

**CITY OF VERO BEACH, FLORIDA
MARCH 16, 2010 5:00 P.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 – Minister Steve Jones/Vero Christian Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
 - 1. Boys & Girls Club Week – March 22-28, 2009
- C. Public Comment
- D. Adoption of Consent Agenda
 - 1. Regular City Council Minutes – March 2, 2010
 - 2. Clean Vessel Act Grant Agreement
 - 3. Maintenance Memorandum of Agreement (MMA) between Kimley-Horn Associates, Inc., and City of Vero Beach – SR Storm Drain Pipe
 - 4. Monthly Capital Project's Status Reports
 - 5. Investments and Earnings on Investments FY09
 - 6. General Fund's Undesignated, Unreserved Fund Balance
 - 7. Proposed New Lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision
 - 8. Request from Main Street Vero Beach for the Use of Downtown Vero Beach and Adjacent Park Areas for the Annual Hibiscus Festival

(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

- A) An Ordinance of the City of Vero Beach, Florida, amending Section 58-78 of the Vero Beach, Florida, amending Section 58-78 of the Vero Beach Municipal Firefighters Retirement Trust; providing for expanded Investment Authority as permitted by Law; providing for Codification; providing for severability; providing for an effective date.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, calling for a Referendum to be held in conjunction with the General Election of November 2, 2010 on the Question of Whether the City of Vero Beach may Grant Economic Development Ad Valorem Tax Exemptions pursuant to the State Constitution; authorizing the City Clerk to include the Question on the Ballot; providing an Effective Date; providing for the Repeal of Resolutions in Conflict Herewith; and Providing for Adoption.
- B) Resolution for Assistance under the Florida Inland Navigation District Waterways Assistance Program
- C) A Joint Resolution by and Between the City of Fort Pierce, the City of Port St. Lucie, the City of Stuart, the City of Fellsmere, the City of Vero Beach, the City of Sebastian, the City of Okeechobee, the Town of Sewall's Point, the Town of Indian River Shores, the Town of Jupiter Island, the Town of St. Lucie Village, Florida Municipal Corporations; Indian River County, Martin County, Okeechobee County and St. Lucie County, Political Subdivisions of the State of Florida; the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County and the School Board of St. Lucie County, amending Resolution 03-126; amending the Articles of Incorporation for the Treasure Coast Council of Local Governments, Inc.

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

- A) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2009 and Ending September 30, 2010, by decreasing the Water & Sewer Fund by \$571,000 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R&R Fund by \$4,071,000 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.

6. CITY CLERK'S MATTERS

7. CITY MANAGER’S MATTERS

- A) Presentation of the Comprehensive Annual Financial Report 2009
- B) Discussion of Indian River County, Indian River Shores, and the City of Vero Beach Utilities Study
- C) Discussion and Update of Opening of Humiston Park
- D) Electric Utility Update – Utility Commission Meeting of 3/9/2010
- E) Electric Rate Comparison – January 2010
- F) Discussion and Update of Vero Beach’s Vero Man Site
- G) Tree Trimming Annual Contract Renewal – Updated Information
- H) One-Cent Sales Tax Contribution to Indian River County
- I) Discussion of Transmission Agreement with Florida Power and Light

8. CITY ATTORNEY’S MATTERS

9. CITY COUNCIL MATTERS

- A. Old Business
 - 1) Local Preference Ordinance – Requested by Councilmember Daige
- B. New Business

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
- A) Discuss efficiencies for Vero Beach Council Meetings

- C. Councilmember Tom White's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
 - A) Discussion of Water & Sewer Rate Increases – (Backup Provided)

- D. Councilmember Brian Heady's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
 - A) Web Page Facts
 - B) Progress for Internet connection for meetings
 - C) Still waiting for written answers from City Manager
 - D) OUC Contract
 - E) Refusal of staff to answer questions
 - F) November Elections
 - G) Public Discussion of FP&L offer progress
 - H) Financial Reports Electric Breakdown/Rates
 - I) March 2 City Council Meeting
 - J) Direction City Manager for new staff

- E. Councilmember Ken Daige's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
 - A) Water & Sewer Rate Increase

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
MARCH 16, 2010 5:00 P.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

Minister Steve Jones of Vero Christian Church gave the invocation.

