement") is made as of June 1, 2010 (the "Effective Date") by and between Blue Cross and Blue Shield of Florida, Inc. ("BCBSFL") and _____ ("Sponsor"), for the purpose of delineating the terms and conditions under which BCBSFL will provide services related to Sponsor's participation in the early retiree reinsurance program (the "Program") administered by the Department of Health and Human Services.

2. Definitions

A. The terms "Certified," "Claim," "Employment-Based Plan," and "Health Benefits" shall have the same meanings as in 45 C.F.R. § 149.2.

B. The term "Chronic and High-Cost Condition" means any condition for which $15,000 or more in Health Benefits claims are likely to be incurred during a plan year by one Employment-Based Plan participant.

C. The term "HHS" means the United States Department of Health and Human Services, and references to HHS include the Secretary of HHS or the Secretary's designee.

D. The term "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

E. The term "Program" means the Early Retiree Reinsurance Program established in Section 1102 of the Patient Protection and Affordable Care Act and implementing HHS interim final rule at 45 C.F.R. Part 149.

F. The term "Program-Eligible Individual" means an individual who is age 55 or older, enrolled for Health Benefits in a Certified Employment-Based Plan, not eligible for coverage under Medicare (Title XVIII of the Social Security Act), and not an active employee of Sponsor, as well as such individual's enrolled spouse, surviving spouse, and dependents (if applicable).

G. The term "Program Requirements" means the requirements of 45 C.F.R. Part 149, and any administrative guidance there issued.

H. The term "Negotiated Price Concession" means any direct or indirect remuneration (including discounts, direct or indirect subsidies, charge backs or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits), received by Sponsor that would serve to decrease the costs incurred under the Employment-Based Plan.

3. Term and termination

A. Term. The term of this Agreement will commence on the Effective Date and will continue until one (1) year from the Effective Date. The Agreement will be renewed automatically for successive one (1) year terms, unless terminated in accordance herewith.

B. Termination of Agreement. The Agreement may be terminated under any of the following circumstances:

1. Termination with notice. Either party may terminate this Agreement in its entirety at any time upon sixty (60) days prior written notice to the other party.

2. Termination for material breach. In the event that either party fails to cure a material breach of this Agreement within thirty (30) days of receipt of written notice to cure from the other (which notice will state the material breach with specificity and attach any then-available documentation of the material breach), the non-defaulting party may terminate this Agreement upon thirty (30) days' prior written notice. If the breach is cured within such 30-day period, or if the breach is one that cannot reasonably be corrected within thirty (30) days, and the non-defaulting party determines that the defaulting party is making substantial and diligent progress toward correction during such 30-day period, this Agreement will remain in full force and effect.

3. Termination based on failure to reach agreement following regulatory change. Either party may terminate this Agreement effective thirty (30) days after either party provides written notice that it is unable to agree on any amendment required under Section 11(C).

C. Transition requirements. If this Agreement is terminated by BCBSFL under Section 3(B)(1) or by either party under Section 3(B)(3), then the parties agree to take the following specific actions to minimize disruption:

1. Transition plan. The parties will develop and implement a detailed plan for transitioning the services, and both parties will cooperate fully to arrange for the transfer of services to Sponsor's designee.

2. Transition period. BCBSFL will continue to provide services in accordance with this Agreement for a reasonable transition period. Unless the parties mutually agree otherwise, the transition period will not exceed ninety (90) days from the date of notice of termination. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement will apply during the transition period. Termination of this Agreement will not terminate the rights or liabilities of either party arising out of the period prior to the effective date of the termination.

4. Scope of services

A. Program application.

1. Responsibility for preparing and submitting Program application. Sponsor will be responsible for preparing and submitting the Program application. BCBSFL agrees to provide to Sponsor any data in its possession that Sponsor requires in order to complete its application. BCBSFL and Sponsor will work cooperatively to provide the data needed to complete Sponsor's Program application on a timely basis.

2. Projection of claims.

(a) Responsibility for preparing projection. BCBSFL shall prepare and submit to Sponsor a projection of amounts to be received by Sponsor under the Program for the first two plan year cycles, as described in 45 C.F.R. § 149.40. BCBSFL will provide the projection to Sponsor within 60 days of receiving the data for the projection (as described below) from Sponsor.

(b) Data for projection. Sponsor shall provide all information BCBSFL requests for the projection including, without limitation, information regarding retiree contributions, demographic data, and benefit options related to Sponsor's coverage of Program-Eligible Individuals under the Employment-Based Plan. Sponsor shall also provide BCBSFL with a list of all Program-Eligible Individuals or, at the option of BCBSFL, another suitable method of identifying all Program-Eligible Individuals.

3. Fraud, waste, and abuse policies. BCBSFL has implemented, or will implement, policies and procedures to detect and reduce fraud, waste, and abuse in connection with the Employment-Based Plan, in accordance with 45 C.F.R. § 149.40.

Upon request by HHS for Sponsor or BCBSFL to substantiate the existence of such policies and procedures, pursuant to 45 C.F.R. § 149.40(f)(4)(iii), BCBSFL shall provide such substantiation information directly to HHS or, if required by HHS, to Sponsor. BCBSFL will include a copy of its policies and procedures as part of such substantiation information to the extent required by HHS. In the event that BCBSFL provides information about, or a copy of, such policies and procedures to Sponsor, Sponsor agrees to hold the information in confidence, in accordance with Section 4(A)(8).

4. Programs that generate savings for Chronic and High-Cost Conditions. BCBSFL shall provide Sponsor with a summary explanation describing the procedures or programs it has in place that have generated or have the potential to generate cost savings with respect to Employment-Based Plan participants with Chronic and High-Cost Conditions. Such summary shall be provided not later than 60 days after the Effective Date. Sponsor agrees to hold the information in confidence, in accordance with Section 4(A)(8).

5. Confidentiality requirements. Sponsor agrees that any documents, materials, or other information provided to Sponsor by BCBSFL pursuant to Sections 4.A.3 or 4.A.4 of this Agreement, relating to BCBSFL's fraud, waste and abuse policies, programs that generate savings for Chronic and High-Cost Conditions, or both (collectively, the "Confidential Information"), are the sole property of BCBSFL and are private and confidential in nature. Sponsor further agrees that BCBSFL would suffer competitive or other harm in the event the Confidential Information, or any portion thereof, was disclosed. Sponsor further agrees that it

will hold the Confidential Information in the strictest confidence and will not use or disclose it, or any part thereof, unless: (a) the use or disclosure is necessary for Sponsor to comply with the Program Requirements; (b) the disclosure is made with the prior written consent of BCBSFL; (c) the disclosure is requested by and made to a local, state, or federal law enforcement official, provided Sponsor gives BCBSFL written notice at least 30 days before making such disclosure; (d) the disclosure is made in response to a lawful subpoena or other compulsory process, provided that prior to making the disclosure, Sponsor promptly gives notice thereof to BCBSFL and furnishes BCBSFL with a copy of the subpoena or other process so as to afford BCBSFL a reasonable opportunity to seek a protective order; or (e) the Confidential Information to be disclosed is already in the public domain through no act or failure on the part of Sponsor.

In the event this Agreement is terminated, Sponsor agrees that it will continue to treat the Confidential Information as private and confidential, will return all such Confidential Information to BCBSFL, and will not use or disclose such Confidential Information, or any part thereof, except as permitted in this Section. Sponsor agrees that BCBSFL shall, in addition to any other available legal relief, be entitled to an injunction by any competent court to enjoin and restrain the unauthorized use or disclosure of the Confidential Information, or any part thereof.

B. Claims submission.

1. Responsibility for compiling and submitting data. Sponsor, or a third party designee contracted by Sponsor, shall be responsible for submitting Claims data to HHS. Sponsor shall provide BCBSFL with Sponsor's list of Program-Eligible Individuals or, at the election of BCBSFL, another suitable method of identifying Program-Eligible Individuals at least 30 days in advance of the date Sponsor requires Claims data from BCBSFL. BCBSFL will compile and submit to Sponsor or its designee, on a quarterly basis, the following Claims data for the Program-Eligible Individuals identified pursuant to the preceding sentence. For each eligible Health Benefit provided to a Program-Eligible Individual, with respect to which a prior Claims submission has not been made, BCBSFL will provide documentation indicating:

(a) each such Health Benefit provided;

(b) the provider or supplier of the Health Benefit;

(c) the incurred date;

(d) the Program-Eligible Individual for whom the Health Benefit was provided;

(e) the date and amount of payment by BCBSFL for the Health Benefit, net of any known Negotiated Price Concessions; and

Sponsor shall be solely responsible for identifying, obtaining, and submitting any Claims data that originates with Sponsor or with any third party that is not subcontracted by BCBSFL.

If BCBSFL receives any post-point-of-sale price concessions with respect to Health Benefits for which Claims data has previously been provided to Sponsor, BCBSFL shall, in a time frame

consistent with 45 C.F.R. § 149.110(b), notify Sponsor of such post-point-of-sale price concession.

2. Duty to monitor. BCBSFL shall have no obligation to Sponsor to monitor whether Claims are re-adjudicated after being provided to Sponsor, or its designee.

3. Receipt of Program payments. Sponsor shall receive all Program payments from the United States directly, and BCBSFL shall have no responsibility for receiving or handling such payments.

C. No obligation to submit inaccurate or incomplete data. BCBSFL shall have no obligation to provide or submit data in support of Sponsor's Program application or a submission to obtain payment under the Program when, in its sole discretion, BCBSFL believes that the data is or may be inaccurate or incomplete, or would otherwise not be in compliance with Program Requirements.

D. Corrections and modifications. Should BCBSFL learn that any data provided by either party to this Agreement or by any third party is or was inaccurate, that Sponsor is or has received Program overpayments, or that Sponsor's Program application, reimbursement data, or any submissions to HHS fail to comply with Program Requirements, then except as specifically provided in Section 4(B)(2), BCBSFL shall notify Sponsor and Sponsor shall have the sole responsibility for making necessary corrections and communications to HHS.

5. Compensation

Sponsor will not owe BCBSFL any additional administrative fees for the services performed by BCBSFL under this Agreement.

6. Acknowledgement of purpose of data

Pursuant to 45 C.F.R § 149.40(f)(4)(ii), BCBSFL acknowledges that information it provides to Sponsor pursuant to this Agreement may be used by Sponsor for the purpose of obtaining federal funds.

7. Appeals

In the event that HHS makes an adverse reimbursement determination, BCBSFL shall not be responsible for any procedural or substantive activities associated with Sponsor's appeal rights described in 45 C.F.R Part 149, Subpart F. BCBSFL will provide Sponsor, at Sponsor's request, reasonable access to information that Sponsor may need to exercise its appeal rights, but Sponsor shall be solely responsible for submitting any request for appeal under 45 C.F.R. § 149.500(e).

8. Indemnification

Sponsor agrees to indemnify, defend (at BCBSFL's request), and hold harmless BCBSFL and its agents, officers, employees, directors, and subcontractors, against any loss, cost, suit, claim,

damage, liability or expense, including reasonable attorneys' fees, arising (a) out of any audit, investigation, subpoena, investigative demand, action, proceeding, liability, judgment, settlement, or inquiry by HHS or any other government agency or entity or any other person or entity relating to Sponsor's participation in the Program; or (b) from any inaccurate or incomplete data provided to BCBSFL, or any non-compliance with the Program's requirements by Sponsor or any third party contracted by Sponsor in connection with the Program.

9. Limitation of liability

BCBSFL shall not be liable to Sponsor if HHS terminates or denies Sponsor's Program application, and BCBSFL shall not be liable to Sponsor for any amounts that are not paid or reimbursed by HHS under the Program or that HHS recoups or withholds for any reason. Any information provided by BCBS should not be considered advice, legal or otherwise, regarding Sponsor's compliance with any or all Program Requirements, and BCBS shall not be liable, in whole or in part, for Sponsor's reliance on such information. Under no circumstances shall BCBSFL be liable for indirect, consequential, special or punitive damages.

10. No guarantee of Program participation or reimbursement

BCBSFL does not represent or guarantee that Sponsor is eligible to participate in the Program, that Sponsor's application for the Program will be accepted and Certified, that Sponsor will receive any funds in connection with the Program, or, if Sponsor does receive funds in connection with the Program, the amount of such funds.

11. Standard of care, cooperation, and regulatory changes

A. Standard of care. The parties recognize that because the Program is new, the Program Requirements and procedures are not fully defined and developed, and subsequent administrative guidance or requirements from HHS may materially alter the scope of services or manner in which the services contemplated by this Agreement are to be provided. In light of these factors, BCBSFL will make a good faith effort to compile and provide complete and accurate information in accordance its best understanding and interpretation of the Program Requirements. BCBSFL does not undertake to act, and shall not act, as a fiduciary under the Employee Retirement Income Security Act ("ERISA") or otherwise with respect to its actions under the Program. Any fiduciary obligations under ERISA or otherwise with respect to the Program shall be the duties of Sponsor.

In satisfying its obligations under this Agreement, BCBSFL may utilize and/or obtain and/or provide data that is developed and maintained by third parties with which it contracts. By obtaining this data from a third-party source, BCBSFL does not warrant or assume responsibility for the accuracy of such data.

In addition, BCBSFL may obtain or use data or information provided by Sponsor or third parties not contracted by BCBSFL. BCBSFL does not warrant and/or assume responsibility for the accuracy of any data provided by Sponsor or any third party not contracted by BCBSFL.

The parties recognize that BCBSFL's existing data sources, and those of its subcontractors, were not designed for purposes of the Program. Thus, BCBSFL can not and does not guarantee the accuracy of such information and data.

B. Cooperation. The parties recognize that they must mutually cooperate to perform the services required under this Agreement, and that BCBSFL shall not be responsible if it is unable to complete any tasks because Sponsor, or any third party contracted by Sponsor, fails to meet its obligations, including providing required data.

C. Regulatory changes. If either party believes that subsequent guidance or requirements from HHS have materially altered the scope of services or manner in which the services contemplated by this Agreement are to be provided, or that any provision of this Agreement is inconsistent with Program Requirements, that party shall promptly notify the other party in writing, and the parties shall negotiate to amend this Agreement.

12. Retention of records

BCBSFL and Sponsor shall maintain all records required by 45 C.F.R § 149.350(b) for a period not less than six years after the expiration of the Employment-Based Plan's plan year in which Program-reimbursable costs were incurred (without regard to the date the Agreement terminates), or as otherwise required by law.

13. HIPAA compliance

The parties acknowledge and agree that this Agreement involves the use and disclosure of HIPAA protected health information. The parties therefore agree that all uses and disclosures of HIPAA protected health information pursuant to this Agreement will be undertaken in compliance with all applicable HIPAA requirements. BCBSFL shall disclose HIPAA protected health information to a third party, other than HHS or other federal government agency in connection with the Program, only upon Sponsor's written certification that such disclosure is permitted under HIPAA. BCBSFL and Sponsor agree that this Agreement satisfies the requirements of 45 C.F.R. § 149.35(b)(2).

BCBSFL shall provide HIPAA protected health information directly to Sponsor or Sponsor's designee under Section 4 only if Sponsor certifies in writing that: (A) appropriate HIPAA business associate agreements are in effect between BCBSFL, Sponsor, Sponsor's designee, and the Employment-Based Plan; (B) the plan documentation for the Employment-Based Plan permits such disclosure; and (C) the Sponsor has taken all other steps required by HIPAA in order to legally receive such protected health information.

14. Miscellaneous provisions

A. Amendments. All amendments to this Agreement must be agreed to in writing by the parties.

B. Assignment. This Agreement may not be assigned by either party to an unrelated third party without the prior written consent of the other party. Sponsor, not BCBSFL, is

responsible for giving advance notice of any change in ownership to HHS pursuant to 45 CFR § 149.700.

C. Subcontracting. The parties acknowledge and agree that BCBSFL may use subcontractors to perform some or all of the services described in Section 4.

D. Entire agreement. This Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement will be valid or binding.

E. Governing law. The laws of the State of Florida will govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereunder, without giving effect to principles of conflicts of law.

F. No third-party beneficiary. Nothing in this Agreement is intended to create, or will be deemed or construed to create, any rights or remedies in any third party including, without limitation, Sponsor's active and retired employees (and their dependents).

G. Notice. Any notice required or desired to be given relating to this Agreement will be in writing and will be either hand delivered, or sent by U.S. mail, postage prepaid and return-receipt requested (receipt will be deemed to be five days after postmark by the U.S. Postal Service), or overnight courier addressed as follows:

BCBSFL: Attention: Scott Bryant
Director, Group Product Management
Blue Cross and Blue Shield of Florida, Inc.
4800 Deerwood Campus Parkway, DCC 300-6
Jacksonville, Florida 32246

Sponsor: _____

Notices given hereunder will be deemed given upon documented receipt. The addresses to which notices are to be sent may be changed by written notice given in accordance with this section.

H. Severability. If any provision of this Agreement is rendered invalid or unenforceable by any local, state, or federal law, rule or regulation, or declared null and void by any court of competent jurisdiction, the remainder of this Agreement will remain in full force and effect.

I. Status as independent entities. Nothing in this Agreement is intended to create, or will be deemed or construed to create, any relationship between BCBSFL and Sponsor other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither BCBSFL nor Sponsor, nor any of their respective agents, employees, subcontractors or representatives will be construed to be the agent, employee, subcontractor or representative of the other.

J. Appendices. Any Appendix to this Agreement is made a part of this Agreement as though set forth fully herein. Unless otherwise specifically set forth in an Appendix, any provision of this Agreement that is in conflict with any provision set forth in an Appendix will take precedence and supersede the conflicting provision of the Appendix with respect to the subject matter covered by that provision of this Agreement.

K. Calculation of time. Unless otherwise specifically stated in this Agreement, the parties agree that for purposes of calculating time under this Agreement, any time period of less than ten days will be deemed to refer to business days and any time period of ten days or more will be deemed to refer to calendar days.

L. Force majeure. Neither BCBSFL nor Sponsor will be liable for its failure to perform any obligation under this Agreement because of contingencies beyond its reasonable control, including but not limited to strikes (other than strikes within such party's own labor force), riots, war, fire, acts of God, disruption or failure of electronic or mechanical equipment or communication lines, telephone or other interconnections, unauthorized access, theft, or acts in compliance with any law or government regulation. If a party's failure to perform continues for more than twenty business days, the other party will have the right to terminate this Agreement immediately.

M. Headings. The headings in this Agreement have been included solely for reference and are to have no force or effect in interpreting its provisions.

N. Counterparts. This Agreement may be executed in counterparts, any of which need not contain the signature of more than one party, but all of which taken together, will be one and the same agreement.

O. Dispute resolution. BCBSFL and Sponsor agree to resolve any controversy or dispute that may arise out of or relate to this Agreement, or the breach thereof, whether involving a claim in tort, contract, or otherwise, pursuant to the dispute resolution provisions of the applicable administrative services, group health or other agreement between the parties.

P. Survival. The provisions of Sections 3, 8, 9, 12, 13, and 14 will survive the expiration or termination of the Agreement for any reason.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Blue Cross and Blue Shield of Florida, Inc.

(BCBSFL)	**(SPONSOR)**
BY: _____	BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

CITY OF VERO BEACH	APPROVED	DATE
City Manager		9/29/10
City Attorney		9 28 10
City Clerk		
Utilities		
Public Works		
Finance		
Human Resources		
Planning		

Morey, Barbara

From:	Christian Bergstrom [christian@gehringgroup.com]
Sent:	Monday, June 21, 2010 5:22 PM
To:	Morey, Barbara
Cc:	Kurt Gehring; Ellen Jones; Rodney Louis
Subject:	Vero Beach - Early Retiree Reinsurance Program UPDATE
Attachments:	BCSBFL Early Retiree Reinsurance Contract - ASO.doc; BCBSFL ERRP Overview-City of Vero Beach.pdf
Importance:	High

Dear Barbara –

The Gehring Group has finalized an information packet to assist you in determining if the City will want participate in the Early Retiree Reinsurance Program (ERRP). Created by recent health care legislation, ERRP is a new program to reimburse eligible employers for the costs associated with providing medical and prescription drug coverage for pre-Medicare retirees (between the ages of 55 and 64) that are still on the active group plan.

The following information is necessary in order to complete the application in this first phase of the program. Items 2-6 are all required elements of the application that the Group must provide for admission into the program.

1. A informational letter giving an overview of the program.
2. A two year group specific estimate of anticipated reimbursement requests that could be made to the Department of Health and Human Services (HHS).
3. A copy of the BlueCross BlueShield of Florida Fraud Waste and Abuse Policy.
4. An overview document supporting the BlueCross BlueShield of Florida Care and Disease Management programs.
5. A legal agreement to support the requirements established by the program on sharing HIPPA claims data for purposes of reimbursement.

While not all Groups may find it beneficial to participate in the program, based on the number of eligible participants or the possibility that they are changing their benefit strategy for their retirees, we want to be proactive in our support. We anticipate the application will be made available by HHS this week.

Please feel free to contact Kurt or myself with any questions or concerns.

Christian Bergstrom, Director - Analytical Services
Gehring Group
11505 Fairchild Gardens Avenue, Suite 202
Palm Beach Gardens, FL 33410

561.626.6797 x 4812
561.626.6970 Fax

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4-A

MEMORANDUM

TO: James M. Gabbard, City Manager

VIA: Charles Vitunac, City Attorney

FROM: Ericson W. Menger, Airport Director

DATE: September 24, 2010

SUBJECT: **JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF VERO BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION TO PARTICIPATE IN PARKING / ACCESS IMPROVEMENTS AT BUILDING #78 (FDOT #429255-1-94-01)**

Attached are six (6) copies of a Joint Participation Agreement (JPA) between the City of Vero Beach and the Florida Department of Transportation (FDOT) for the above-referenced airport project. Also attached are three (3) copies of a proposed City Resolution authorizing the Mayor and City Manager to execute the JPA on behalf of the City of Vero Beach.

BACKGROUND

This project is for Parcel 4C (Building #78) at the airport. The 10,894± square feet building is leased to two non-aviation commercial tenants. Renovation of the unimproved parking lot is necessary for safety and proper access to each of the tenants. At the same time, this allows the parking lot to be brought up to meet current code requirements as well as the Americans with Disabilities Act (ADA). The design proposes paving to include 37 parking spaces and 2 handicap spaces, drainage, marking, lighting, and landscaping.

FDOT offered the attached Joint Participation Agreement to fund 50% or $100,000 of the estimated $200,000 project. The Airport would pay the remaining 50% or $100,000 with no funds from the general fund. Current annual income from this facility is $40,958.52.

No funding was available for this project during the budget review cycle in June/July 2010; therefore, this project has not yet been approved by the City Council. However, due to additional State funding becoming available, airport staff would like to proceed with design and advertise for bids if this JPA is accepted. A budget amendment is also requested to fund this project at $200,000. Once bids are received and a contractor is selected, a contract for construction will be brought to the Council for approval at a later date.

RECOMMENDATION

I respectfully request that this item be placed on the October 5, 2010 City Council Agenda. I recommend approval of the proposed Resolution and acceptance of the JPA.

EWM:rls

Attachments (9)

cc: Airport Commission Members, via email and/or U.S. Mail
Joyce Vonada, City Manager's Office, via email
Steve Maillet, Finance Director, via email
John O'Brien, Purchasing, via email

N:\CAPITAL PROJECTS\FDOT_ FAA_FEMA\429255 PARKING ACCESS IMPROVEMENTS\FDOT\GRANT\24SEP10 JGem JPA 429255.docx

RESOLUTION NO. 10-____

A RESOLUTION AUTHORIZING THE CITY OF VERO BEACH, FLORIDA, TO ENTER INTO A JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, TO PARTICIPATE IN A PARKING / ACCESS IMPROVEMENTS PROJECT AT BUILDING #78 (FDOT #429255-1-94-01)

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport and;

WHEREAS, the City desires to participate in a parking / access improvement project and;

WHEREAS, the State government has agreed to participate in the funding of the above-referenced airport improvements with the City of Vero Beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO Beach, Florida that:

The Mayor and City Manager are authorized to execute all appropriate documents as representatives of the City in connection with the Joint Participation Agreement between the State of Florida and the City of Vero Beach to participate in a parking / access improvement project.

****

THIS RESOLUTION was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____ 2010, by the following vote:

Mayor Sawnick _____

Vice-Mayor Abell _____

Councilmember White _____

Councilmember Heady _____

Councilmember Daige _____

ATTEST

Tammy K. Vock, City Clerk

CITY OF VERO BEACH, FLORIDA

Kevin Sawnick, Mayor

Approved as to form and
Legal sufficiency:

Charles P. Vitunac, City Attorney

Approved as to technical
requirements:

James M. Gabbard, City Manager

Approved as to technical
requirements:

Ericson W. Menger, Airport Director

4-B)

MEMORANDUM

TO: James M. Gabbard, City Manager

VIA: Charles P. Vitunac, City Attorney

FROM: Ericson W. Menger, Airport Director

DATE: September 20, 2010

SUBJECT: **JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF VERO BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT AN OPERATIONS FACILITY & HANGARS (FDOT #420768-1-94-01)**

Attached are six (6) copies of a Joint Participation Agreement (JPA) between the City of Vero Beach and the Florida Department of Transportation (FDOT) for the above-referenced airport project. Also attached are three (3) copies of a proposed City Resolution authorizing the Mayor and City Manager to execute the JPA on behalf of the City of Vero Beach.

BACKGROUND

This project was initially approved by the City Council in FY 2008. As you will recall, this is a FEMA alternate project whereby anticipated funds from the destruction of three (3) hangars at Airport North during hurricanes Frances and Jeanne in 2004 will be used to partially fund an alternate facility at the airport. Rather than replacing the demolished hangars, City management determined that it would be best to lease the subject property to a private party for re-development. The current airport operations hangar could then be leased for aviation needs once the new facility was constructed to better serve the needs of the airport. FEMA approved the City's request to construct the alternate project in 2005 and the budget was approved in 2007, but FDOT funds were not available until recently.

On September 15, 2010, the FDOT issued a Joint Participation Agreement to help fund the cost of constructing the new facility. The project cost is estimated to be $2,400,000 with FDOT sharing $1,600,000 (66.67%), FEMA sharing $400,000 (16.67%), and the Airport sharing $400,000 (16.67%). There will be no general fund monies involved in this project. The account number to be charged is 443.4000.542.608006.

RECOMMENDATION

I respectfully request that this item be placed on the October 5, 2010, City Council Agenda. I recommend approval of the proposed Resolution and acceptance of the JPA.

EWM:rls

Attachments (9)

cc: Airport Commission Members, via email & U.S. Mail
Joyce Vonada, City Manager's Office, via email
Steve Maillet, Finance Director, via email
John O'Brien, Purchasing, via email

RESOLUTION NO. 10-____

A RESOLUTION AUTHORIZING THE CITY OF VERO BEACH, FLORIDA, TO ENTER INTO A JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, TO CONSTRUCT AN OPERATIONS FACILITY & HANGARS (FDOT #420768-1-94-01)

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport and;

WHEREAS, the City desires to participate in the construction of an operations facility and hangars and;

WHEREAS, the State government has agreed to participate in the funding of the above-referenced airport improvements with the City of Vero Beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO Beach, Florida that:

The Mayor and City Manager are authorized to execute all appropriate documents as representatives of the City in connection with the Joint Participation Agreement between the State of Florida and the City of Vero Beach to construct an operations facility and hangars.

****

THIS RESOLUTION was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____ 2010, by the following vote:

Mayor Sawnick _____

Vice-Mayor Abell _____

Councilmember White _____

Councilmember Heady _____

Councilmember Daige _____

ATTEST

Tammy K. Vock, City Clerk

CITY OF VERO BEACH, FLORIDA

Kevin Sawnick, Mayor

Approved as to form and
Legal sufficiency:

Charles P. Vitunac, City Attorney

Approved as to technical
requirements:

James M. Gabbard, City Manager

Approved as to technical
requirements:

Ericson W. Menger, Airport Director

4-C)

MEMORANDUM

TO: James M. Gabbard, City Manager

VIA: Charles P. Vitunac, City Attorney

FROM: Ericson W. Menger, Airport Director

DATE: September 20, 2010

SUBJECT: **SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF VERO BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR RUNWAY 11R/29L AND TAXIWAY C REHABILITATION (FDOT #428512-1-94-01)**

Attached are six (6) copies of a Supplemental Joint Participation Agreement (SJPA) between the City of Vero Beach and the Florida Department of Transportation (FDOT) for the above-referenced airport project. Also, attached are three (3) copies of a proposed City Resolution authorizing the Mayor and City Manager to execute the SJPA on behalf of the City of Vero Beach.

BACKGROUND

This project was awarded to Dickerson Florida at the September 7, 2010, City Council meeting. FDOT offered partial funding through a Joint Participation Agreement in the amount of $144,000 (20.57%) to offset the estimated project cost of $700,000 prior to the Airport receiving bids. City Council approved the JPA on March 2, 2010.

On August 6, 2010, FAA offered a grant based on bids in the amount of $767,000 which funded 95% of the $807,368 project with 2.5% by the FDOT, and 2.5% by the Airport. City Council approved the grant offer on August 17, 2010. Due to the additional funding now available from FAA, the FDOT submitted the attached SJPA to decrease their funding by $123,816, bringing the revised total to $20,184 or 2.5% of the total project cost. Based on the FAA and FDOT revised shares, the Airport will fund $20,184 or 2.5% of the total project. No general fund dollars are proposed for this project.

This is simply a housekeeping measure to bring the FDOT funding in line with the newly accepted funding from FAA. There is no change to the total project amount or the Dickerson bid amount as approved by City Council.

RECOMMENDATION

I respectfully request that this item be placed on the October 5, 2010, City Council Agenda with a recommendation for approval of the proposed Resolution and acceptance of the SJPA.

EWM:rls

Attachments (9)

cc: Airport Commission Members, via email and/or U.S. Mail
Steve Maillet, Finance Director, via email
Joyce Vonada, City Manager's Office, via email
John O'Brien, Purchasing Manager, via email

RESOLUTION NO. 10-____

A RESOLUTION AUTHORIZING THE CITY OF VERO BEACH, FLORIDA, TO ENTER INTO A JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, TO REHAB SECTIONS OF RUNWAY 11R/29L AND TAXIWAY C (FDOT #428512-1-94-01)

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport and;

WHEREAS, the City desires to participate in Rehab Sections of Runway 11R/29L and Taxiway C and;

WHEREAS, the State government has agreed to participate in the funding of the above-referenced airport improvements with the City of Vero Beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO Beach, Florida that:

The Mayor and City Manager are authorized to execute all appropriate documents as representatives of the City in connection with the Joint Participation Agreement between the State of Florida and the City of Vero Beach to Rehab Sections of Runway 11L/29R and Taxiway C.

****

THIS RESOLUTION was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____ 2010, by the following vote:

Mayor Sawnick _____

Vice-Mayor Abell _____

Councilmember White _____

Councilmember Heady _____

Councilmember Daige _____

ATTEST

Tammy K. Vock, City Clerk

CITY OF VERO BEACH, FLORIDA

Kevin Sawnick, Mayor

Approved as to form and
Legal sufficiency:

Charles P. Vitunac, City Attorney

Approved as to technical
requirements:

James M. Gabbard, City Manager

Approved as to technical
requirements:

Ericson W. Menger, Airport Director

6-A)

MEMORANDUM

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Tammy K. Vock, MMC Tammy
City Clerk

DATE: September 29, 2010

SUBJECT: Appointments/Reappointments to City Commissions and Boards

AIRPORT COMMISSION

Mr. Peter Coxhead, Mr. Sid Greer, and Dr. James Stewart's terms on the Airport Commission expire on October 15, 2010. All members wish to be reappointed to the Airport Commission.

BOARD OF ADJUSTMENT

Mr. Dennis O'Brien; Mr. Steve Smith, Mrs. Nancy Cook, Mr. Al Turner and Mr. Nathan Goldsmith's terms on the Board of Adjustment expire on November 15, 2010. All members wish to be reappointed.

PLANNING AND ZONING BOARD

Mr. Charles Vogt, Mr. Ed Llerena, and Mr. Kevin Doty's terms on the Planning and Zoning Board expire on November 15, 2010. All members wish to be reappointed to the Planning and Zoning Board.

RECREATION COMMISSION

Mrs. Debbie-Kay Whitehouse, Mr. Greg Holtan, and Ms. Judy Jones' terms on the Recreation Commission expire on November 15, 2010. All members wish to be reappointed.

MARINE COMMISSION

There are two openings on the Marine Commission for a full member and an alternate member.

Applications on File:

Brian Cunningham
Daniel A. Thomas

Thomas G. Juliano
Leonard J. Frosina

Attached is a list of the excused and unexcused absences for all of the different members who wish to be reappointed.

Thank you for your help in this matter.

/tv

Attachment

7-A)

COUNCIL AGENDA REPORT
MEETING OF OCTOBER 5, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: September 28, 2010

SUBJECT: **WATER AND SEWER SERVICE NEGOTIATIONS WITH THE TOWN OF INDIAN RIVER SHORES**

Mr. Rob Bolton, Water and Sewer Director, will discuss the water and sewer service negotiations with the Town of Indian River Shores.

James M. Gabbard

JMG/sp

xc: Rob Bolton, Water and Sewer Director

DEPARTMENTAL CORRESPONDENCE
WATER AND SEWER DEPARTMENT

To: James M. Gabbard
Dept: City Manager

From: Robert J. Bolton, P.E., Director RJB.

Date: September 14, 2010

RE: Asset Purchase and Franchise Agreement between the City of Vero Beach and Town of Indian River Shores

Background:

The Town of Indian River Shores (Town) still owns a portion of the utility infrastructure within the Town limits that they want to sell along with granting a new thirty (30) year franchise agreement. The Town has prepared and forwarded to the City through their consultant an Asset Purchase and Franchise Agreement which they have set a deadline of October 8, 2010 for response. I have forwarded this Purchase and Franchise Agreement onto our legal firm Gray Robinson as well as the City Attorney's Office for their review and comment.

In general, this agreement obligates the City to the following:

1. Closing Costs and reimbursement of legal costs and consultant costs at an estimated amount of $60,000.00 total;
2. waiving the 10% outside City surcharge for a period of thirteen (13) years as a means of payment for the infrastructure owned by the Town;
3. providing the Town ninety (90) days notice of any rate increases
4. providing the Town with the five year Capital Improvement Plan, specific to facilities within the Town, annually;
5. providing a minimum of 2.0 million gallons per day (MGD) annual average daily flow (ADF) of reclaimed water capacity to customers in the Town in 2010, increasing to 2.9 MGD ADF by the year 2040.

I have reviewed the agreement and find the terms acceptable. I have minor comments/amendments that I will forward to the City Attorney's Office for inclusion in their review.

Funding
Funding for the estimated $60,000.00 will be from revenues.

Recommendation

Please place this item on the September 21, 2010 agenda for review and approval. I will forward all comments/amendments to these documents as received from Gray Robinson and the City Attorney's Office upon receipt. Recommend City Council approves the Purchase and Franchise Agreement with any comments/amendments received by the September 21, 2010 meeting.

Please contact me at ext. 5228 if you have any questions.

xc: Charles Vitunac, City Attorney
Thomas A. Cloud, Gray Robinson
Monte Falls, Public Works Director

gai consultants
transforming ideas into reality

September 13, 2010
GAI #A100856.00

Mr. Rob Bolton, Director
City of Vero Beach Water and Sewer Administration
17 17th Street
Vero Beach, FL 32960

Re: Draft Asset Purchase and Franchise Agreement

Dear Mr. Bolton:

Attached is the Draft Asset Purchase and Franchise Agreement between the Town of Indian River Shores and the City of Vero Beach for your, the City Attorney's and special counsel's consideration.

Please notify us at your earliest convenience if you do not wish to negotiate substantially the same terms and conditions delineated herein. We would appreciate your comments back to us by October 8th at the latest.

Thank you for your cooperation in this matter.

Very truly yours,
GAI Consultants, Inc.

Gerald C. Hartman, PE, BCEE, ASA
Vice President

CC: E. William Kenyon, Mayor, Town of Indian River Shores
Richard F. Jefferson, Town Manager, Town of Indian River Shores
Chester Clem, PA, Town Attorney, Town of Indian River Shores

Transmitted are 3 originals.