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

Mr. White requested that his item for discussion – “Discussion of Water & Sewer Rate Increases” be placed under Old Business so that action can be taken.

The Clerk requested that under Proclamations “A Day of Service” be added.

Mr. Abell wanted to discuss limiting the number of hours for their meetings to either three or four hours. He wanted to make a recommendation that they limit this meeting to three hours and adjourn at 8:00 p.m. He said the reason for this was because it is a long day for staff and he feels that they can get their business done in three hours. He made a motion to limit this meeting to three hours and adjourn at 8:00 p.m.

Mayor Sawnick asked if they could make that motion at this time.

Mr. Charles Vitunac, City Attorney, answered yes. He said that this is more of a procedural manner and if they decide that three hours is enough time to get their business done then they have the power to do that. He said if they are not done with their business in three hours, they might have to consider when they will continue discussing the remaining items (either the next day or at their next meeting).

Mr. White wanted to make sure that if they approve this motion that they are able to extend the meeting past 8:00 p.m., if they wish to do so.

Mr. Vitunac said that was correct.

Mr. White seconded the motion.

Mr. Daige referred to his matters and asked that his item – “Water & Sewer Rate Increase” also be placed under Old Business with Mr. White’s item, because both items are along the same lines.

Mr. White added that staff has been here all day and they are due a dinner break. He felt that there may be some legalities as far as keeping staff here after a certain amount of time. He said that they need to take staff into consideration.

Mr. Heady quoted what Mr. White just said, “ We are treading on legalities because staff doesn’t get dinner time” the legality of holding a public meeting in the public eye and conducting all of the business that they need to do does not seem to be a legality it seems to be important, at least to a couple of members. He thinks it is outrageous that this is even before them for a vote. He said whatever it takes to conduct the people’s business they (City Council) bought into that when they applied for this job. If they don’t like the number of hours it takes to do the public’s business then they probably should work somewhere else. He said that would include every single member of this Council and any staff member. He mentioned at their last meeting Mr. White made some comments that this is more like the “Heady hour.” He went back and viewed the meeting in question. It started at 9:30 a.m. and ended at 5:30 p.m. One of the big problems that other Councilmembers had was the number of items that he had on the agenda. He went back and timed the items that he had on the agenda. Mayor Sawnick interrupted Mr. Heady and told him that the motion on the floor is about whether to limit the time to 8:00 p.m. Mr. Heady told the Mayor that what he is doing right now is under discussion and he understands what the motion is. He intends to discuss the motion unless he is ruled out of order. He commented that this is part of the reason why their meetings take so long, because of constant interruptions. He asked the Mayor if he could continue. Mayor Sawnick asked him to please summarize his comments in the next minute. Mr. Heady did not know if he could do it in a minute, he will take whatever time it takes him to finish. Again, part of the problem is that the Mayor keeps interrupting. He probably could have been done by now if he hadn’t been interrupted. Mayor Sawnick told Mr. Heady that he may continue. Mr. Heady continued by saying that he went back and he timed last month’s meeting and his matters that were a great concern took one hour and six minutes of the meeting. He said of that one hour and six minutes, staff presentation took thirty-six minutes, which means his matters took all of thirty minutes. This is not about limiting the time of the meeting, this is not about staff having time for lunch or dinner, this is about limiting the public debate on issues that are important to the people of this community. This is about doing public business behind closed doors because they don’t like what is said out loud for public consumption.

Mr. White stated that they could not conduct business behind closed doors.