P:\ORL\2010\A100856.00 Indian River Shores\Agreements\Transmittal Cover Letter to City_091310.docx

DEPARTMENTAL CORRESPONDENCE
WATER AND SEWER DEPARTMENT

To: Utility and Finance Commission

From: Robert J. Bolton, P.E., Director RJB

Date: September 27, 2010

RE: Asset Purchase and Franchise Agreement between the City of Vero Beach and Town of Indian River Shores

Background:

The Town of Indian River Shores (Town) hired the consultant firm GAI to review the Town's options for the future delivery of Water, Wastewater and Reuse to the Town residents. GAI prepared a report that described four (4) different options that the Town had in regards to water, wastewater and reuse service. The options are as follows:

1. Build Water and Wastewater Plants to serve the Town and hire staff to fully operate the utilities.
2. Enter into BULK sales agreements for treatment and hire staff to maintain the infrastructure.
3. Grant a Franchise for complete service.
4. Grant a Franchise for complete service and sell the remaining infrastructure that the Town still owns.

The Town chose Option 4 and instructed GAI to start the process of identifying and appraising the assets the Town owned. GAI, through documents received by the Town and the City, identified the ownership and appraised the assets.

The Town prepared and forwarded to the City through GAI an Asset Purchase and Franchise Agreement which they set a deadline of October 8, 2010 for response. This DRAFT (should have watermark diagonally across the page) agreement is attached along with a similar memo from me to Jim Gabbard dated September 14, 2010.

I forwarded the DRAFT Purchase and Franchise Agreement onto our legal firm Gray Robinson as well as the City Attorney's Office for review and comment. I had minor changes that I forward to Gray Robinson; Gray Robinson had many changes especially to the format of the agreement that they made and forwarded to the City Attorney's Office. The City Attorney had some final changes and approved the document as to form and legal sufficiency on September 21, 2010. A "clean copy" as well as the "red-line" copy are attached for your review and should have the file name at the bottom of the

page titled "Asset Purchase Agreement between IRS COVB 091310 comments by Rob Bolton 091510 Tom Cloud 92110 Charlie Vitunac.docx"

In general, this agreement obligates the City to the following:

1. Closing Costs and reimbursement of legal costs and consultant costs at an estimated amount of $60,000.00 total;
2. waiving the 10% outside City surcharge for a period of thirteen (13) years as a means of payment for the infrastructure owned by the Town;
3. providing the Town ninety (90) days notice of any rate increases
4. providing the Town with the five year Capital Improvement Plan, specific to facilities within the Town, annually;
5. providing a minimum of 2.0 million gallons per day (MGD) annual average daily flow (ADF) of reclaimed water capacity to customers in the Town in 2010, increasing to 2.9 MGD ADF by the year 2040.

The City Council reviewed this information at the September 21, 2010 City Council Meeting and referred it to both Commissions for review and comment prior to Council Action on October 5, 2010. Since that meeting I attended the Town of IRS Council Meeting on September 23, 2010 and received further information that the Town is still expecting a response by October 8, 2010, however, the City Council does not have to approve the agreement by that date. The Town is expecting a letter from the City acknowledging the City's intent to negotiate with the Town along with any comments the City has in regards to the agreement. I have forwarded the "clean copy" and "red-lined" copy onto GAI with the comment that additional change maybe forthcoming.

At the September 21st City Council Meeting a Councilperson asked what the financial impact would be to the water and sewer budget. I responded that next year's revenue projections were prepared in June and were very conservative. Since June, sales have risen and that revenue projections are closer to the current year's projections. I have attached a Water & Sewer Fund Revenue (Revised 9/24/2010) and Water and Sewer Fund Five Year Projection for your revue. These sheets have (Based on proposed Town of IRS Agreement) in red letters written on them.

Recommendation

Please review this information for discussion at the October 4, 2010 Special Call Meeting. I would like comments and a recommendation for the October 5, 2010 City Council Meeting.

Please contact me at ext. 5228 if you have any questions.

xc: Jim Gabbard, City Manager
Charles Vitunac, City Attorney
Monte Falls, Public Works Director
Tammy Vock, City Clerk

WATER & SEWER FUND
REVENUE (Revised 9/24/2010)

2008-2009 Actual	2009-2010 Expected	Account Number	Account Name	2009-2010 Budget	2010-2011 Budget	2008-2009 Actual
8,882,274	9,338,105	421.0000.343.060100	METERED WATER SALES	9,119,692	8,943,288	8,882,274
13,228	5,000	421.0000.343.060200	NEW WATER CONNECTIONS	10,000	5,000	13,228
5,546,015	6,739,524	421.0000.343.060400	SEWER SERVICE CHARGES	7,221,626	7,081,381	5,546,015
166,787	46,500	421.0000.343.060600	FIRE HYDRANT RENTAL	175,000	0	166,787
128,526	127,596	421.0000.343.061400	IRRIGATION REUSE NON PRESSURE	115,000	127,000	128,526
627,440	815,000	421.0000.343.061500	IRRIGATION REUSE OTHERS	882,369	975,000	627,440
121,093	122,000	421.0000.361.010200	INTEREST ON INVESTMENTS	37,100	50,000	121,093
12,357	5,065	421.0000.369.090100	MISCELLANEOUS REVENUES	12,500	10,000	12,357
752,443	-591,212	421.0000.389.000200	CASH CARRYOVER	-49,421	-900,189	752,443
16,250,163	16,607,578			17,523,866	16,291,480	16,250,163

(Based on proposed Town of IRS Agreement)

WATER & SEWER FUND

(in 000s)

Five Year Projections

	2010-2011 (2)	2011-2012 (3)	2012-2013 (3)	2013-2014 (3)	2014-2015 (3)
Revenue	$ 17,192	$ 17,292	$ 17,392	$ 17,466	$ 17,540
Expenditures & Transfers	12,404	12,600	12,800	13,100	13,400
Net Available	4,788	4,692	4,592	4,366	4,140
Debt Service Needs	2,153	2,153	2,154	2,153	2,153
Available for Capital Projects	2,634	2,538	2,438	2,213	1,987
Other Sources of Funds:					
Impact Fees & Assessments	281	281	281	281	281
Grants	195	0	250	0	0
Total Available	3,110	2,819	2,969	2,493	2,268
Needed for Routine Annual Capital Expenditures (1)	505	350	370	390	410
Available for Major Capital Projects	2,605	2,469	2,599	2,103	1,858
Major Capital Projects	1,705	1,610	1,685	1,605	1,535
Available for Future Years	900	859	914	498	323
Use of Retained Earnings or Carryover from Prior Years	0	900	1,759	2,673	3,171
Cumulative Carryover Available (4)	$ 900	$ 1,759	$ 2,673	$ 3,171	$ 3,494
Equivalent Days of Cash (Unrestricted)	**19**	**37**	**56**	**66**	**73**

(1) Capital expenditures of less than $ 100,000.

(2) Based on budget for 2010-2011

(3) Estimates prepared by staff.

(4) Rounding errors may occur.

(Based on proposed Town of IRS Agreement)

Bolton, Robert

From: Bolton, Robert
Sent: Wednesday, September 22, 2010 12:14 PM
To: Gerry Hartman; Daniel J. Friedman; Manjiang Chen
Cc: Vock, Tammy; Vitunac, Charles; Gabbard, Jim; Falls, Monte
Subject: FW: Asset Purchase Franchise Agreement Between IRS COVB 091310 comments by Rob Bolton 091510 Tom Clou 92110Charlie Vitunac .docx
Attachments: Asset Purchase Franchise Agreement Between IRS COVB 091310 comments by Rob Bolton 091510 Tom Clou 92110Charlie Vitunac .docx

Gerry,
Here is the markups to the agreement as presented by staff to the City Council on September 21st. These markups include comments and changes from me, Gray Robinson and Charlie Vitunac. As you open the document it will be set at "Final Showing Changes". You can print this version and then toggle the Track Changes Feature to "Final" and the clean version will appear.

The City Council has not taken any action on this agreement other than to have our Finance and Utility Commission review and comment. The City Council has requested special call meetings for these committees over the next two weeks and will discuss their reviews at the October 5th meeting. This should provide adequate time to make anymore changes for submission to the Town prior to the requested October 8th deadline.

Please contact me if you have any questions.
Rob

From: Vitunac, Charles
Sent: Tuesday, September 21, 2010 4:03 PM
To: Bolton, Robert
Subject: Asset Purchase Franchise Agreement Between IRS COVB 091310 comments by Rob Bolton 091510 Tom Clou 92110Charlie Vitunac .docx

DEPARTMENTAL CORRESPONDENCE
WATER AND SEWER DEPARTMENT

To: James M. Gabbard
Dept: City Manager

From: Robert J. Bolton, P.E., Director RJB.

Date: September 14, 2010

RE: Asset Purchase and Franchise Agreement between the City of Vero Beach and Town of Indian River Shores

Background:

The Town of Indian River Shores (Town) still owns a portion of the utility infrastructure within the Town limits that they want to sell along with granting a new thirty (30) year franchise agreement. The Town has prepared and forwarded to the City through their consultant an Asset Purchase and Franchise Agreement which they have set a deadline of October 8, 2010 for response. I have forwarded this Purchase and Franchise Agreement onto our legal firm Gray Robinson as well as the City Attorney's Office for their review and comment.

In general, this agreement obligates the City to the following:

1. Closing Costs and reimbursement of legal costs and consultant costs at an estimated amount of $60,000.00 total;
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I have reviewed the agreement and find the terms acceptable. I have minor comments/amendments that I will forward to the City Attorney's Office for inclusion in their review.

Funding
Funding for the estimated $60,000.00 will be from revenues.

Recommendation

Please place this item on the September 21, 2010 agenda for review and approval. I will forward all comments/amendments to these documents as received from Gray Robinson and the City Attorney's Office upon receipt. Recommend City Council approves the Purchase and Franchise Agreement with any comments/amendments received by the September 21, 2010 meeting.

Please contact me at ext. 5228 if you have any questions.

xc: Charles Vitunac, City Attorney
Thomas A. Cloud, Gray Robinson
Monte Falls, Public Works Director

gai consultants
transforming ideas into reality

September 13, 2010
GAI #A100856.00

Mr. Rob Bolton, Director
City of Vero Beach Water and Sewer Administration
17 17th Street
Vero Beach, FL 32960

Re: Draft Asset Purchase and Franchise Agreement

Dear Mr. Bolton:

Attached is the Draft Asset Purchase and Franchise Agreement between the Town of Indian River Shores and the City of Vero Beach for your, the City Attorney's and special counsel's consideration.

Please notify us at your earliest convenience if you do not wish to negotiate substantially the same terms and conditions delineated herein. We would appreciate your comments back to us by October 8th at the latest.

Thank you for your cooperation in this matter.

Very truly yours,
GAI Consultants, Inc.

Gerald C. Hartman, PE, BCEE, ASA
Vice President

CC: E. William Kenyon, Mayor, Town of Indian River Shores
Richard F. Jefferson, Town Manager, Town of Indian River Shores
Chester Clem, PA, Town Attorney, Town of Indian River Shores

(1) of (3) Transmitted are 3 originals.

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7-B)

COUNCIL AGENDA REPORT
MEETING OF SEPTEMBER 21, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: September 13, 2010

SUBJECT: ASSET PURCHASE AND FRANCHISE AGREEMENT BETWEEN THE CITY OF VERO BEACH AND TOWN OF INDIAN RIVER SHORES

Attached is a memorandum from Rob Bolton, dated September 14, 2010, which provides background information and a recommendation on the above-referenced subject.

It is the recommendation of the City Manager's Office that Council approve the Asset Purchase and Franchise Agreement between the City of Vero Beach and Town of Indian River Shores, including any comments/amendments received from the legal firm of Gray Robinson and the City Attorney's Office.

James M. Gabbard

JMG:jav
Attachments

xc: Rob Bolton
Monte Falls

N:\AGENDA\WS\2010\ASSET PURCHASE AND FRANCHISE AGREEMENT - COVB AND IRS.DOC

DEPARTMENTAL CORRESPONDENCE
WATER AND SEWER DEPARTMENT

To: James M. Gabbard
Dept: City Manager

From: Robert J. Bolton, P.E., Director RJB

Date: September 14, 2010

RE: Asset Purchase and Franchise Agreement between the City of Vero Beach and Town of Indian River Shores

Background:

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I have reviewed the agreement and find the terms acceptable. I have minor comments/amendments that I will forward to the City Attorney's Office for inclusion in their review.

Funding
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Recommendation

Please place this item on the September 21, 2010 agenda for review and approval. I will forward all comments/amendments to these documents as received from Gray Robinson and the City Attorney's Office upon receipt. Recommend City Council approves the Purchase and Franchise Agreement with any comments/amendments received by the September 21, 2010 meeting.

Please contact me at ext. 5228 if you have any questions.

xc: Charles Vitunac, City Attorney
Thomas A. Cloud, Gray Robinson
Monte Falls, Public Works Director

gai consultants
transforming ideas into reality®

September 13, 2010
GAI #A100856.00

Mr. Rob Bolton, Director
City of Vero Beach Water and Sewer Administration
17 17th Street
Vero Beach, FL 32960

Re: Draft Asset Purchase and Franchise Agreement

Dear Mr. Bolton:

Attached is the Draft Asset Purchase and Franchise Agreement between the Town of Indian River Shores and the City of Vero Beach for your, the City Attorney's and special counsel's consideration.

Please notify us at your earliest convenience if you do not wish to negotiate substantially the same terms and conditions delineated herein. We would appreciate your comments back to us by October 8th at the latest.

Thank you for your cooperation in this matter.

Very truly yours,
GAI Consultants, Inc.

Gerald C. Hartman, PE, BCEE, ASA
Vice President

CC: E. William Kenyon, Mayor, Town of Indian River Shores
Richard F. Jefferson, Town Manager, Town of Indian River Shores
Chester Clem, PA, Town Attorney, Town of Indian River Shores

(1) of (3) Transmitted are 3 originals.

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ASSET PURCHASE AND FRANCHISE AGREEMENT BETWEEN

THE TOWN OF INDIAN RIVER SHORES, FLORIDA

AND THE CITY OF VERO BEACH, FLORIDA

This "Agreement" is entered into on this ___ day of _____ 20__, by and between the Town of Indian River Shores, a Florida municipal corporation, (hereinafter referred to as "INDIAN RIVER SHORES") and the City of Vero Beach, Florida, a Florida municipal corporation (hereinafter referred to as "VERO BEACH").

WITNESSETH

WHEREAS, INDIAN RIVER SHORES is the owner of a water distribution and wastewater collection system in Indian River County, Florida, and serving the residential community more fully described on Exhibits "A" and "B", attached, (hereinafter referred to as the "TOWN'S UTILITY AREA");

WHEREAS, VERO BEACH is engaged in potable and reclaimed water service and wastewater collection in this area and is authorized to be in the business of furnishing water service and wastewater collection to the various communities in the VERO BEACH's Service Area[1]. VERO BEACH desires to acquire, and INDIAN RIVER SHORES desires to sell the potable water distribution facilities and wastewater collection facilities, (collectively the "Facilities") installed to provide potable service and wastewater collection service to the property of INDIAN RIVER SHORES' customers, subject to the terms and conditions of this Agreement, as such Facilities may be modified prior to Closing with the consent of the VERO BEACH.

NOW, THEREFORE, in consideration of the mutual covenants as hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

REPRESENTATIONS BY INDIAN RIVER SHORES

INDIAN RIVER SHORES represents and warrants that, to INDIAN RIVER SHORES's actual knowledge:

[1] Area in which the purchaser has the exclusive right to provide water, wastewater, and reclaimed water service.

1) INDIAN RIVER SHORES is a municipal corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida authorizing it to construct, operate and maintain a public water distribution system and wastewater collection system.

2) INDIAN RIVER SHORES is, and at the Closing (the "Closing" as hereinafter defined) will be, the owner of the Facilities with good and marketable title, free and clear of all liens and encumbrances.

3) VERO BEACH is exempt from the Florida Public Service Commission regulation (hereinafter referred to as the "Commission").

4) INDIAN RIVER SHORES will cooperate fully with VERO BEACH in any and all applications or petitions to public authorities deemed necessary or desirable by VERO BEACH in connection with the purchase of the Facilities from INDIAN RIVER SHORES as contemplated herein.

5) Attached hereto as Exhibits "A" and "B" are detailed maps and listings of the Facilities of INDIAN RIVER SHORES to be acquired by VERO BEACH, pursuant to this Agreement, showing both their respective installation location and description. Said Facilities include all water and wastewater utility assets and equipment owned by INDIAN RIVER SHORES within the Property[2], including but not limited to a water distribution system and a wastewater collection system as shown in Exhibits "A" and "B". The engineering plans and specifications for the Facilities have been organized and will be transferred to VERO BEACH with all other records. Said Facilities expressly include customer deposits and accounts receivable, if any, both of which shall be transferred to VERO BEACH at Closing. The Facilities are constructed within publicly dedicated lands or are otherwise accessible to INDIAN RIVER SHORES and VERO BEACH. To the extent VERO BEACH reasonably requires any rights of non-exclusive access to the Facilities, INDIAN RIVER SHORES agrees to grant those rights.

6) INDIAN RIVER SHORES represents that there are none of the following as of the date of this Agreement, the following:

   (a) All pending or threatened action at law, suits in equity or administrative proceedings relating to the Facilities;

[2] Any external thing over which the rights of possession, use, and enjoyment are exercised.

(b) All contracts or obligations of any nature between INDIAN RIVER SHORES and any other party, including all developer agreements relating to the utility.

(c) All real estate, easements and rights and/or privileges associated with the utility owned by INDIAN RIVER SHORES to be transferred hereunder.

7) There are no pending or threatened actions at law or suits in equity relating to the Facilities, or any pending or threatened proceedings before any other governmental agency.

8) There are no contracts or obligations of any nature between INDIAN RIVER SHORES and any other party relating to the Facilities or service or promised service.

9) Neither INDIAN RIVER SHORES nor any entity or individual affiliated with INDIAN RIVER SHORES has executed any agreement with VERO BEACH regarding lots within the Service Area, or with any other parties, where under such purchases other parties have acquired any interest in the Facilities used or to be used in rendering service to them.

10) Facilities are capable of rendering water and wastewater utility service in the ordinary course of business in compliance with all federal, state and local rules and regulations including but not limited to all rules and regulations related to environmental protection, wastewater collection, and drinking water.

11) Prior to the Closing, the consummation of the transactions contemplated herein will have been duly authorized by all necessary action, corporate or otherwise, on behalf of INDIAN RIVER SHORES.

12) INDIAN RIVER SHORES has filed all tax returns which are required to be filed, and each return which has been filed is true and correct, and INDIAN RIVER SHORES has paid all taxes shown as payable on such returns when and as required by applicable law.

13) No representation or warranty by INDIAN RIVER SHORES in this Agreement, or any statement or certificate furnished or to be furnished to VERO BEACH pursuant hereto or in connection with the transactions contemplated herein, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE II

CLOSING AND PURCHASE PRICE

1) Closing

(a) The Closing shall take place prior to the execution of the renewal of the Franchise agreement. The Closing shall take place by or before January 31st, 2011, thus meeting the five year notice as described in the existing franchise agreement between INDIAN RIVER SHORES and VERO BEACH.

(b) At the Closing, INDIAN RIVER SHORES will, upon due performance by VERO BEACH of its obligations under the Agreement, deliver:

(i) such good and sufficient special warranty deeds, bills of sale with covenants of warranty, and sufficient instruments of sale, in form and substance reasonably satisfactory to VERO BEACH's counsel, as shall be required to vest in VERO BEACH marketable title to all of the Facilities used for the existing water and wastewater system, free and clear of liens and encumbrances of every nature that would render title to the Facilities unmarketable;

(ii) all of the files, documents, papers, agreements, books of account, customer lists, original cost invoices, engineering drawings, and records possessed by INDIAN RIVER SHORES pertaining to the water and wastewater utility business conducted by INDIAN RIVER SHORES in the property, other than its minute books and stock records, and any other records reasonably needed by INDIAN RIVER SHORES;

(iii) all orders, permits, licenses or certificates issued or granted to INDIAN RIVER SHORES by any governmental authority in connection with any authorization related to the construction, operation or maintenance of its Facilities or the conduct of its water and wastewater utility business; and

(iv) an opinion of Counsel for INDIAN RIVER SHORES, dated as of the Closing, that upon the delivery to VERO BEACH of the Bill of Sale and the approval of the respective legislative parties under Chapter 180.301 F.S. that VERO BEACH will then have title to the Facilities, free and clear of all liens and encumbrances in connection with the acquisition, construction, installation, and financing of the Facilities.

(c) At the Closing and from time to time thereafter, INDIAN RIVER SHORES shall execute and deliver such further instruments of sale, conveyance, transfer and assignment, and take such other action (without expending funds or bringing suit) as VERO BEACH may reasonably request, in order more effectively to sell, convey, transfer and assign to VERO BEACH any of INDIAN RIVER SHORES's Facilities, to confirm the title of VERO BEACH thereto and to assist VERO BEACH in exercising rights with respect thereto.

2) VERO BEACH's Consideration

(a) At the Closing VERO BEACH shall, upon due performance by INDIAN RIVER SHORES of its obligations under the Agreement, deliver to INDIAN RIVER SHORES the Purchase Price (the "Purchase Price") in the amount of ten thousand dollars ($10,000). VERO BEACH assumes any liabilities of INDIAN RIVER SHORES wholly arising prior to Closing.

(b) At the Closing VERO BEACH shall also deliver to INDIAN RIVER SHORES the costs incurred for legal and consulting services to INDIAN RIVER SHORES for the purposes associated with creation of this Agreement and equity assessment of Facilities, as well as closing and transactional costs.

ARTICLE III

AGENCY APPROVALS

Within fifteen (15) days following the execution of this Agreement VERO BEACH will file applications for transfer with the Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) requesting the transfer of the Public Utility permits or sequential water use permit. INDIAN RIVER SHORES agrees to cooperate fully with VERO BEACH in VERO BEACH's application for such transfers and approvals.

ARTICLE IV

GENERAL

1) Upon purchase of the Facilities of INDIAN RIVER SHORES, and for the duration of the Franchise Agreement found in Article IV, VERO BEACH shall supply all customers within INDIAN RIVER SHORES with continuous (subject to unavoidable outages),

adequate and customary water and wastewater utility service, and to operate, continuously maintain and promptly repair when necessary Facilities acquired herein, thus meeting all level-of-service standards as per comprehensive plans. VERO BEACH shall maintain wholesale emergency interconnect agreements and interconnects as appropriate in order to continue to provide adequate service to INDIAN RIVER SHORES in the event of outages, excessive demand, or other related events.

INDIAN RIVER SHORES's customers shall be treated in a manner equivalent to that of customers served inside of the boundaries of VERO BEACH, and shall receive a rate no less favorable than the rate offered by VERO BEACH to any other customer it serves inside of the boundaries of VERO BEACH. This warranty shall survive the Closing of this Agreement.

2) Upon purchase of the Facilities of INDIAN RIVER SHORES, VERO BEACH shall immediately waive the 10% surcharge paid by customers in INDIAN RIVER SHORES, shown in Exhibit "C", and shall continue to waive the surcharge for 13 years, in exchange for the transfer of all Facilities from INDIAN RIVER SHORES to VERO BEACH.

3) Upon purchase of the Facilities of INDIAN RIVER SHORES, and for perpetuity, existing customers within INDIAN RIVER SHORES shall not be charged impact fees, connection charges, capacity charges, assessments, capital recovery charges, or any form thereof by VERO BEACH. All capital improvements undertaken by VERO BEACH within INDIAN RIVER SHORES' boundaries and to serve customers in INDIAN RIVER SHORES shall be borne solely and completely by VERO BEACH.

4) Upon purchase of the Facilities of INDIAN RIVER SHORES, and for the duration of the Franchise Agreement found in Article IV, VERO BEACH shall annually provide the Town Manager and Town Planner of INDIAN RIVER SHORES the detailed five (5) year Capital Improvement Plan, specific to facilities within INDIAN RIVER SHORES, upon its completion for review and comment.

5) If, at the end of ninety nine (99) years, INDIAN RIVER SHORES unilaterally elects to own its System again, all Facilities referenced and transferred as a part of this transaction shall revert ownership from VERO BEACH to INDIAN RIVER SHORES at no cost to either party.

6) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general

waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.

7) Any notice of delivery required to be made hereunder may be made by mailing a copy thereof addressed to the appropriate party as follows:

If to INDIAN RIVER SHORES	Town Manager Town of Indian River Shores 6001 N. Highway A-1-A Indian River Shores, Florida 32963
If to VERO BEACH	City Manager City of Vero Beach 1053 20th Place Vero Beach, FL 32960-5359

Delivery when made by registered or certified mail shall be deemed complete upon mailing.

8) The Exhibits to this Agreement are a part hereof and are hereby incorporated in full by reference.

9) This Agreement shall be governed by the laws of the State of Florida.

10) The representations and warranties contained herein in Article I do not obviate the fact that this transaction is an "as-is" and "where-is" transaction. VERO BEACH agrees to indemnify INDIAN RIVER SHORES, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost accruing or resulting from any misrepresentation or breach of any representation, warranty or agreement on the part of VERO BEACH under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to INDIAN RIVER SHORES by VERO BEACH; INDIAN RIVER SHORES agrees to indemnify VERO BEACH, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost, accruing or resulting from any misrepresentation or breach of any representation, or warranty or agreement made or to be performed by INDIAN RIVER SHORES under this Agreement or from any misrepresentation in or

material omission from any certificate or other document furnished or to be furnished to VERO BEACH by INDIAN RIVER SHORES.

11) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

ARTICLE IV

FRANCHISE AGREEMENT

Entering this agreement also constitutes as a franchise agreement between INDIAN RIVER SHORES and VERO BEACH and consists of the following conditions:

1) That there is herby granted to VERO BEACH, its successors and assigns, the sole and exclusive right, privilege or franchise to construct, maintain, and operate a public water, wastewater, and reclaimed water system in, under, upon, over and across the present and future streets, alleys, bridges, easements and other public places throughout all the incorporated areas of INDIAN RIVER SHORES and its successors, in accordance with established practices with respect to water, wastewater, and reclaimed water system construction and maintenance, for a period of thirty (30) years from the date of acceptance hereof. Such water, wastewater, and reclaimed water system shall consist of water, wastewater, and reclaimed water facilities (including, pipes, fixtures, mains, valves, meters, tanks, lift stations, etc., and, for water, wastewater, and reclaimed water system use, telephone and electric lines) for the purpose of supplying water, wastewater, and reclaimed water service to INDIAN RIVER SHORES, and its successors, the inhabitants thereof, and persons and corporations beyond the limits thereof.

2) Upon acceptance of this franchise, VERO BEACH agrees to provide such areas of INDIAN RIVER SHORES with continuous (subject to unavoidable outages), adequate and customary water, wastewater, and reclaimed water utility service. All of the water, wastewater, and reclaimed water facilities of VERO BEACH shall be constructed, maintained and operated in accordance with the applicable regulations of the Federal Government and the State of Florida, as well as meeting all level-of-service standards as per comprehensive plans. The quantity and quality of water delivered and sold shall at all times be and remain not inferior to the applicable standards for public water supply and other applicable rules, regulations and standards now or hereafter adopted by the Federal Government and the State of Florida. The quantity and quality of

wastewater service provided and sold shall at all times be and remain not inferior to the applicable standards for public wastewater service and other applicable rules, regulations and standards now or hereafter adopted by the Federal Government and the state of Florida.

VERO BEACH shall maintain sufficient water pressure and mains of sufficient size with fire hydrants and other facilities necessary in the water system to furnish fire protection at any and all areas within the territory receiving services from VERO BEACH in accordance with the same applicable standards used to provide fire protection and service in VERO BEACH. VERO BEACH shall also supply all water to consumers through meters which shall accurately measure the amount of water supplied in accordance with normally accepted utility standards.

3) That the facilities shall be so located or relocated and so constructed as to interfere as little as practicable with traffic over said streets, alleys, bridges and public places, and with reasonable egress from and ingress to abutting property. The location or relocation of all facilities shall be made under the supervision and with the approval of such representatives as the governing body of INDIAN RIVER SHORES may designate for the purpose, but not so as unreasonably to interfere with the proper operation of VERO BEACH's facilities and service. That when any portion of a street is excavated by VERO BEACH in the location or relocation of any of its facilities, the portion of the street so excavated shall, within a reasonable time and as early as practicable after such excavation, be replaced by VERO BEACH at its expense, and in as good condition as it was at the time of such excavation. Provided, however, that nothing herein contained shall be construed to make INDIAN RIVER SHORES liable to VERO BEACH for any cost or expense in connection with the construction, reconstruction, repair or relocation of VERO BEACH's facilities in streets, highways and other public places made necessary by the widening, grading, paving or otherwise improving by said INDIAN RIVER SHORES of any of the present and future streets, avenues, alleys, bridges, highways, easements and other public places used or occupied by VERO BEACH, except, however, VERO BEACH shall be entitled to reimbursement of its costs as may be provided by law.

4) That INDIAN RIVER SHORES shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenances by VERO BEACH of its facilities hereunder, and the acceptance of this AGREEMENT shall be deemed an agreement on the part of VERO BEACH to indemnify INDIAN RIVER

SHORES and hold it harmless against any and all liability, loss, cost, damage or expense, which may accrue to INDIAN RIVER SHORES by reason of the neglect, default or misconduct of VERO BEACH in the construction, operation or maintenance of its facilities hereunder.

5) That all rates and rules and regulations established by VERO BEACH from time to time shall be reasonable, and that VERO BEACH's rates for water, wastewater, and reclaimed water services shall at all times be subject to such regulation as may be provided by State law.

   INDIAN RIVER SHORES's customers shall be treated in the exact same manner as customers served inside of the boundaries of VERO BEACH, and shall be charged in conjunction with prevailing Inside City rates levied by VERO BEACH.

   VERO BEACH shall not charge existing customers within INDIAN RIVER SHORES impact fees, connection charges, capacity charges, assessments, capital recovery charges, or any form thereof. Additionally, VERO BEACH shall waive all hydrant rental fees within INDIAN RIVER SHORES upon execution of this Agreement.

   VERO BEACH shall annually provide the Town Manager and Town Planner of INDIAN RIVER SHORES the detailed five (5) year Capital Improvement Plan, specific to facilities within INDIAN RIVER SHORES, upon its completion for review and comment. VERO BEACH shall also provide the Town Manager of INDIAN RIVER SHORES, for review and comment, any proposed rate increases no less than ninety (90) days before the rate increase is scheduled to go before the VERO BEACH City Council for approval.

   The right to regulate water, wastewater, and reclaimed water rates, impact fees, service policies or other rules or regulations or the construction, operation and maintenance of the water, wastewater, and reclaimed water system is vested solely in VERO BEACH except as may be otherwise provided by application laws of the Federal Government, the State of Florida, or as specified in this Agreement.

6) VERO BEACH shall commit to providing a minimum of 2.0 MGD annual average daily flow (ADF) of reclaimed water capacity to customers in INDIAN RIVER SHORES in 2010, increasing to 2.9 MGD ADF by the year 2040.

7) Prior to the imposition of any franchise fee by INDIAN RIVER SHORES, INDIAN RIVER SHORES shall give a minimum of sixty (60) days notice to VERO BEACH of the imposition of such fee. Such fee shall be initiated only upon passage of an appropriate ordinance in accordance with Florida statutes. Such fee shall be a percentage of gross

revenues from the sale of water and wastewater service to customers within the incorporated limits of INDIAN RIVER SHORES. Said fee, at the option of VERO BEACH, may be shown as an additional charge on affected utility bills. The franchise fee, if imposed, shall not exceed six (6%) per cent of applicable gross revenues.

Payments in the amount to be paid to INDIAN RIVER SHORES by VERO BEACH under the terms described above shall be made in monthly installments. Such monthly payments shall be rendered twenty (20) days after the monthly collection period. INDIAN RIVER SHORES agrees to hold VERO BEACH harmless from any damages or suits resulting directly or indirectly as a result of the collection of such fees, and INDIAN RIVER SHORES shall defend any and all suits filed against VERO BEACH based on the collection of such moneys.

8) As further consideration of this franchise, INDIAN RIVER SHORES agrees not to engage in or permit any person other than VERO BEACH to engage in the business of distributing and selling water and reclaimed water and collection of sewage to multiple customers during the life of the franchise or any extension thereof in competition with VERO BEACH, its successors and assigns, with the following exceptions:

   (a) Any non-potable water system(s) operated by INDIAN RIVER SHORES or any other operator properly licensed by INDIAN RIVER SHORES.

   (b) Any customers not served by VERO BEACH as of the effective date of this Franchise. Such customers will be served by VERO BEACH, upon request by them, and after appropriate approvals by INDIAN RIVER SHORES and any other affected parties.

   (c) VERO BEACH shall have the authority to enter into Developer Agreements with developers of real estate projects and other consumers within the franchise territory, which agreements may include, but not be limited to provisions relating to:

      (i) Advance payment of contributions in aid of construction to finance system expansion and/or extension,

      (ii) Revenue guarantees or other such arrangements as may make the expansion/extension self supporting,

      (iii) Capacity reservation fees,

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(iv) Prorata allocation of plant expansion/main extension charges between two or more developers.

Developer agreements entered into by VERO BEACH shall be fair, just and non-discriminatory, and generally have the same content as in-city developer agreements.

(d) VERO BEACH shall inherit any and all INDIAN RIVER SHORES' bulk service agreements and interlocal agreements, and shall abide by the terms and conditions thereof.

9) That failure on the part of VERO BEACH to comply in any substantial respect with any of the provisions of this Resolution, shall be grounds for a forfeiture of this grant, but no such forfeiture shall take effect, if the reasonableness or propriety thereof is protested by VERO BEACH, until a court of competent jurisdiction (with right of appeal in either party) shall have found that VERO BEACH has failed to comply in a substantial respect with any of the provisions of this franchise, and VERO BEACH shall have six (6) months after final determination of the question, to make good the default, before a forfeiture shall result, with the right in INDIAN RIVER SHORES at its discretion to grant such additional time to VERO BEACH for compliance as necessities in the case require; provided, however, that the provisions of this section shall not be construed as impairing any alternative right or rights which INDIAN RIVER SHORES may have with respect to the forfeiture of franchises under the Constitution or the general laws of Florida.

10) That if any Section, paragraph, sentence, clause, term, word or other portion of this Agreement shall be held to be invalid, the remainder of this Agreement shall not be affected.

11) As a condition precedent to the taking effect of this grant, VERO BEACH shall have filed its acceptance hereof with INDIAN RIVER SHORES's Clerk within sixty (60) days after adoption. This Agreement shall take effect on the date upon which VERO BEACH files its acceptance.

12) The franchise territory may be expanded or contracted to include or exclude lands by mutual agreement between VERO BEACH and INDIAN RIVER SHORES. Any franchise territory that is subsequently annexed by VERO BEACH shall be removed automatically from the franchise territory.

13) This Franchise supersedes, with respect to water, wastewater, and reclaimed water only, any previous agreements between VERO BEACH and INDIAN RIVER SHORES regarding such service.

14) This franchise is subject to renewal upon the agreement of both parties. In the event VERO BEACH desires to renew this franchise, then a five year notice of that intention to INDIAN RIVER SHORES shall be required. Should INDIAN RIVER SHORES wish to renew this franchise, the same five year notice to VERO BEACH from INDIAN RIVER SHORES shall be required and in no event will the franchise be terminated prior to the initial thirty (30) year period, except as provided for in Section 9 hereof.

15) Provisions herein to the contrary notwithstanding, VERO BEACH shall not be liable for the non-performance or delay in performance of any of its obligations undertaken pursuant to the terms of this franchise, where said failure or delay is due to cause beyond VERO BEACH's control including, without limitation, "Acts of God," unavoidable casualties and labor dispute.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year above first written.