Mr. Daige stated that he was not going to support the motion for the following reasons: He would prefer to vote on it at the next meeting as far as limiting the time of the meetings. He concurs with Mr. White as far as the employees go, that they are due a dinner break. He said that is part of some of the contracts that they operate under. He said that if they are going to have evening meetings then he would recommend going back to 7:00 p.m. and they might need to limit those meetings to a certain time and then continue the meeting the next day. He feels more comfortable discussing this at their next meeting, so at this time he is not going to support the motion.

Mayor Sawnick agreed with setting their adjournment time for 8:00 p.m. and with his approval, if they need to, they can extend it if there are only a few matters left.

The motion passed 3-2, with Mr. Daige and Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed unanimously.

B. Proclamations

1. Boys & Girls Club Week – March 22-28, 2009

Mayor Sawnick read and presented the proclamation.

2. A Day of Service

Mayor Sawnick read and presented the proclamation.

C. Public Comment

Ms. Jane Howard referred to the Vero Man Site and said that they are sitting on top of one of the most exciting things to happen in Vero Beach. She thanked the Council for what has already been done and commented that this might put Vero Beach in the history books.

Mr. J. Rock Tonkel looked at the agenda and didn't see Mr. Gregg and Mr. Little's offer and was wondering what Councils' intent was.

Mayor Sawnick told him that at this time it is on hold.

Mr. Tonkel continued by saying that he listened to the discussion about limiting the meeting to 8:00 p.m. He felt that sends an incorrect message to the citizens. He said they should be encouraging public participation. He said that this was an artificial means to cut off serious debate.

There was applauding from the audience after Mr. Tonkel spoke. Mr. Heady stood up and applauded. Mayor Sawnick asked him to refrain from applauding. Mr. Heady answered no sir.

Ms. Jeannette Coppertone (spelling may not be correct) begged Council to not raise their electric, water, and garbage rates any more. She said please consider the people who are on a limited income.

Ms. Susan Granpierre thanked Council for protecting the Vero Ice Age Site. She explained that she was involved with the Vero Ice Age Site Committee, who will be working with the Historic Preservation Commission in moving forward on this great community project.

Mr. Daige provided the Clerk with some information concerning the Vero Ice Age Site and asked her to make copies for the City Council.

Mr. Joseph Guffanti didn't have enough time to explain to the lady who spoke earlier why all the fees are going up in the City of Vero Beach. He said that for years the City's finances have been totally mismanaged. In the past they have borrowed heavily so that prior Councils' could make themselves look good as if they were keeping taxes down.

D. Adoption of Consent Agenda

Mr. Daige pulled item 2D-3) off of the consent agenda.

Mr. Heady pulled items 2D-1, 2, 3, 4, 5, 6, and 7 off of the consent agenda.

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

The items pulled off of the consent agenda were discussed at this time instead of moving them to City Manager's Matters.

1. Regular City Council Minutes – March 2, 2010

Mr. Heady wanted to make sure that Council had received a new copy of the minutes with the changes made to them. Council concurred that they had.

Mr. White made a motion to approve the March 2, 2010 City Council minutes. Mayor Sawnick seconded the motion and it passed unanimously.

2. Clean Vessel Act Grant Agreement

Mr. Heady noted that this is a grant awarding \$5,418.75 and as he looks through the paperwork he sees that there are a lot of requirements for the City. He asked if there

were any cost estimates that could be provided. He wanted to know how much it is going to cost the City to accept this money. He asked if there was any work involved.

Mr. Tim Grabenbauer, Marina Director, reported that there are several people at the Marina who are willing to volunteer to run the boat and perform the operation. He said that they are also permitted to go back under this program and request money for maintenance and labor if they need to later on. They are going to try to do twenty boats a day, three days a week. This grant money will be used for a portable waste pump out system to be used in the managed mooring field.

Mr. Heady asked Mr. Grabenbauer again if there was any estimate at all as to what this was going to cost the City.