TOWN OF INDIAN RIVER SHORES, FLORIDA

(Seal)

By _____

E. William Kenyon, Town Mayor

ATTEST:

_____

Laura Aldrich, Town Clerk

Reviewed as to form and legal sufficiency

_____

Chester Clem, PA
Town Attorney

CITY OF VERO BEACH, FLORIDA

(Seal)

By _____

Kevin Sawnick, City Mayor

ATTEST:

_____

Tammy K. Vock, City Clerk

Reviewed as to form and legal sufficiency

_____

Charles P. Vitunac, Esquire
City Attorney

Approved as to content and legal sufficiency

_____

Thomas A. Cloud, Esquire
Gray-Robinson
Special Counsel

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Exhibits

Exhibit "A" Town of Indian River Shores Water System Map & Facilities Listing

Exhibit "B" Town of Indian River Shores Wastewater System Map & Facilities Listing

Exhibit "C" Town of Indian River Shores Surcharge Calculation and Waiver Schedule

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Exhibit "A"

Town of Indian River Shores

Water System Map & Facilities Listing

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Contents

Exhibit A-1 Potable Water System Asset Reference Sheet

Exhibit A-2 Potable Water System Maps

Exhibit A-3 Potable Water Asset List and Valuation

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Exhibit A-1
Town of Indian River Shores
Potable Water System Asset Reference Sheet

Sheet No.	Subdivision Name	Plat Book Data
88	Harbor Island Club	Recorded OR 637-1065 on 01-29-1982
88	Harbor Island Club Villas	Recorded OR 603-2116 on 06-13-1980
88	Pebble Beach Villas	Recorded OR 499-0479 on 09-09-1975
90,91	La Mer Condo Phase I	Recorded OR 599-2112 on 03-24-1980
90,91	La Mer Condo Phase II	Recorded OR 636 -1311 on 01-12- 1982
90,91	Park Shores Of Vero Beach Condo	Recorded OR 856-0686 on 02-15-1990
90,91	Park Shores Phase I Condo	Recorded OR 623-0215 on 05-20-1981
90,91	Park Shores Phase II Condo	Recorded OR 643-2347 on 05-27-1982
90,91	Park Shores Phase III Condo	Recorded OR 688-2638 on 07-02-1984
90,91	Park Shores Phase IV Condo	Recorded OR 744-1385 on 08-15-1986
90,91,94	Park Shores	Recorded PBI 10-074 on 09-04-1980
90,91	Pepper Tree Sub	Recorded PBI 11-059 on 12-20-1983
90,91	Pepper Tree Villas	Recorded OR 682-0280 on 03-20-1984
90,91	Victoria Condo	Recorded OR 650-2770 on 10-20-1982
92,95,96,99,102,103,104	Johns Island Plat 2	Recorded PBI 08-015 on 07-31-1969
92	Johns Island Plat 25	Recorded PBI 10-067 on 05-29-1980
92	Johns Island Plat 26	Recorded PBI 10-085 on 03-1981
92,93,95,96	Johns Island Plat 34	Recorded PBI 11-080 on 10-03-1984
93	Indian Harbor	Recorded PBI 10-079 on 12-12-1980
93	Indian Harbor Replat No 1	Recorded PBI 13-071 on 12-17-1991
93	Indian Harbor Replat No 2	Recorded PBI 14-007 on 10-29-1993
93	Indian Harbor Replat No 3	Recorded PBI 14-050 on 08-15-1995
93	Indian Harbor Replat No 4	Recorded PBI 14-075 on 06-13-1996
93,95,96,99	Johns Island Plat 25 & 26 REPLAT	Recorded PBI 11-035 on 05-27-1982
93	Johns Island Plat 33	Recorded PBI 13-072 on 03-04-1992
93	Johns Island Plat 40	Recorded PBI 12-010 on 11-12-1985
94	Southern Shores Replat (The Fountains)	Recorded PBI 02-066 on 05-01-1946
94	Sunset Drive Plat No 1 (Roland Miller Dr)	Recorded PBI 07-065 on 11-25-1966
94	Sunset Drive Plat No 1 Replat (Roland Miller Dr)	Recorded PBI 07-077 on 06-08-1967
94	Sunset Drive Plat No 2 (Roland Miller Dr)	Recorded PBI 07-078 on 06-08-1967
94	Sunset Drive Plat No 2 Replat (Roland Miller Dr)	Recorded PBI 08-058 on 08-23-1972
96	Johns Island Plat 1	Recorded PBI 08-008 on 03-31-1969
96	Johns Island Replat of Lots 52, & 53	Recorded PBI 08-030 on 08-31-1970
96	Johns Island Replat of Lots 54, To 63	Recorded PBI 08-026 on 05-11-1970
96	John Island South Village Module I & II	Recorded OR 413-0344 on 07-18-1972
96,97,98	Johns Island Plat 08C	Recorded PBI 10-011 on 12-05-1978
96,97,98	Johns Island Plat 20	Recorded PBI 10-046 on 11-14-1979
96,97,98	Johns Island Plat 21	Recorded PBI 10-047 on 11-14-1979
96	Johns Island Plat 24	Recorded PBI 10-053 on 01-30-1980
96	Johns Island Plat 36	Recorded PBI 11-096 on 04-01-1985
96,97,98	Johns Island Plat 39	Recorded PBI 12-033 on 03-19-1987
97,98	Johns Island Plat 22	Recorded PBI 10-048 on 11-14-1979
97,98	Johns Island Plat 24	Recorded PBI 10-053 on 01-30-1980
97,98	Johns Island Plat 36	Recorded PBI 11-096 on 04-01-1985
97,98	Johns Island Plat 43	Recorded PBI 13-093 on 02-11-1993
98	Johns Island Plat 31	Recorded PBI 11-072 on 05-29-1984
98,99	Johns Island Plat 44	Recorded PBI 12-048 on 10-22-1987
99	Johns Island Plat 45	Recorded PBI 12-053 on 12-23-1987
99,102	Johns Island Plat 49	Recorded PBI 12-060 on 03-07-1988
103,104	Johns Island Plat 3	Recorded PBI 08-033 on 11-23-1970
102,103,104,105,107	Johns Island Plat 4	Recorded PBI 08-062 on 01-02-1973
103,104	Johns Island Plat 5	Recorded PBI 08-092 on 09-16-1974
103,104	Johns Island Replat 7	Recorded PBI 09-015 on 08-15-1975

Exhibit A-1
Town of Indian River Shores
Potable Water System Asset Reference Sheet

Sheet No.	Subdivision Name	Plat Book Data
103,104,105,107	Johns Island Plat 9	Recorded PBI 09-049 on 02-09-1977
103,104	Johns Island Plat 13	Recorded PBI 09-063 on 07-24-1977
103,104,105	Johns Island Plat 19	Recorded PBI 10-023 on 03-05-1079
103,104	Johns Island Plat 30	Recorded PBI 12-004 on 09-05- 1985
105,107	Johns Island Plat 14	Recorded PBI 09-070 on 10-25-1977
105,107	Johns Island Plat 15	Recorded PBI 10-029 on 05-08-1979
105,107	Johns Island Plat 18	Recorded PBI 10-013 on 12-05-1978
107	Johns Island Plat 11	Recorded PBI 09-060 on 05-27-1977
107	Johns Island Plat 17	Recorded PBI 09-77 on 01-16-1978
107	Johns Island Plat 23	Recorded PBI 10-052 on 01-25-1980
107	Johns Island Plat 37	Recorded PBI
107,109	Johns Island Plat 42	Recorded PBI 12-007 on 09-27-1985

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EXHIBIT A-3
TOWN OF INDIAN RIVER SHORES
POTABLE WATER ASSET LIST AND VALUATION

Description[1]	Year in Service	Quantity	Unit	Unit[2] Cost	Replacement Cost[3]	Age[4] (Years)	ASL (Years)	Percent Depreciated	Amount Depreciated	Replacement Cost New Less Depreciation
	Mains									
2-inch GIP[5]	1970	4,980	LF	$ 5.50	$ 27,390	40	75	53%	$ 14,608.00	$ 12,782.00
2-inch GIP	1972	466	LF	$ 5.50	$ 2,563	38	75	51%	$ 1,298.59	$ 1,264.41
2-inch PVC	1970	297	LF	$ 5.50	$ 1,634	40	75	53%	$ 871.20	$ 762.30
2-inch PVC	1975	2,322	LF	$ 5.50	$ 12,771	35	75	47%	$ 5,959.80	$ 6,811.20
2.5-inch PVC	1970	609	LF	$ 5.50	$ 3,350	40	75	53%	$ 1,786.40	$ 1,563.10
3-inch PVC	1975	504	LF	$ 8.00	$ 4,032	35	75	47%	$ 1,881.60	$ 2,150.40
4-inch ACP	1970	2,053	LF	$ 11.00	$ 22,583	40	75	53%	$ 12,044.27	$ 10,538.73
4-inch CIP	1988	358	LF	$ 11.00	$ 3,938	22	75	29%	$ 1,155.15	$ 2,782.85
4-inch PVC	1968	433	LF	$ 11.00	$ 4,763	42	75	56%	$ 2,667.28	$ 2,095.72
4-inch PVC	1975	272	LF	$ 11.00	$ 2,992	35	75	47%	$ 1,396.27	$ 1,595.73
4-inch PVC	1979	400	LF	$ 11.00	$ 4,400	31	75	41%	$ 1,818.67	$ 2,581.33
4-inch PVC	1993	479	LF	$ 11.00	$ 5,269	17	75	23%	$ 1,194.31	$ 4,074.69
4-inch DIP	1972	215	LF	$ 11.00	$ 2,365	38	75	51%	$ 1,198.27	$ 1,166.73
6-inch ACP	1970	9,229	LF	$ 16.50	$ 152,279	40	75	53%	$ 81,215.20	$ 71,063.30
6-inch CIP	1972	5,492	LF	$ 16.50	$ 90,618	38	75	51%	$ 45,913.12	$ 44,704.88
6-inch CIP	1973	14,155	LF	$ 16.50	$ 233,558	37	75	49%	$ 115,221.70	$ 118,335.80
6-inch CIP	1979	400	LF	$ 16.50	$ 6,600	31	75	41%	$ 2,728.00	$ 3,872.00
6-inch CIP	1980	2,695	LF	$ 16.50	$ 44,468	30	75	40%	$ 17,787.00	$ 26,680.50
6-inch PVC	1968	361	LF	$ 16.50	$ 5,957	42	75	56%	$ 3,335.64	$ 2,620.86
6-inch PVC	1970	409	LF	$ 16.50	$ 6,749	40	75	53%	$ 3,599.20	$ 3,149.30
6-inch PVC	1975	42	LF	$ 16.50	$ 693	35	75	47%	$ 323.40	$ 369.60
6-inch PVC	1984	505	LF	$ 16.50	$ 8,333	26	75	35%	$ 2,888.60	$ 5,443.90
6-inch PVC	1989	1,747	LF	$ 16.50	$ 28,826	21	75	28%	$ 8,071.14	$ 20,754.36
6-inch PVC	1990	672	LF	$ 16.50	$ 11,088	20	75	27%	$ 2,956.80	$ 8,131.20
6-inch DIP	1977	1,088	LF	$ 16.50	$ 17,952	33	75	44%	$ 7,898.88	$ 10,053.12
6-inch DIP	1980	1,904	LF	$ 16.50	$ 31,416	30	75	40%	$ 12,566.40	$ 18,849.60
8-inch ACP	1970	2,743	LF	$ 22.00	$ 60,346	40	75	53%	$ 32,184.53	$ 28,161.47
8-inch CIP	1973	467	LF	$ 22.00	$ 10,274	37	75	49%	$ 5,068.51	$ 5,205.49
8-inch CIP	1977	1,324	LF	$ 22.00	$ 29,128	33	75	44%	$ 12,816.32	$ 16,311.68
8-inch PVC	1970	389	LF	$ 22.00	$ 8,558	40	75	53%	$ 4,564.27	$ 3,993.73
8-inch PVC	1982	249	LF	$ 22.00	$ 5,478	28	75	37%	$ 2,045.12	$ 3,432.88
8-inch PVC	1984	7,237	LF	$ 22.00	$ 159,214	26	75	35%	$ 55,194.19	$ 104,019.81
8-inch PVC	1986	2,101	LF	$ 22.00	$ 46,222	24	75	32%	$ 14,791.04	$ 31,430.96
8-inch PVC	1987	255	LF	$ 22.00	$ 5,610	23	75	31%	$ 1,720.40	$ 3,889.60
8-inch PVC	1988	3,221	LF	$ 22.00	$ 70,862	22	75	29%	$ 20,786.19	$ 50,075.81
8-inch PVC	1989	1,352	LF	$ 22.00	$ 29,744	21	75	28%	$ 8,328.32	$ 21,415.68
8-inch PVC	1990	2,659	LF	$ 22.00	$ 58,498	20	75	27%	$ 15,599.47	$ 42,898.53

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EXHIBIT A-3
TOWN OF INDIAN RIVER SHORES
POTABLE WATER ASSET LIST AND VALUATION

Description[1]	Year in Service	Quantity	Unit	Unit Cost[2]	Replacement Cost[3]	Age[4] (Years)	ASL (Years)	Percent Depreciated	Amount Depreciated	Replacement Cost New Less Depreciation
Mains										
8-inch PVC	1993	1,174	LF	$ 22.00	$ 25,828	17	75	23%	$ 5,854.35	$ 19,973.65
8-inch PVC	1997	688	LF	$ 22.00	$ 15,136	13	75	17%	$ 2,623.57	$ 12,512.43
8-inch DIP	1970	1,311	LF	$ 22.00	$ 28,842	40	75	53%	$ 15,382.40	$ 13,459.60
8-inch DIP	1973	1,167	LF	$ 22.00	$ 25,674	37	75	49%	$ 12,665.84	$ 13,008.16
10-inch PVC	1982	555	LF	$ 27.50	$ 15,263	28	75	37%	$ 5,698.00	$ 9,564.50
10-inch PVC	1984	1,121	LF	$ 27.50	$ 30,828	26	75	35%	$ 10,686.87	$ 20,140.63
10-inch PVC	1989	3,016	LF	$ 27.50	$ 82,940	21	75	28%	$ 23,223.20	$ 59,716.80
12-inch ACP	1970	1,546	LF	$ 33.00	$ 51,018	40	75	53%	$ 27,209.60	$ 23,808.40
12-inch FG	1986	920	LF	$ 33.00	$ 30,360	24	75	32%	$ 9,715.20	$ 20,644.80
12-inch PVC	1984	3,017	LF	$ 33.00	$ 99,561	26	75	35%	$ 34,514.48	$ 65,046.52
12-inch PVC	1988	112	LF	$ 33.00	$ 3,696	22	75	29%	$ 1,084.16	$ 2,611.84
12-inch PVC	1991	1	LF	$ 33.00	$ 33	19	75	25%	$ 8.36	$ 24.64
Valves										
2" Gate Valves	1970	15	EA	$ 705.00	$ 10,575	40	75	53%	$ 5,640.00	$ 4,935.00
2" Gate Valves	1972	4	EA	$ 705.00	$ 2,820	38	75	51%	$ 1,428.80	$ 1,391.20
2" Gate Valves	1975	6	EA	$ 705.00	$ 4,230	35	75	47%	$ 1,974.00	$ 2,256.00
4" Gate Valves	1970	1	EA	$ 1,325.00	$ 1,325	40	75	53%	$ 706.67	$ 618.33
4" Gate Valves	1988	1	EA	$ 1,325.00	$ 1,325	22	75	29%	$ 388.67	$ 936.33
4" Gate Valves	1993	2	EA	$ 1,325.00	$ 2,650	17	75	23%	$ 600.67	$ 2,049.33
4" Gate Valves	1997	5	EA	$ 1,325.00	$ 6,625	13	75	17%	$ 1,148.33	$ 5,476.67
6" Gate Valves	1968	1	EA	$ 1,325.00	$ 1,325	42	75	56%	$ 742.00	$ 583.00
6" Gate Valves	1970	7	EA	$ 2,200.00	$ 15,400	40	75	53%	$ 8,213.33	$ 7,186.67
6" Gate Valves	1972	15	EA	$ 2,200.00	$ 33,000	38	75	51%	$ 16,720.00	$ 16,280.00
6" Gate Valves	1973	5	EA	$ 2,200.00	$ 11,000	37	75	49%	$ 5,426.67	$ 5,573.33
6" Gate Valves	1977	3	EA	$ 2,200.00	$ 6,600	33	75	44%	$ 2,904.00	$ 3,696.00
6" Gate Valves	1980	3	EA	$ 2,200.00	$ 6,600	30	75	40%	$ 2,640.00	$ 3,960.00
6" Gate Valves	1984	3	EA	$ 2,200.00	$ 6,600	26	75	35%	$ 2,288.00	$ 4,312.00
6" Gate Valves	1989	2	EA	$ 2,200.00	$ 4,400	21	75	28%	$ 1,232.00	$ 3,168.00
6" Gate Valves	1990	1	EA	$ 2,200.00	$ 2,200	20	75	27%	$ 586.67	$ 1,613.33
8" Gate Valves	1970	3	EA	$ 3,475.00	$ 10,425	40	75	53%	$ 5,560.00	$ 4,865.00
8" Gate Valves	1973	3	EA	$ 3,475.00	$ 10,425	37	75	49%	$ 5,143.00	$ 5,282.00
8" Gate Valves	1982	1	EA	$ 3,475.00	$ 3,475	28	75	37%	$ 1,297.33	$ 2,177.67
8" Gate Valves	1984	11	EA	$ 3,475.00	$ 38,225	26	75	35%	$ 13,251.33	$ 24,973.67
8" Gate Valves	1986	1	EA	$ 3,475.00	$ 3,475	24	75	32%	$ 1,112.00	$ 2,363.00
8" Gate Valves	1987	1	EA	$ 3,475.00	$ 3,475	23	75	31%	$ 1,065.67	$ 2,409.33

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EXHIBIT A-3
TOWN OF INDIAN RIVER SHORES
POTABLE WATER ASSET LIST AND VALUATION

Description[1]	Year in Service	Quantity	Unit	Unit Cost[2]	Replacement Cost[3]	Age[4] (Years)	ASL (Years)	Percent Depreciated	Amount Depreciated	Replacement Cost New Less Depreciation
	Valves									
8" Gate Valves	1988	3	EA	$ 3,475.00	$ 10,425	22	75	29%	$ 3,058.00	$ 7,367.00
8" Gate Valves	1989	1	EA	$ 3,475.00	$ 3,475	21	75	28%	$ 973.00	$ 2,502.00
8" Gate Valves	1990	9	EA	$ 3,475.00	$ 31,275	20	75	27%	$ 8,340.00	$ 22,935.00
8" Gate Valves	1993	1	EA	$ 3,475.00	$ 3,475	17	75	23%	$ 787.67	$ 2,687.33
8" Gate Valves	1997	2	EA	$ 3,475.00	$ 6,950	13	75	17%	$ 1,204.67	$ 5,745.33
10" Gate Valves	1984	1	EA	$ 5,700.00	$ 5,700	26	75	35%	$ 1,976.00	$ 3,724.00
10" Gate Valves	1989	4	EA	$ 5,700.00	$ 22,800	21	75	28%	$ 6,384.00	$ 16,416.00
12" Gate Valves	1984	1	EA	$ 5,700.00	$ 5,700	26	75	35%	$ 1,976.00	$ 3,724.00
12" Gate Valves	1991	1	EA	$ 5,700.00	$ 5,700	19	75	25%	$ 1,444.00	$ 4,256.00
	Service Item[6]									
Sevice Connections	1968	10	EA	$ 130.00	$ 1,300	42	75	56%	$ 728.00	$ 572.00
Sevice Connections	1970	139	EA	$ 130.00	$ 18,070	40	75	53%	$ 9,637.33	$ 8,432.67
Sevice Connections	1972	11	EA	$ 130.00	$ 1,430	38	75	51%	$ 724.53	$ 705.47
Sevice Connections	1973	154	EA	$ 130.00	$ 20,020	37	75	49%	$ 9,876.53	$ 10,143.47
Sevice Connections	1975	43	EA	$ 130.00	$ 5,590	35	75	47%	$ 2,608.67	$ 2,981.33
Sevice Connections	1977	33	EA	$ 130.00	$ 4,290	33	75	44%	$ 1,887.60	$ 2,402.40
Sevice Connections	1979	7	EA	$ 130.00	$ 910	31	75	41%	$ 376.13	$ 533.87
Sevice Connections	1980	24	EA	$ 130.00	$ 3,120	30	75	40%	$ 1,248.00	$ 1,872.00
Sevice Connections	1982	22	EA	$ 130.00	$ 2,860	28	75	37%	$ 1,067.73	$ 1,792.27
Sevice Connections	1984	95	EA	$ 130.00	$ 12,350	26	75	35%	$ 4,281.33	$ 8,068.67
Sevice Connections	1986	7	EA	$ 130.00	$ 910	24	75	32%	$ 291.20	$ 618.80
Sevice Connections	1988	27	EA	$ 130.00	$ 3,510	22	75	29%	$ 1,029.60	$ 2,480.40
Sevice Connections	1989	52	EA	$ 130.00	$ 6,760	21	75	28%	$ 1,892.80	$ 4,867.20
Sevice Connections	1990	29	EA	$ 130.00	$ 3,770	20	75	27%	$ 1,005.33	$ 2,764.67
Sevice Connections	1993	9	EA	$ 130.00	$ 1,170	17	75	23%	$ 265.20	$ 904.80
Sevice Connections	1997	13	EA	$ 130.00	$ 1,690	13	75	17%	$ 292.93	$ 1,397.07
Subtotal					**$ 1,999,120**			**41%**	**$ 817,575**	**$ 1,181,545**
Administration, Finance, Legal, Eng., etc @ 18%					**359,842**			**41%**	**147,163**	**212,679**
					$ 2,358,962			**41%**	**$ 964,738**	**$ 1,394,224**

Notes:

(1) Asset quantities and year in service were documented from available reports, drawings, and other information provided.