Mr. Jim Gabbard, City Manager, explained that Mr. Grabenbauer would be managing the grant itself and there would be volunteers to help with the project. He will not be hiring any new personnel because of the project and the boat he is using is the old police boat.

Mr. Heady referred to the nine pages of requirements in the backup material. He just wanted to make sure that there was no additional money required from the City.

Mayor Sawnick asked Mr. Heady to wrap up his discussion in the next thirty seconds.

Mr. Heady reiterated that he wanted to make sure that the nine page requirements were not costing the City more than the \$5,418.75 grant money.

Mr. White made a motion to approve the Clean Vessel Act Grant Agreement. Mayor Sawnick seconded the motion and it passed unanimously.

3. Maintenance Memorandum of Agreement (MMOA) between Kimley-Horn Associates, Inc., and City of Vero Beach – SR Storm Drain Pipe

Mr. Daige commented that usually when they pull an item off of the consent agenda it is placed under the City Manager's Matters. He asked if they have changed the way that they are going to handle the agenda in the future.

Mr. Vitunac explained that because of the last Council meeting being so long, the Mayor decided that they would hear the consent items under the consent agenda so staff would not have to wait until the end of the meeting for their items to be heard if they are pulled off of the consent agenda.

Mr. Daige said the way they are doing the agenda tonight has been changed. He asked if this has been voted on.

Mr. Vitunac said that this is a change from what they have done in the past. It is a procedural change, which they have the power to do or not do.

Mr. Daige said to his knowledge that policy change has not been put into place. He would continue moving forward with the way they have been doing business because there has not been any policy change made. He wanted to see this put on their next agenda under New Business to make this policy change.

Mr. Vitunac explained that the Ordinance addresses items taken off the consent agenda must be heard by Council, but it doesn't say where the item has to be placed. He said if Council objects to the way that the Mayor has done this then they could challenge his decision.

Mr. Daige had no problem handling it this way tonight as long as they make it a policy change at their next meeting.

Mr. Daige asked if there would be direct discharge into the Indian River Lagoon.

Mr. Monte Falls, Public Work's Director, explained that there will be indirect discharge into the Indian River Lagoon. He said that the storm water system for the Parc 24 site has an on-site storm water management system that retains the required amount of water for quality and quantity set forth by the St. John's Water Management District. Once that has been done and managed, the excess water is then discharged through the new outfall out to the Lagoon. In the system there are provisions that have been made for sediment retention so that there is no discharge of sediment into the Vero Isles canal and the water quality meets the standard set forth by the regulatory agencies.

Mr. Daige asked that in the event that sediment does go through and after an inspection is done and sediment is found and must be removed, who pays for the removal.

Mr. Falls stated that for the sediment to get there, the way that the system works and discharges once the retention pond has been filled to capacity the level of the water in the pond then goes up over a collection device and flows in from the top. So any sediment that would be in the water would have to be suspended in the solution of the water. He said that any maintenance that is required of this system would be the responsibility of the property owner.

Mr. Heady commented that the handling of the water on site is allowed within the original scope, but the installation of this conduit would then allow a rain event to discharge into the Indian River Lagoon. One of the things that they hear constantly is about the quality of the water in the Lagoon. He said that it seems to him that putting a direct line from this property, into the Lagoon, into the Intercostal is not something that they should be doing.

Mr. Falls explained that the water quality that is discharged to the Lagoon is managed by St. John's Water Management District. When the property owner developed the site, their legal positive outfall was the 23rd Street ditch was maintained by the City. He said that outfall is at or near capacity in many of the storm events that they experience. The developer of this property suggested that they build another outfall to handle their

discharge, which then freed up capacity in our outfall that serves the other properties. They took water that was previously being discharged to the ditch at 23rd Street and have lessened the likelihood of flooding in the 23rd Street ditch by the development of this outfall.

Mr. Heady mentioned that in 1992 there was a vision group that met at the college and one of the things that they discussed was the continual dumping into the Lagoon. He said for long term it sounded like a good idea, however there has been negative impact on the environment and on the Lagoon and the quality of water. At that workshop there was a lot of discussion about reversing the plan in draining the swamp and sending some of the water back inland.

Mr. Falls commented that he would gladly follow any direction about the Lagoon, but direction for water quality and quantity comes from the St. John's Water Management District.

Mr. Daige asked Mr. Falls that if in the future it is determined that something needs to be done about the quality of the water going into the Indian River Lagoon, will it be up to the property owners to come up with another plan. He just wants to make sure that this does not fall back on the City. He reiterated that in the future if there is a problem down the road that everything is covered.

Mr. Falls stated that if the Water Management District changes their regulations, the people that have valid permits would be grandfathered in.

Mr. Daige wanted it clear that in moving forward in the future that the City would not be financially liable for anything that goes wrong.

Mr. Falls did not want to say that. He said right now the Environmental Protection Agency (EPA), through the Clean Water Act is doing additional regulations that will cause all the cities and counties to do additional cleanup work of their systems.

Mr. Daige said when this project came to Council all of this was supposed to have been taken care of and then a redesign had to be done. He mentioned that with this redesign he still is concerned for the future of the City.

Mr. Falls was not familiar with any redesign that was done.

Mr. Abell made a motion to approve the Maintenance Memorandum of Agreement between Kimley-Horn Associates, Inc., and the City for the SR 60 Storm Drain Pipes, in connection with the Parc 24 project, which is located North of 23rd Street on Indian River Boulevard. Mr. White seconded the motion and it passed 4-1 with Mr. Daige voting no.

4. Monthly Capital Project's Status Report

Mr. Heady mentioned the different capital projects outlined in the Monthly Capital Project's Status Report and that there were a lot of expenditures. He felt rather than put these things on a consent agenda and not talk about them at all they need to remember that these things increase the cost to their citizens. He said it is going to be tough when Indian River Shores and the County decide to pull out of their utilities. If they continue doing these things, without question, the City taxpayers are going to be left holding the bag and then the rates are going to soar.

Mr. Gabbard explained that all of these items are budgeted and have been talked about. The purpose of the Monthly Capital Project's Status Report is to give information to the Council and the public as to where they are on certain projects. He said that some of these projects are expensive, but they are part of the overall maintenance of the City. A lot of decisions to do these projects were made at budget time back in July or even earlier than that.

Mayor Sawnick made a motion to accept the Monthly Capital Project's Report. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

5. Investments and Earnings on Investments FY09

Mr. Heady mentioned that there were several investments and he wanted an idea of how variable the interest rate is.

Mr. Steve Maillet, Finance Director, said that those interest rates range between .1% and .2% and it drifts up and down month by month.

Mr. Heady asked if there was any place where he could look and find a number on the total losses that the City has had over the past four years.

Mr. Maillet was not sure what that meant.

Mr. Heady explained all investments not yielding a positive return.

Mr. Maillet explained to Mr. Heady where he could locate that information.

Mayor Sawnick made a motion to accept the report on the Investments and Earnings on Investments for FY09. Mr. Daige seconded the motion and it passed unanimously.

6. General Fund's Undesignated, Unreserved Fund Balance

Mr. Heady said there is an unreserved fund balance of \$6,571,791. He asked if this unreserved money that could be spent on anything.

Mr. Maillet answered yes.

Mr. Heady noted that it would be nice if they could see how this has changed over the last three to five years. He suggested putting two or three more columns in the report.

Mr. Maillet said that could be done. However, that information is in the CAFR on page 112. It shows the unrestricted balance in the General Fund for the last ten years.

Mr. Heady just wanted the extra columns added to show what the trend seems to be from year to year.

Mayor Sawnick made a motion to accept the report for the General Fund's Undesignated, Unreserved Fund Balance. Mr. Daige seconded the motion and it passed 5-0.