(2) Cost new to replace per bid tabs and contractor/manufacturer quotes. Includes material, labor, installation, site preparation, etc. and all assets built at the same time for economy of purchase.

(3) Age of all assets calculated as of September 10, 2010.

(4) Average service lives are based on recommended depreciation schedules.

(5) GIP: Galvanized Iron Pipe; ACP: Asbestos Cement Pipe; CIP: Cast Iron Pipe; DIP: Dutile Iron Pipe; PVC: Polyvinyl Chloride.

(6) Blended cost for short and long wyes, singles, and cul-de-sacs have been prorated.

Exhibit "B"

Town of Indian River Shores

Wastewater System Map & Facilities Listing

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Contents

Exhibit B-1 Wastewater System Asset Reference Sheet

Exhibit B-2 Wastewater System Maps

Exhibit B-3 Wastewater Asset List and Valuation

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Exhibit B-1
Town of Indian River Shores
Wastewater System Asset Reference Sheet

Sheet No.	Subdivision Name	Plat Book Data
90,91	Park Shores Of Vero Beach Condo	Recorded OR 856-0686 on 02-15-1990
90,91	Park Shores Phase I Condo	Recorded OR 623-0215 on 05-20-1981
90,91	Park Shores Phase II Condo	Recorded OR 643-2347 on 05-27-1982
90,91	Park Shores Phase III Condo	Recorded OR 688-2638 on 07-02-1984
90,91	Park Shores Phase IV Condo	Recorded OR 744-1385 on 08-15-1986
90,91,94	Park Shores	Recorded PBI 10-074 on 09-04-1980
90,91	Pepper Tree Sub	Recorded PBI 11-059 on 12-20-1983
90,91	Pepper Tree Villas	Recorded OR 682-0280 on 03-20-1984
93	Indian Harbor	Recorded PBI 10-079 on 12-12-1980
93	Indian Harbor Replat No 1	Recorded PBI 13-071 on 12-17-1991
93	Indian Harbor Replat No 2	Recorded PBI 14-007 on 10-29-1993
93	Indian Harbor Replat No 3	Recorded PBI 14-050 on 08-15-1995
93	Indian Harbor Replat No 4	Recorded PBI 14-075 on 06-13-1996
94	Island Shores Oceanfront	Recorded PBI 10-049 on 11-28-1979
94	Maroon Sub Unit 2	Recorded PBI 09-076 on 01-11-1978
94	Southern Shores Replat (The Fountains)	Recorded PBI 02-066 on 05-01-1946
104,106	The Shores	Recorded PBI 11-061 on 01-12-1984

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EXHIBIT B-3
TOWN OF INDIAN RIVER SHORES
WASTEWATER ASSET LIST AND VALUATION

Description[1]	Year in Service	Quantity	Unit	Unit[2] Cost	Replacement Cost[3]	Age[4] (Years)	ASL (Years)	Percent Depreciated	Amount Depreciated	Replacement Cost New Less Depreciation
Lift Stations										
Lift Station 63	1984	1	LS	$ 37,860.67	$ 37,861	26	45	58%	$ 21,875	$ 15,986
Lift Station 97	1984	1	LS	$ 12,411.77	$ 12,412	26	45	58%	$ 7,171	$ 5,241
Lift Station 98	1984	1	LS	$ 35,711.68	$ 35,712	26	45	58%	$ 20,633	$ 15,078
Lift Station 102	1993	1	LS	$ 40,641.95	$ 40,642	17	45	38%	$ 15,354	$ 25,288
Force mains										
2-inch PVC	1993	369	LF	$ 8.00	$ 2,952.00	17	50	34%	$ 1,004	$ 1,948
3-inch PVC	1984	533	LF	$ 11.00	$ 5,863	26	50	52%	$ 3,049	$ 2,814
4-inch PVC	1984	860	LF	$ 11.00	$ 9,462	26	50	52%	$ 4,920	$ 4,542
4-inch PVC	1993	666	LF	$ 11.00	$ 7,329	17	50	34%	$ 2,492	$ 4,837
Gravity and Services										
8-inch PVC	1980	150	LF	$ 36.00	$ 5,400	30	75	40%	$ 2,160	$ 3,240
8-inch PVC	1982	1,265	LF	$ 36.00	$ 45,542	28	75	37%	$ 17,002	$ 28,539
8-inch PVC	1984	10,144	LF	$ 36.00	$ 365,189	26	75	35%	$ 126,599	$ 238,590
8-inch PVC	1987	1,150	LF	$ 36.00	$ 41,406	23	75	31%	$ 12,698	$ 28,708
8-inch PVC	1990	1,350	LF	$ 37.00	$ 49,947	20	75	27%	$ 13,319	$ 36,628
8-inch PVC	1993	1,843	LF	$ 38.00	$ 70,025	17	75	23%	$ 15,872	$ 54,153
8-inch PVC	1995	64	LF	$ 39.00	$ 2,479	15	75	20%	$ 496	$ 1,983
Manholes										
Manholes	1980	1	EA	$ 3,012.87	$ 3,013	30	45	67%	$ 2,009	$ 1,004
Manholes	1982	10	EA	$ 3,012.87	$ 30,129	28	45	62%	$ 18,747	$ 11,382
Manholes	1984	53	EA	$ 3,012.87	$ 159,682	26	45	58%	$ 92,261	$ 67,421
Manholes	1987	4	EA	$ 3,012.87	$ 12,051	23	45	51%	$ 6,160	$ 5,892
Manholes	1990	11	EA	$ 3,012.87	$ 33,142	20	45	44%	$ 14,730	$ 18,412
Manholes	1993	9	EA	$ 3,012.87	$ 27,116	17	45	38%	$ 10,244	$ 16,872
Subtotal					**$ 997,353**			**41%**	**$ 408,793**	**$ 588,559**
Administration, Finance, Legal, Eng., etc @ 18%					**$ 179,523**	-		**41%**	**$ 73,583**	**105,941**
					$ 1,176,876			**41%**	**$ 482,376**	**$ 694,500**

Notes:

(1) Asset quantities and year in service were documented from available reports, drawings, and other information provided.

(2) Cost new to replace per bid tabs and contractor/manufacturer quotes. Includes material, labor, installation, site preparation, etc. and all assets built at the same time for economy of purchase.

(3) Age of all assets calculated as of September 10, 2010.

(4) Average service lives are based on recommended depreciation schedules.

Exhibit "C"

Town of Indian River Shores

Surcharge Calculation and Waiver Schedule

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Town of Indian River Shores
Surcharge Calculation and Waiver Schedule

Collected Revenue

Month	Water	Sewer	Total
Oct 2009	$ 147,127.60	$ 91,690.25	$ 238,817.85
Nov 2009	$ 162,030.51	$ 101,839.03	$ 263,869.54
Dec 2009	$ 151,478.41	$ 105,895.60	$ 257,374.01
Jan 2010	$ 140,247.74	$ 110,619.34	$ 250,867.08
Feb 2010	$ 127,196.97	$ 106,372.16	$ 233,569.13
Mar 2010	$ 123,194.70	$ 109,404.74	$ 232,599.44
Apr 2010	$ 154,853.04	$ 133,698.41	$ 288,551.45
May 2010	$ 134,929.11	$ 117,928.78	$ 252,857.89
Jun 2010	$ 140,079.89	$ 103,600.93	$ 243,680.82
Jul 2010	$ 188,898.32	$ 104,331.99	$ 293,230.31
Total	$ 1,470,036.29	$ 1,085,381.23	$ 2,555,417.52
Months of Year	0.83	0.83	0.83
Annualized Total	$ 1,764,043.55	$ 1,302,457.48	$ 3,066,501.02
Surcharge Percent			10.0%
Surcharge Total			$ 306,650.10

Equity Assessment

Franchise Value	$ 500,000
Water [1]	$ 1,394,224
Sewer [2]	$ 694,500
Total Value	$ 2,588,724
Surcharge per Year (Rounded)	$ 306,650
Discount Rate (5.5% Finance, 1.0% Industry Risk)	6.5%
Number of Years for Surcharge Waiver for Town	**13**

Notes:

1. As valued in Exhibit "A".
2. As valued in Exhibit "B".

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ASSET PURCHASE AND FRANCHISE AGREEMENT BETWEEN

THE TOWN OF INDIAN RIVER SHORES, FLORIDA

AND THE CITY OF VERO BEACH, FLORIDA

This "Agreement" is entered into on this ___ day of _____ 20__, by and between the Town of Indian River Shores, a Florida municipal corporation, (hereinafter referred to as "INDIAN RIVER SHORES") and the City of Vero Beach, Florida, a Florida municipal corporation (hereinafter referred to as "VERO BEACH").

RECITALS

1. INDIAN RIVER SHORES is the owner of a portion of the water distribution and wastewater collection system in Indian River County, Florida, which is used in serving the residential community more fully described in Exhibits "A" and "B", attached, (hereinafter referred to as the "TOWN'S UTILITY AREA");

2. VERO BEACH currently provides water, wastewater, and reclaimed water service in this area and is authorized to be in the business of furnishing water service, wastewater service, reclaimed water service and any component of these services to the various communities in VERO BEACH's Exclusive Service Area.

3. VERO BEACH desires to acquire, and INDIAN RIVER SHORES desires to sell its potable water distribution facilities and wastewater collection facilities, (collectively the "Facilities"), subject to the terms and conditions of this Agreement, as such Facilities may be modified prior to Closing with the consent of VERO BEACH.

4. VERO BEACH currently holds water and sewer franchises issued by INDIAN RIVER SHORES that authorize VERO BEACH to provide water and wastewater service in the incorporated boundaries of INDIAN RIVER SHORES.

5. VERO BEACH and INDIAN RIVER SHORES have negotiated in good faith together and have determined that execution of this Agreement is in the best public interests of both municipalities.

6. INDIAN RIVER SHORES has agreed to grant to VERO BEACH in consideration of VERO BEACH's covenants set forth herein an exclusive franchise for the construction, operation and maintenance of a water, wastewater, and reclaimed water system within the incorporated boundaries of INDIAN RIVER SHORES.

7. The parties hereto agree, acknowledge, and affirm that they are entering into this Agreement in their proprietary capacities and that this Agreement constitutes a binding covenant of each party for which each has authority to enter into.

ACCORDINGLY, in consideration of the above Recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct, and form a material part of this Agreement.

SECTION 2. TRANSFER OF FACILITIES. INDIAN RIVER SHORES, pursuant to the circumstances noted in the Recitals above, agrees to transfer and VERO BEACH agrees to accept the Facilities, consisting of all real, personal, and mixed property used or held for use in connection with the INDIAN RIVER SHORES Water and Wastewater System, hereinafter referred to as the "Transferred Assets," or the "Facilities".

SECTION 3. TRANSFERRED ASSETS. On the closing date, as defined below, INDIAN RIVER SHORES shall assign, transfer, convey, and deliver to VERO BEACH, and VERO BEACH shall accept all of the right, title and interest, in and to the following property and assets:

3.1 Real Property. All real property and interests in real property (the "Property"), if any, owned by INDIAN RIVER SHORES whereupon the Facilities are located.

3.2 Easements and Other Rights. All rights, privileges, easements, licenses, prescriptive rights, rights-of-ways, and rights to use public and private roads, highways, streets, and other areas owned and/or used by INDIAN RIVER SHORES in connection with the construction, reconstruction, installation, maintenance and operation of the Transferred Assets (collectively referred to as the "Easements").

3,3 Facilities. The following assets owned by INDIAN RIVER SHORES and used or held for use in connection with the Facilities, are more specifically described in Exhibits "A" and "B" hereof, including all water distribution and waste water collection facilities including without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, controls, valves, meters, service connections, and all other water and wastewater service connections, and all other water physical facilities and property installations . The parties hereto agree that the VERO BEACH is accepting the physical assets of INDIAN RIVER SHORES in an "as is" and "where is" condition without relying upon any warranty or representation from INDIAN RIVER SHORES regarding the physical condition of the Transferred Assets or condition

of any of the improvements constructed thereon. VERO BEACH has made its own investigations of the Transferred Assets and is relying solely upon these investigations in making the purchase described in this Agreement.

3.4 Plans and Specifications. All current customer records and supplier lists, as-built surveys, and water and sewer plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, any and all reproducible documents, mylars, sepias, and other original documents used or held for use with the Facilities, and all other information that relate to the Facilities. INDIAN RIVER SHORES may make copies of its books, plans and records, at its expense, before transferring the original or copies of the books, plans and records to VERO BEACH. These documents shall include any such documents related to work-in-progress, if any.

3.5 Certificates, Permits and Approvals. Subject to all necessary regulatory approvals and to all conditions, limitation, or restrictions contained therein, any existing original certificates, permits, and other governmental authorizations and approvals of any kind in the possession of INDIAN RIVER SHORES necessary to operate and maintain the Facilities in accordance with all governmental requirements.

3.6. Excluded Assets. The parties agree that there are to be no excluded assets.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF INDIAN RIVER SHORES.

INDIAN RIVER SHORES represents and warrants to VERO BEACH that:

4.1 Organization, Standing And Power. INDIAN RIVER SHORES is a municipal corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida authorizing it to construct, operate and maintain a public water distribution system` and wastewater collection system.

4.2 Authority for Agreement. **INDIAN RIVER SHORES** has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been duly authorized by all action required to be taken by INDIAN RIVER SHORES, has been duly executed and delivered by INDIAN RIVER SHORES, and constitutes a valid and binding obligation of INDIAN RIVER SHORES, enforceable in accordance with its terms.

4.3 Good and Marketable Title. Subject to the Permitted Exceptions, INDIAN RIVER SHORES has good and marketable title to the Transferred Assets.

4.4 No Liens or Encumbrances. Except as otherwise specifically set forth in this Agreement or as may be released at or prior to the Closing Date, there are no mortgages, liens, claims or encumbrances of any type or nature upon or against the Transferred Assets including, but not limited to, mortgages, financing statements, or security instruments filed under the Uniform Commercial Code either in VERO BEACH where the Property is located or with the Secretary of State. INDIAN RIVER SHORES is in ownership, possession, and control of the Transferred Assets except *for* non-exclusive easements and INDIAN RIVER SHORES at closing shall deliver possession and control of the Transferred Assets to VERO BEACH.

4.5. Litigation. There are no actions, suits, or proceedings at law or in equity, pending against INDIAN RIVER SHORES before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Facilities or INDIAN RIVER SHORES' right and ability to make and perform this Agreement; nor is INDIAN RIVER SHORES aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding. INDIAN RIVER SHORES is not aware of and has not been notified that it is in default with respect to any permit, approval order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Facilities. INDIAN RIVER SHORES agrees and warrants that it shall have a continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to the Facilities.

4.6 Leases. None of the Transferred Assets is subject to any interest of any lessor or lessee.

4.7 No Governmental Violations. INDIAN RIVER SHORES is not aware of and has not been notified of the existence of any violations of any governmental rules, regulations, permitting conditions or other governmental requirements applicable to the ownership, maintenance or operation of the Facilities.

4.8 Absence of Changes. After the date of the execution of this Agreement, INDIAN RIVER SHORES shall not permit any change in its condition of properties, assets, liabilities, business or operations other than changes in the ordinary course of business which are not, either in any case or in the aggregate, materially adverse to the Facilities.

4.9 Disclosure. No representation or warranty made by INDIAN RIVER SHORES in this Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading. Should INDIAN RIVER SHORES become aware that any of the representations or warranties to VERO BEACH provided for herein are, or may reasonably be, materially untrue or incorrect, INDIAN RIVER SHORES will promptly advise VERO BEACH of same, in writing, specifying in reasonable detail the reasons why INDIAN RIVER SHORES believes such representations or warranties of VERO BEACH are, or may reasonably be, untrue or incorrect.