7. Proposed New Lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision

Mr. Heady noted that this new lease between the City and Corporate Air was for thirty (30) years. He wondered if it would be advantageous to the City to have a shorter term.

Mr. Eric Menger, Airport Director, explained that a thirty (30) year lease is standard. He felt that a shorter lease term would be more advantageous to the City; however the developer is going to want to have a longer term to amortize his lease. The Florida State Statutes allow up to a thirty (30) year lease.

Mr. Daige asked Mr. Menger if this was one of their standard leases. Mr. Menger answered yes. He said that the rate on the property is determined based on the fair market value (based on federal requirements).

Mr. Abell added that at the end of the lease term the property reverts back to the City, which includes any improvements that have been made.

Mayor Sawnick made a motion to approve the lease agreement between the City and Corporate Air, Inc., for Parcel 21, Airport West Subdivision. Mr. Daige seconded the motion and it passed unanimously.

8. Request from Main Street Vero Beach for the Use of Downtown Vero Beach and Adjacent Park Areas for the Annual Hibiscus Festival

This item was adopted under the consent agenda.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Section 58-78 of the Vero Beach, Florida, amending Section 58-78 of the Vero Beach Municipal Firefighters Retirement Trust; providing for expanded Investment Authority as permitted by Law; providing for Codification; providing for severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Terry Zokvic, Secretary/Treasurer of the Fire Pension Board, was at tonight's meeting to answer any questions that Council might have. He explained that this Ordinance is necessary because of the new rules that have been imposed by the State.

Mayor Sawnick opened and closed the public hearing at 7:14 p.m., with no one wishing to be heard.

Mr. White made a motion to approve the Ordinance. Mr. Abell seconded the motion.

Mr. Heady noted that if one of the investments disappears it does not have any impact on the firefighters, but more impact on the taxpayers.

Mr. Zokvic made it clear that for the last twenty years the City has not contributed to this plan. He said that this is the Ordinance that they have in place in order to protect the taxpayers from having that problem.

Mr. Heady felt that by making the changes to this Ordinance, they will be less restrictive on investments in foreign countries.

Mr. Zokvic explained that the Fire Pension Board is recommending that they stay between 10% and 20%.

Mr. Heady was concerned with increasing foreign investments because the taxpayers are on the "hook."

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, calling for a Referendum to be held in conjunction with the General Election of November 2, 2010 on the Question of Whether the City of Vero Beach may Grant Economic Development Ad Valorem Tax Exemptions pursuant to the State Constitution; authorizing the City Clerk to include the Question on the Ballot; providing an Effective Date; providing for the Repeal of Resolutions in Conflict Herewith; and Providing for Adoption.**

Mayor Sawnick read the Resolution by title only.

Mayor Sawnick recalled that a few meetings ago that he talked to Council about having an item on the ballot similar to what Sebastian has done and what Indian River County is going to do regarding property tax exemptions to new businesses that create jobs and for

expansions of existing businesses that create new jobs. He felt that this was an important step for them to take to become more business friendly and to help decrease unemployment.

Mr. White commented that he was a business owner and agrees that it is good to bring new businesses to the area, but asked what about the existing businesses. He thinks that this would put a burden on the existing businesses.

Mayor Sawnick explained that this is just passing a Resolution in order to get this item on the ballot. He said if it passes on the referendum then they will need to set the parameters.

Mr. Vitunac added that if the item passes under referendum then he will prepare an Ordinance for Council (after the November election) and in that Ordinance the Council will outline whatever parameters that they wish to have.

Mr. Daige agreed with moving forward on the Resolution and felt that it was important for the community.

Mr. Heady commented that this is for new businesses and clearly they want to do things to create new jobs. He said that any property tax exemption to someone is a tax increase to someone else. He said when putting this item on the ballot that the only thing that the public will see is one short paragraph, "Shall the City Council of the City of Vero Beach be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses that create jobs and for expansions of existing businesses that create new jobs?"