4.10 Cooperation. INDIAN RIVER SHORES will cooperate fully with VERO BEACH in any and all applications or petitions to public authorities deemed necessary or desirable by VERO BEACH in connection with the purchase of the Facilities from INDIAN RIVER SHORES as contemplated herein.

4.11 Exhibits. Attached hereto as Exhibits "A" and "B" are detailed maps and listings of the Facilities of INDIAN RIVER SHORES to be acquired by VERO BEACH, pursuant to this Agreement, showing both their respective installation location and description. Said Facilities include all water and wastewater utility assets and equipment owned by INDIAN RIVER SHORES within the Property, including but not limited to a water distribution system and a wastewater collection system as shown in Exhibits "A" and "B". The engineering plans and specifications for the Facilities have been organized and will be transferred to VERO BEACH with all other records. The Facilities are constructed within publicly dedicated lands or are otherwise accessible to INDIAN RIVER SHORES and VERO BEACH. To the extent VERO BEACH reasonably requires any rights of non-exclusive access to the Facilities, INDIAN RIVER SHORES agrees to grant those rights.

4.12 Additional Representations. All real estate, easements and rights and/or privileges associated with the Facilities owned by INDIAN RIVER SHORES shall be transferred to VERO BEACH.

4.13 No Service Agreements. There are no contracts or obligations of any nature between INDIAN RIVER SHORES and any other party relating to the Facilities or service or promised service. Neither INDIAN RIVER SHORES nor any entity or individual affiliated with INDIAN RIVER SHORES has executed any agreement with VERO BEACH regarding lots within the Service Area, or with any other parties, where under such purchases other parties have acquired any interest in the Facilities used or to be used in rendering service to them.

4.14 Compliance. Facilities are capable of rendering water and wastewater utility service in the ordinary course of business in compliance with all federal, state and local rules and regulations including but not limited to all rules and regulations related to environmental protection, wastewater collection, and drinking water.

4.15 Authorizations. Prior to the Closing, the consummation of the transactions contemplated herein will have been duly authorized by all necessary action, corporate or otherwise, on behalf of INDIAN RIVER SHORES.

SECTION 5. CLOSING AND PURCHASE PRICE.

5.1 Closing Date The Closing shall take place simultaneously with the grant of the renewal of the Franchise agreement as much as practical. The Closing shall take place by or before January 31st, 2011, thus meeting the five year notice as described in the existing franchise agreement between INDIAN RIVER SHORES and VERO BEACH.

5.2 Documents at Closing At closing, INDIAN RIVER SHORES will, upon due performance by VERO BEACH of its obligations under the Agreement, deliver:

(a) such good and sufficient special warranty deeds, bills of sale with covenants of warranty, and sufficient instruments of sale, in form and substance reasonably satisfactory to VERO BEACH's counsel, as shall be required to vest in VERO BEACH marketable title to all of the Facilities used for the existing water and wastewater system, free and clear of liens and encumbrances of every nature that would render title to the Facilities unmarketable;

(b) all of the files, documents, papers, agreements, original cost invoices, engineering drawings, and records possessed by INDIAN RIVER SHORES pertaining to the Facilities;

(c) all orders, permits, licenses or certificates issued or granted to INDIAN RIVER SHORES by any governmental authority in connection with any authorization related to the construction of its Facilities; and

(d) an opinion of Counsel for INDIAN RIVER SHORES, dated as of the Closing, that upon the delivery to VERO BEACH of the Bill of Sale that VERO BEACH will then have title to the Facilities, free and clear of all liens and encumbrances in connection with the acquisition, construction, installation, and financing of the Facilities.

5.3 Further Instruments At the Closing and from time to time thereafter, INDIAN RIVER SHORES shall execute and deliver such further instruments of sale, conveyance, transfer and assignment, and take such other action (without expending funds or bringing suit) as VERO BEACH may reasonably request, in order more effectively to sell, convey, transfer and assign to VERO BEACH any of INDIAN RIVER SHORES's Facilities, to confirm the title of VERO BEACH thereto and to assist VERO BEACH in exercising rights with respect thereto.

5.4 Closing Costs At closing, VERO BEACH shall, upon due performance by INDIAN RIVER SHORES of its obligations under the Agreement, deliver to INDIAN RIVER SHORES closing costs in the amount of ten thousand dollars **($10,000)**. In addition, VERO BEACH shall assume any liabilities related to the Facilities owned by INDIAN RIVER SHORES wholly arising prior to Closing.

5.5 Other Fees at Closing At closing, VERO BEACH shall also deliver to INDIAN RIVER SHORES the costs incurred for legal and consulting services incurred by INDIAN RIVER SHORES for the purposes associated with creation of this Agreement and equity assessment of Facilities, as well as transactional costs, the total for all not to exceed $50,000.00.

5.6 How Purchase Price to be Paid Within 30 days of the closing date, VERO BEACH shall waive the 10% surcharge that currently applies to water and wastewater customers for a period of 13 years as outlined in Exhibit "C". This shall constitute the purchase price for said Facilities including Franchise Value, Financing Interest and Industry Risk.

SECTION 6. AGENCY APPROVALS. Within fifteen (15) days following the execution of this Agreement VERO BEACH will file applications for transfer with the Florida Department of Environmental Protection (FDEP) and the Saint Johns River Water Management District (SJRWMD) requesting the transfer of the Public Utility permits or sequential water use permit. INDIAN RIVER SHORES agrees to cooperate fully with VERO BEACH in VERO BEACH's application for such transfers and approvals.

SECTION 7. GENERAL.

7.1 Manner of Service Upon purchase of the Facilities of INDIAN RIVER SHORES, and for the duration of the Franchise Agreement found in Section 8 , VERO BEACH shall supply all customers within INDIAN RIVER SHORES with continuous (subject to unavoidable outages), adequate and customary water and wastewater utility service, and operate, continuously maintain and promptly repair when necessary Facilities acquired herein, thus meeting all level-of-service standards as per comprehensive plans. VERO BEACH shall maintain wholesale emergency interconnect agreements and interconnects as appropriate in order to continue to provide adequate service to INDIAN RIVER SHORES in the event of outages, excessive demand, or other related events. INDIAN RIVER SHORES's customers shall be treated in a manner equivalent to that of customers served inside of the boundaries of VERO BEACH, and shall receive a rate no less favorable than the rate offered by VERO BEACH to any other customer in the same class it serves inside of the boundaries of VERO BEACH. This warranty shall survive the Closing of this Agreement.

7.2 Surcharge Upon purchase of the Facilities of INDIAN RIVER SHORES, VERO BEACH shall within 30 days waive the 10% surcharge paid by customers in INDIAN RIVER SHORES, shown in Exhibit "C", and shall continue to waive the surcharge for 13 years, in exchange for the transfer of all Facilities from INDIAN RIVER SHORES to VERO BEACH. At the end of 13 years, VERO BEACH may again start charging the surcharge at a maximum rate of 10% for both water and wastewater services only.

7.3 Charges to Existing Customers. Upon purchase of the Facilities of INDIAN RIVER SHORES, and for perpetuity, existing customers within INDIAN RIVER SHORES shall not be charged impact fees, connection charges, capacity charges, assessments, capital recovery charges, or any form thereof by VERO BEACH. All capital improvements undertaken by VERO BEACH within INDIAN RIVER SHORES' boundaries and to serve existing customers in INDIAN RIVER SHORES shall be borne solely and completely by VERO BEACH.

7.4 Capital Improvement Plan. Upon purchase of the Facilities of INDIAN RIVER SHORES, and for the duration of the Franchise Agreement found in Section 8, VERO BEACH shall annually provide the Town Manager and Town Planner of INDIAN RIVER SHORES the detailed five (5) year Capital Improvement Plan, specific to facilities within INDIAN RIVER SHORES, upon its completion for review and comment.

7.5 Title Reversion at 99 Years. If, at the end of ninety nine (99) years, INDIAN RIVER SHORES unilaterally elects to own the Transferred Assets again, title to all Facilities transferred as a part of this transaction shall revert from VERO BEACH to INDIAN RIVER SHORES at no cost.

7.6 No Waiver Clause. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.

7.7 Notices. Any notice of delivery required to be made hereunder may be made by mailing a copy thereof addressed to the appropriate party as follows:

If to INDIAN RIVER SHORES	Town Manager Town of Indian River Shores 6001 N. Highway A-1-A Indian River Shores, Florida 32963
If to VERO BEACH	City Manager City of Vero Beach 1053 20th Place Vero Beach, FL 32960-5359

Delivery when made by registered or certified mail shall be deemed complete upon mailing.

7.8 Exhibits. The Exhibits to this Agreement are a part hereof and are hereby incorporated in full by reference.

7.9 Governing Law. This Agreement shall be governed by the laws of the State of Florida.

7.10 Indemnity. The representations and warranties contained herein in Section 4 do not obviate the fact that this transaction is an "as-is" and "where-is" transaction. VERO BEACH agrees to indemnify INDIAN RIVER SHORES, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost accruing or resulting from any

misrepresentation or breach of any representation, warranty or agreement on the part of VERO BEACH under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to INDIAN RIVER SHORES by VERO BEACH; INDIAN RIVER SHORES agrees to indemnify VERO BEACH, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost, accruing or resulting from any misrepresentation or breach of any representation, warranty or agreement made or to be performed by INDIAN RIVER SHORES under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to VERO BEACH by INDIAN RIVER SHORES.

7.11 Binding on Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 8. FRANCHISE AGREEMENT. As further consideration for the transfer of the rights, duties, and obligations of INDIAN RIVER SHORES to VERO BEACH, INDIAN RIVER SHORES agrees to hold any necessary hearings and grant an exclusive, thirty (30) year water, wastewater,and reclaimed water franchise to VERO BEACH on or before the date of closing of the exchange by ordinance but subject to the following terms and conditions:

8.1 Franchise Grant. INDIAN RIVER SHORES grants to VERO BEACH, its successors and assigns, the sole and exclusive right, privilege or franchise to construct, maintain, and operate a public water, wastewater, and reclaimed water system in, under, upon, over and across the present and future streets, alleys, bridges, easements and other public places throughout all the incorporated areas of INDIAN RIVER SHORES and its successors, in accordance with established practices with respect to water, wastewater, and reclaimed water system construction and maintenance, for a period of thirty (30) years from the date of acceptance hereof. Such water, wastewater, and reclaimed water system shall consist of water, wastewater, and reclaimed water facilities (including, pipes, fixtures, mains, valves, meters, tanks, lift stations, etc., and, for water, wastewater, and reclaimed water system use, telephone and electric lines) for the purpose of supplying water, wastewater, and reclaimed water service to INDIAN RIVER SHORES, and its successors, the inhabitants thereof, and persons and corporations beyond the limits thereof.

8.2 Service Standards. Upon acceptance of this franchise, VERO BEACH agrees to provide such areas of INDIAN RIVER SHORES with continuous (subject to

unavoidable outages), adequate and customary water, wastewater, and reclaimed water utility service. All of the water, wastewater, and reclaimed water facilities of VERO BEACH shall be constructed, maintained and operated in accordance with the applicable regulations of the Federal Government and the State of Florida, as well as meeting all level-of-service standards as per comprehensive plans. The quantity and quality of water delivered and sold shall at all times be and remain not inferior to the applicable standards for public water supply and other applicable rules, regulations and standards now or hereafter adopted by the Federal Government and the State of Florida. The quantity and quality of wastewater service provided and sold shall at all times be and remain not inferior to the applicable standards for public wastewater service and other applicable rules, regulations and standards now or hereafter adopted by the Federal Government and the State of Florida.

8.3 Fire Hydrants. VERO BEACH shall maintain sufficient water pressure and mains of sufficient size with fire hydrants and other facilities necessary in the water system to furnish fire protection at any and all areas within the territory receiving services from VERO BEACH in accordance with the same applicable standards used to provide fire protection and service in VERO BEACH. VERO BEACH shall also supply all water to consumers through meters which shall accurately measure the amount of water supplied in accordance with normally accepted utility standards.

8.4 Location of Facilities The facilities shall be so located or relocated and so constructed as to interfere as little as practicable with traffic over said streets, alleys, bridges and public places, and with reasonable egress from and ingress to abutting property. The location or relocation of all facilities shall be made under the supervision and with the approval of such representatives as the governing body of INDIAN RIVER SHORES may designate for the purpose, but not so as unreasonably to interfere with the proper operation of VERO BEACH's facilities and service. That when any portion of a street is excavated by VERO BEACH in the location or relocation of any of its facilities, the portion of the street so excavated shall, within a reasonable time and as early as practicable after such excavation, be replaced by VERO BEACH at its expense, and in as good condition as it was at the time of such excavation. Provided, however, that nothing herein contained shall be construed to make INDIAN RIVER SHORES liable to VERO BEACH for any cost or expense in connection with the construction, reconstruction, repair or relocation of VERO BEACH's facilities in streets, highways and other public places made necessary by the widening, grading, paving or otherwise improving by said INDIAN RIVER SHORES of any of the present and future streets, avenues, alleys, bridges,

highways, easements and other public places used or occupied by VERO BEACH, except, however, VERO BEACH shall be entitled to reimbursement of its costs as may be provided by law.

8.5 Hold Harmless. INDIAN RIVER SHORES shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenances by VERO BEACH of its facilities hereunder, and the acceptance of this AGREEMENT shall be deemed an agreement on the part of VERO BEACH to indemnify INDIAN RIVER SHORES and hold it harmless against any and all liability, loss, cost, damage or expense, which may accrue to INDIAN RIVER SHORES by reason of the neglect, default or misconduct of VERO BEACH in the construction, operation or maintenance of its facilities hereunder.

8.6 Equal rates. That all rates and rules and regulations established by VERO BEACH from time to time shall be reasonable, and that VERO BEACH's rates for water, wastewater, and reclaimed water services shall at all times be subject to such regulation as may be provided by State law. INDIAN RIVER SHORES' customers shall be treated in the exact same manner as customers served inside of the boundaries of VERO BEACH, and shall be charged in conjunction with prevailing Inside City rates levied by VERO BEACH. In addition to the prevailing rates VERO BEACH may charge a maximum 10% surcharge on INDIAN RIVER SHORES's water and wastewater customers after the obligations in Section 5, above, have been satisfied. VERO BEACH shall not charge existing customers within INDIAN RIVER SHORES impact fees, connection charges, capacity charges, assessments, capital recovery charges, or any form thereof. Additionally, VERO BEACH shall waive all hydrant rental fees within INDIAN RIVER SHORES upon execution of this Agreement. VERO BEACH shall annually provide the Town Manager and Town Planner of INDIAN RIVER SHORES the detailed five (5) year Capital Improvement Plan, specific to facilities within INDIAN RIVER SHORES, upon its completion for review and comment. VERO BEACH shall also provide the Town Manager of INDIAN RIVER SHORES, for review and comment, any proposed rate increases no less than ninety (90) days before the rate increase is scheduled to go before the VERO BEACH City Council for approval. The right to regulate water, wastewater, and reclaimed water rates, impact fees, service policies or other rules or regulations or the construction, operation and maintenance of the water, wastewater, and reclaimed water system is vested solely in VERO BEACH except as may be otherwise provided by application laws of the Federal Government, the State of Florida, or as specified in this Agreement.

8.7 Quantity of Reclaimed Water. VERO BEACH shall commit to providing a minimum of 2.0 MGD annual average daily flow (ADF) of reclaimed water capacity to customers in INDIAN RIVER SHORES in 2010, increasing to 2.9 MGD ADF by the year 2040.

8.8 Franchise Fee by Indian River Shores. Prior to the imposition of any franchise fee by INDIAN RIVER SHORES, INDIAN RIVER SHORES shall give a minimum of sixty (60) days advance notice to VERO BEACH of the imposition of such fee. Such fee shall be initiated only upon passage of an appropriate ordinance in accordance with Florida statutes. Such fee shall be a percentage of gross revenues from the sale of water and wastewater service to customers within the incorporated limits of INDIAN RIVER SHORES. Said fee, at the option of VERO BEACH, may be shown as an additional charge on affected utility bills. The franchise fee, if imposed, shall not exceed six (6%) per cent of applicable gross revenues. Payments in the amount to be paid to INDIAN RIVER SHORES by VERO BEACH under the terms described above shall be made in monthly installments. Such monthly payments shall be rendered twenty (20) days after the monthly collection period. INDIAN RIVER SHORES agrees to hold VERO BEACH harmless from any damages or suits resulting directly or indirectly as a result of the collection of such fees, and INDIAN RIVER SHORES shall defend any and all suits filed against VERO BEACH based on the collection of such moneys.

8.9 Exclusive Franchise, Exceptions. As further consideration of this franchise, INDIAN RIVER SHORES agrees not to engage in or permit any person other than VERO BEACH to engage in the business of distributing and selling water and reclaimed water and collection of sewage to multiple customers during the life of the franchise or any extension thereof in competition with VERO BEACH, its successors and assigns, with the following exceptions:

(a) Any non-potable water system(s) operated by INDIAN RIVER SHORES or any other operator properly licensed by INDIAN RIVER SHORES.

(b) Any customers not served by VERO BEACH as of the effective date of this Franchise. Such customers will be served by VERO BEACH, upon request by them, and after appropriate approvals by INDIAN RIVER SHORES and any other affected parties.

(c) VERO BEACH shall have the authority to enter into Developer Agreements with developers of real estate projects and other consumers within the franchise territory, which agreements may include, but not be limited to provisions relating to:

(i) Advance payment of contributions in aid of construction to finance system expansion and/or extension,

(ii) Revenue guarantees or other such arrangements as may make the expansion/extension self supporting,

(iii) Capacity reservation fees,

(iv) Prorata allocation of plant expansion/main extension charges between two or more developers.

Developer agreements entered into by VERO BEACH shall be fair, just and non-discriminatory, and generally have the same content as in-city developer agreements.

(d) VERO BEACH shall inherit any and all INDIAN RIVER SHORES' bulk service agreements and interlocal agreements, and shall abide by the terms and conditions thereof.