Mayor Sawnick explained that the exemption would be on the increase and not what their paying now.

Mr. Heady said that according to the City Attorney the Ordinance has not been drafted yet, so no one knows what it is going to entail.

Mayor Sawnick was optimistic that the Ordinance was going to be similar to what Sebastian has. He said at least he hopes that it will.

Mr. Daige said that they will build a time frame into this. He said that right now they have to do something to help their community economically. People are losing their home and their jobs. We need to do something and this is something that we can do now. He encouraged Council to move forward on this.

Mayor Sawnick made a motion to approve the Resolution. Mr. Daige seconded the motion. The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

B) Resolution for Assistance under the Florida Inland Navigation District Waterways Assistance Program

Mayor Sawnick read the Resolution by title only.

Mr. Falls reported that the Resolution was to allow the City to apply for a Florida Inland Navigation District (FIND) grant to do some improvements to the MacWilliam Park boat ramp. The deadline to submit is April 1, 2010 to meet this funding cycle and they are asking for Councils' support.

Mr. Daige made a motion to approve the Resolution. Mr. Abell seconded the motion.

Mr. Heady reported that he was at the Park over the weekend. He asked is there anything that they could do to increase the space available for the fishermen to clean their fish.

Mr. Falls said if they are successful in getting the grant then they could incorporate that into the overall project design.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

Council took a 10-minute break at 6:11 p.m.

C) A Joint Resolution by and Between the City of Fort Pierce, the City of Port St. Lucie, the City of Stuart, the City of Fellsmere, the City of Vero Beach, the City of Sebastian, the City of Okeechobee, the Town of Sewall's Point, the Town of Indian River Shores, the Town of Jupiter Island, the Town of St. Lucie Village, Florida Municipal Corporations; Indian River County, Martin County, Okeechobee County and St. Lucie County, Political Subdivisions of the State of Florida; the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County and the School Board of St. Lucie County, amending Resolution 03-126; amending the Articles of Incorporation for the Treasure Coast Council of Local Governments, Inc.

Mayor Sawnick read the Resolution by title only.

Mr. White reported that he looked over the Resolution and did not have any problems with it, but he did have one question. He said that the original Board of Directors was made up of elected officials who are no longer in office and the signature page consists of their names. He asked do they still stay the same as the original names.

Mr. Vitunac explained that this Resolution shows the original incorporate document with the original signatures. The City Clerk spoke with the Secretary of the Treasure Coast Council of Local Governments and was told that they want to keep it the same way.

Mr. White made a motion to approve the Resolution. Mr. Abell seconded the motion.

Mr. Heady said the change to the Resolution was that it added School Board officials.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

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

- A) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2009 and Ending September 30, 2010, by decreasing the Water & Sewer Fund by \$571,000 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R&R Fund by \$4,071,000 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.**

Mayor Sawnick read the Ordinance by title only.

Mr. Maillet explained that these were projects for the water and sewer system that could either be eliminated or deferred. He said that one of the things they were looking to do was to eliminate in the budget the proposed borrowing. The difference between the \$4,071,000 and the \$571,000 would be funds that the water and sewer system does not have to spend. In addition there is another \$400,000 in projects that they would like to eliminate. Normally they don't go into all of this under first reading, but they would like approval to amend the Ordinance, which the Water and Sewer Director will discuss.

Mr. Sawnick made a motion to approve the Ordinance (with amendment made as outlined by Mr. Maillet) on first reading and set the public hearing for April 6, 2010. Mr. White seconded the motion.

Mr. Maillet clarified that the heading would be instead of \$4,071,000, it would be \$4,389,000, and the borrowing would be reduced to three and one half million dollars and the \$571,000 would increase to \$888,000. He explained that the details would be adjusted in the Ordinance for the public hearing.