8.10 Franchise Extentions. This franchise shall be automatically renewed for additional thirty (30) year terms pursuant to the terms and conditions of 8.14 of this section. Failure on the part of VERO BEACH to comply in any substantial respect with any of the provisions of this Agreement , shall be grounds for a forfeiture of this grant, but no such forfeiture shall take effect, if the reasonableness or propriety thereof is protested by VERO BEACH, until a court of competent jurisdiction (with right of appeal in either party) shall have found that VERO BEACH has failed to comply in a substantial respect with any of the provisions of this franchise, and VERO BEACH shall have six (6) months after final determination of the question, to make good the default, before a forfeiture shall result, with the right in INDIAN RIVER SHORES at its discretion to grant such additional time to VERO BEACH for compliance as necessities in the case require; provided, however, that the provisions of this section shall not be construed as impairing any alternative right or rights which INDIAN RIVER SHORES may have with respect to the forfeiture of franchises under the Constitution or the general laws of Florida.

8.11 [reserved]

8.12 Franchise Boundary Changes. The franchise territory may be expanded or contracted to include or exclude lands by mutual agreement between VERO BEACH and INDIAN RIVER SHORES. Any franchise territory that is subsequently annexed by VERO BEACH shall be removed automatically from the franchise territory.

8.13 Supersedes Other Agreements. This Franchise supersedes, with respect to water, wastewater, and reclaimed water only, any previous agreements between VERO BEACH and INDIAN RIVER SHORES regarding such service.

8.14 Franchise Renewal. This franchise shall automatically renew for up to two (2) additional thirty (30) year terms unless either party shall send written notice to the other party at least five (5) years prior to the date of expiration of any thirty (30) year term. In no event will the franchise be terminated prior to any thirty (30) year period, except as provided for in Section 8.10 hereof.

8.15 Acts of God. Provisions herein to the contrary notwithstanding, VERO BEACH shall not be liable for the non-performance or delay in performance of any of its obligations undertaken pursuant to the terms of this franchise, where said failure or delay is due to cause beyond VERO BEACH's control including, without limitation, "Acts of God," unavoidable casualties and labor dispute.

SECTION 9. BINDING EFFECT. All of the provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and nominees of VERO BEACH and INDIAN RIVER SHORES.

SECTION 10. TIME OF THE ESSENCE. Time his hereby declaed of the essence in the performance of each and every provision of this Agreement.

SECTION 11. APPLICABLE LAW. This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 12. ENTIRE AGREEMENT. This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

SECTION 13. AMENDMENT. Amendments to and waivers to the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

SECTION 14. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

SECTION 15. CONDITION PRECEDENT TO CLOSING. Notwithstanding anything to the contrary contained in this Agreement, the closing of this transfer is subject to the following condition precedent: The adoption of a franchise ordinance by INDIAN RIVER SHORES granting VERO BEACH the franchise contemplated by and subject to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year above first written.

TOWN OF INDIAN RIVER SHORES, FLORIDA

(Seal)

By _____

E. William Kenyon, Town Mayor

ATTEST:

_____

Laura Aldrich, Town Clerk

Reviewed as to form and legal sufficiency

_____

Chester Clem, PA
Town Attorney

CITY OF VERO BEACH, FLORIDA

(Seal)

By _____

Kevin Sawnick, City Mayor

ATTEST:

_____

Tammy K. Vock, City Clerk

Reviewed as to form and legal sufficiency

_____

Charles P. Vitunac, Esquire
City Attorney

Approved as to content and legal sufficiency

_____

Thomas A. Cloud, Esquire
Gray-Robinson
Special Counsel

Reviewed for Administrative Matters

_____

James M. Gabbard
City Manager

Exhibits

Exhibit "A" Town of Indian River Shores Water System Map & Facilities Listing

Exhibit "B" Town of Indian River Shores Wastewater System Map & Facilities Listing

Exhibit "C" Town of Indian River Shores Surcharge Calculation and Waiver Schedule

Exhibit "A"

Town of Indian River Shores

Water System Map & Facilities Listing

Contents

Exhibit A-1 Potable Water System Asset Reference Sheet

Exhibit A-2 Potable Water System Maps

Exhibit A-3 Potable Water Asset List and Valuation

Exhibit "B"

Town of Indian River Shores

Wastewater System Map & Facilities Listing

Contents

Exhibit B-1 Wastewater System Asset Reference Sheet

Exhibit B-2 Wastewater System Maps

Exhibit B-3 Wastewater Asset List and Valuation

Exhibit "C"

Town of Indian River Shores

Surcharge Calculation and Waiver Schedule

Town of Indian River Shores
Surcharge Calculation and Waiver Schedule

Collected Revenue

Month	Water	Sewer	Total
Oct 2009	$ 147,127.60	$ 91,690.25	$ 238,817.85
Nov 2009	$ 162,030.51	$ 101,839.03	$ 263,869.54
Dec 2009	$ 151,478.41	$ 105,895.60	$ 257,374.01
Jan 2010	$ 140,247.74	$ 110,619.34	$ 250,867.08
Feb 2010	$ 127,196.97	$ 106,372.16	$ 233,569.13
Mar 2010	$ 123,194.70	$ 109,404.74	$ 232,599.44
Apr 2010	$ 154,853.04	$ 133,698.41	$ 288,551.45
May 2010	$ 134,929.11	$ 117,928.78	$ 252,857.89
Jun 2010	$ 140,079.89	$ 103,600.93	$ 243,680.82
Jul 2010	$ 188,898.32	$ 104,331.99	$ 293,230.31
Total	$ 1,470,036.29	$ 1,085,381.23	$ 2,555,417.52
Months of Year	0.83	0.83	0.83
Annualized Total	$ 1,764,043.55	$ 1,302,457.48	$ 3,066,501.02
Surcharge Percent			10.0%
Surcharge Total			$ 306,650.10

Equity Assessment

Franchise Value	$ 500,000
Water [1]	$ 1,394,224
Sewer [2]	$ 694,500
Total Value	$ 2,588,724
Surcharge per Year (Rounded)	$ 306,650
Discount Rate (5.5% Finance, 1.0% Industry Risk)	6.5%
Number of Years for Surcharge Waiver for Town	**13**

Notes:

1. As valued in Exhibit "A".
2. As valued in Exhibit "B".

7-B)

INTERDEPARTMENTAL CORRESPONDENCE

To: The Honorable Mayor Kevin D. Sawnick and City Council Members

From: Robert B. Anderson, Human Resources Director RBA

Re: City Manager Search

Date: September 16, 2010

The City issued a Request For Proposals to conduct a search for a new City Manager. The responses were opened on September 9, 2010. Seven consulting firms responded. I have attached a list of the respondents, and I will be giving a short presentation on the responses at the Council meeting on September 21, 2010.

Attch. List of Respondents

RESPONDENTS TO REQUEST FOR PROPOSALS TO CONDUCT A SEARCH FOR A CITY MANAGER

Bob Murray & Associates
Tallahassee, Florida

Colin Baenziger & Associates
Wellington, Florida

Management Partners, Inc.
Cincinnati, Ohio

The Mercer Group, Inc,
Atlanta, Georgia

The Novak Consulting Group
Cincinnati, Ohio

Strategic Government Resources
Keller, Texas

Voorhees Associates, LLC
Deerfield, Illinois

7-C)

COUNCIL AGENDA REPORT
MEETING OF OCTOBER 5, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: September 28, 2010

SUBJECT: **RATIFICATION OF COASTAL FLORIDA POLICE BENEVOLENT ASSOCIATION CONTRACT**

Mr. Robert Anderson, Human Resource Director, will discuss the amendment of the provisions of wages and insurance in the current Collective Bargaining Agreement.

It is the recommendation of the City Manager's Office that Council ratify the Coastal Florida Police Benevolent Association Contract.

James M. Gabbard

JMG/sp
Attachment

xc: Robert Anderson, Human Resource Director

7-C)

INTERDEPARTMENTAL CORRESPONDENCE

To: The Honorable Mayor Kevin D. Sawnick and City Council Members

From: James M. Gabbard, City Manager

Re: Ratification of Coastal Florida Police Benevolent Association Contract

Date: October 5, 2010

The City and the Coastal Florida Police Benevolent Association have reached a tentative agreement for the amendment of the provisions of wages and insurance in the current Collective Bargaining Agreement. I have attached a copy of the tentative agreement. In order to take effect, the agreement must be ratified by both parties. The CFPBA ratified the agreement on October 4, 2010. I recommend that the Council also ratifies the agreement.

Attch. Proposed amendments to the CFPBA Collective Bargaining Agreement

MEMORANDUM OF AGREEMENT

BETWEEN

THE CITY OF VERO BEACH

AND

COASTAL FLORIDA POLICE BENEVOLENT ASSOCIATION

OCTOBER 1, 2010 – SEPTEMBER 30, 2011

This Agreement is entered into between the City of Vero Beach "the City" and Coastal Florida Police Benevolent Association "the Union".

The purpose of this Agreement is to codify the agreement the parties reached relating to the Collective Bargaining Agreement, Article 24, Insurance Benefits, and Article 32, Salaries as follows:

Article 24

INSURANCE BENEFITS

24.01 The City will make available to employees the option of electing one of three health insurance plans available to all other employees and their eligible dependents.

24.02 The City will bear the entire cost of the City's employee only base plan of health care insurance coverage for employees. The employee will be responsible for any additional premiums as shown in percentage of premiums below. These premiums will be deducted from paychecks for that month of coverage.

Base Plan

Employee – 0%
Employee + Spouse – 23%
Employee + Child(ren) – 22%
Employee + Family - 24%

Middle Plan

Employee – 7%
Employee + Spouse – 28%
Employee + Child(ren) – 27%
Employee + Family - 29%

High Plan

Employee – 15%
Employee + Spouse – 35%
Employee + Child(ren) – 34%
Employee + Family - 35%

24.03 The City agrees to maintain a Premium Conversion Program which will enable employees covered by this Agreement to make their contributions for coverage with pre-tax earnings provided such programs remain permissible under federal tax regulations.

24.04 A. All employees who retire under the Vero Beach Municipal Police Officers' Retirement Plan and who are actively drawing an annuity from the Plan and all employees who would have been eligible for an immediate annuity had they been participants in the Retirement Plan at the time of retirement shall be eligible to continue their health care insurance under the City's group plan.

B. In order to provide premium assistance to retirees who do continue their health care coverage under the City's current plan, the City will pay 4 percent for each service year to a maximum of the single option base plan towards the employee only or Medicare supplement offered by the City.

All premium assistance provided under this Section will terminate with the death of the retired employee.

24.05 The City shall maintain in full force and effect a life insurance policy on the life of each employee in an amount equal to the employee's base annual rate of pay as of January 1st of each year rounded to the next higher thousand. The effective date for any change in the employee's amount of life insurance shall be January 1st. The entire cost of this life insurance will be borne by the City.

24.06 An employee may at his option purchase an additional amount of life insurance equal to one or two times the amount provided for him by the City provided that the City's life insurance carrier agrees and the employee complies with all of the carrier's terms and conditions for life insurance. The premium rate shall be the same as that paid by the City.

Article 32

SALARIES

32.01 Effective September 26, 2010 at 12:01 a.m., the step plan shall remain suspended and the salaries of employees covered by this Agreement shall remain at the hourly rate in effect as of the beginning of pay period ending September 26, 2009, and employees covered by this agreement will remain at their current step on the salary plan through the life of this contract unless otherwise agreed to and ratified by both parties.

32.02 Police Officers assigned to Detective Division may, at the discretion of the Chief of Police, receive an increase of five (5) percent upon transfer into the Detective Division. The increase will remain in effect for as long as the officer remains in the Detective Division.

32.03 Notwithstanding anything to the contrary in the Collective Bargaining Agreement, the Union and the bargaining unit employees agree the City may Furlough bargaining unit employees up to 64 hours, if necessary, during Fiscal Year 2011. The Union's acceptance of furlough days is intended to reduce the anticipated budget shortfall and avoid the need for layoffs. To the extent possible, without negatively affecting operations, these furlough days will occur during the months of January, February, April, May, June, July, August, and September, 2011.

This Agreement shall be binding upon the parties once ratified by the City of Vero Beach Council and by the bargaining unit employees represented by the Union.

Signed and Agreed by the City:

_____

Robert Anderson, H.R. Director

Signed and Agreed by the Union:

_____

Pamela Stern , General Counsel

7-D)

COUNCIL AGENDA REPORT
MEETING OF SEPTEMBER 21, 2010

TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: September 15, 2010

SUBJECT: RESERVE BALANCES

Jackie Mitts, Assistant Finance Director, will discuss with the Council reserve balances in all funds Citywide.

James M. Gabbard

:jav

xc: Jackie Mitts

N:\AGENDA\FINANCE\2006-2010\RESERVE BALANCES.DOC

9B-1)

MEMORANDUM

TO: Mayor Kevin Sawnick and City Councilmembers

FROM: Karl Zimmermann, Chairman
Vero Beach Tree and Beautification Commission

DATE: September 22, 2010

SUBJECT: Funding

The Vero Beach Tree and Beautification Commission would like permission from the Vero Beach City Council to expend funds from the Tree and Beautification account in the amount of up to $350.00 to purchase additional Hibiscus Plants. A prior request for funds was approved by City Council at the June 15, 2010 meeting in the amount of up to $225.00. The original request was underestimated on the amount of plants and material that would be need for the project. The Hibiscus Plants will be used for a beautification project to replace the old plants and soil in the already existing large planters in Downtown Vero Beach.

I will be at the Council meeting when this item is discussed to answer any questions that Council might have. Also, I have enclosed a copy of the minutes which reflect what discussion took place at our meeting.

KZ/rh

VERO BEACH TREE AND BEAUTIFICATION COMMISSION MINUTES
Thursday, September 16, 2010 – 9:30 a.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Karl Zimmermann; Vice Chairman, Philip Russo; Members: Daniel Downey, Daniel Crisafulli, and Alternate Member, Chris Runge. **Also Present:** Planner, Gayle Laferty; Grounds Maintenance Manager, Nanette Haynes; and Senior Administrative Assistant, Rita Hawkins

Excused Absence: Barbara Cunningham

1. CALL TO ORDER

The Chairman called today's meeting to order at 9:30 a.m. and the Senior Administrative Assistant performed the roll call.

2. APPROVAL OF MINUTES

A) June 17, 2010

Mr. Russo made a motion to approve the minutes of the June 17, 2010 Tree and Beautification Commission meeting. Mr. Downey seconded the motion and it passed unanimously.

Mr. Zimmermann asked to add one item to today's agenda. He would like to add a tree dedication application under new business.

3. OLD BUSINESS

A) Update on Downtown Hibiscus Planters Project

Ms. Nanette Haynes, Grounds Maintenance Manager, said that their initial figure for this project was low. She said that she took a count of the planters and there are actually 26. She informed the Commission that she will need more plants at a cost of $343.00. She asked how much money did they originally get approval for.

Mrs. Rita Hawkins, Senior Administrative Assistant, reported that the Commission asked City Council for approval to spend up to $225.00 out of their account for the purchase of Hibiscus plants.

Ms. Haynes said that based on the original figure, they will need more money.

Mr. Zimmermann said they will need to add this item to the October 5th City Council agenda.

Ms. Haynes said that they should request up to $350.00 more.

Mr. Russo said that there was an article in the paper about dead trees in Humiston Park or trees that were planted in the wrong place.
Mr. Zimmermann said that was a guest editorial criticizing the Humiston Park project.

Ms. Haynes said that right after they planted the Coconut Palms the City experienced several days of 20-degree weather and they lost several of them. They also lost several of the new shrubs.

4. NEW BUSINESS

Mr. Zimmermann said that everyone should have received a copy of the Tree Dedication Application from Sarah Thompson. They are requesting a Live Oak tree and they would like to be present at the dedication.

Mr. Downey made motion to approve the Tree Dedication Application. Mr. Russo seconded the motion and it passed unanimously.

Mr. Crisafulli reported that the Downtown Business Association said that they were anxious about the Commission's feedback on the hanging basket project.

Mr. Zimmermann said that he thought their group was going to provide the Commission with some feedback after they met with them.

Mr. Crisafulli said that after he attended their meeting they said that they would love for the Commission to install some lamppost baskets and they would be willing to take care of them.

Mr. Zimmermann said that the criteria for the Downtown Association was for them to come up with some sponsor members who would assume responsibility for some test plantings at specific locations.

Mr. Crisafulli said that the contact person that he is working with is Vicky Gould. She said at their last meeting everyone unanimously agreed that they would love to participate. They said that once the Commission determines how many test baskets they are going to do, then they will assign the businesses to maintain them.

Ms. Haynes said that we need to make sure that the physics of the project works. They originally discussed hanging them from the buildings and they also determined that the arms on the light posts were not meant to hold any weight.

Mr. Crisafulli said he went and looked at the posts and agrees that the arms on the light post will not support the baskets. He said that he brought a catalogue to show the Commission members a picture of a basket that wraps around the light post and clamps in place. It is two pieces that fit around the pole, but it is not bolted to the post. This is the type of basket that he would recommend.

Mr. Zimmermann asked what is the cost of the basket.

baskets every four months. We (Tree and Beautification Commission) need to know that they agree to buy in on this project.

Mr. Downey asked what happens if they drop the ball.

Mr. Zimmermann said that they need to make the Downtown Association accountable for the replanting and making sure that they are taken care of. The shop owners would be responsible for watering them.

Mr. Zimmermann said that for the pilot project he would like the Commission to do the initial planting. He would also like to see a Commission member help them on subsequent plantings and assist them on what to select for the time of the year.

Ms. Haynes suggested providing the merchants with an approved list of plants to use for each season.

Mr. Zimmermann said that the Commission would need the City Council to approve the initial expense of the purchase of the planters, materials, plants and the initial planting. The Downtown Association will take on the expense of replanting the baskets on a quarterly basis.

5. TREASURY REPORT

Ms. Gayle Lafferty, Planner, reported that the Tree Commission has $5,214.72 in their account. The Tree Replacement has $2,642.08 in their account.

6. CHAIRMAN'S MATTERS

Mr. Zimmermann said that there is a new vendor working for the State that is cutting down the vegetation along A1A.

Ms. Haynes said that this new company took over quite a while ago.

Mr. Zimmermann said that they are pretty aggressive in their pruning. He asked Ms. Haynes to go out and take a look at what they are doing.

7. MEMBER'S MATTER

Mr. Runge asked if they know the expectations of the City residents when they hear the words Tree and Beautification. How can the Commission find out what their expectations are so that they can meet and exceed them.

Mr. Zimmermann said that they need to look to a definition by the City Council as to what the Tree and Beautification Commission's responsibilities are.

Mr. Runge said not so much as their responsibilities, but if they were to ask the average citizen what they believe beautifying the City of Vero Beach means and what do they expect.