Mr. Heady said decreasing expenditures is a wonderful thing. He asked would any of the decreases have any negative impact on the assets. He said that in decreasing the expenditures they need to make sure that they don't decrease the maintenance to the point where they would have a negative impact on the assets.

Mr. Rob Bolton, Water and Sewer Director, said that they would not have any negative impact on the assets. He explained that he went through future planned projects and some were expansions to the Water Treatment Plant, which he felt that they could forgo the expansion at this time. They also looked at some road construction projects and there were a lot of projects that were suppose to start, but have not started and would not be

started until next year. Therefore, they would fall into next year's budget cycle. He said by handling these projects this way that the water increase that was proposed for April 1st could be reduced.

Mr. White said that he met with Mr. Bolton, Mr. Gabbard and Mr. Maillet several times and discussed the increase scheduled to begin on April 1st. After these discussions, Mr. Bolton came up with a plan to help reduce the rates rather than raising them to the amount they originally requested.

Mayor Sawnick said that this item was on today's agenda under Old Business and asked if they wanted to go ahead and vote on this right now.

Mr. Gabbard said that they would like to go ahead with this now. He said that they could hold the public hearing at their budget meeting on March 29, 2010.

Mayor Sawnick said that there is a motion and a second to approve the Ordinance, with amendments, for a public hearing on April 6, 2010.

Mr. Vitunac said that the Council already had a public hearing where they authorized a rate increase. What Mr. Bolton would like to do now is reduce that increase. In order to have a first and second reading by March 29, 2010 it would mean they would need to hold a Special Call meeting. He said that Council could make this the first public reading and bring back the document on March 29, 2010 and hold a public hearing, so it would be in place for the April 1st deadline. He said otherwise the rate would go into effect automatically.

Mr. Daige supported this Ordinance. He was glad they were moving forward in a positive direction on this.

Mr. White said what they wanted to do was to make sure that the bills could still be paid for the projects the City is involved in now and in October they possibly could look at a decrease.

Mr. Heady asked would the items Mr. Bolton would be presenting have an impact.

Mr. Bolton said that he prepared a balance sheet to show Council what their revenue projections are, what their operating expenses are, what was originally budgeted, what they adjusted the first time and what they are now adjusting.

Mr. Heady said that he would like to have staff's input before they vote.

Mayor Sawnick called for a vote on the motion.

The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

At this time, Mr. Bolton went through the operating revenue as shown on the doc cam (please see attached memo). He reported that there was about \$17,573,000 budgeted at the beginning of the year. After the budget they were notified by the County that they would no longer pay fire hydrant rental, which has an effect of about \$128,000. He reported that the debt service remained the same. He said that next year there should not be any problems with balancing the budget. He stated that they had \$7,000,000 in capital improvements. Their first adjustment brought it down to \$3,025,000 and with this adjustment it would go down to \$2,007,000. He reported that on April 1st the existing usage rate on sewer was suppose to go up from \$2.93 to \$4.06. The new rate would be firm \$2.93 to \$3.59. He said that based on the rate they are proposing there should not be any problems balancing next year's budget.

Mr. White made a motion to move this to public hearing on March 29, 2010 at their quarterly budget meeting. 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. Daige asked the way they bill, do they charge for separate billing.

Mr. Bolton answered no.

Mr. Daige wanted to make it clear that they do not charge for billing by the meter, it is included. There is no separate billing charge.

Mr. Bolton said that was correct.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Presentation of the Comprehensive Annual Financial Report 2009

Mr. Ross Cotherman, Harris Cotherman Jones Price and Associates, gave a quick overview of the City's financial statements (on file in the City Clerk's office). He reported that this report is comprised of four sections, which were the introductory section, financial section, statistical section and a compliance section. He reported that they have a copy of the Certificate of Excellent for Financial Reporting in their package. He explained that the first page of the Financial Section was their opinion. Pages one and two were the only thing that they take credit for in the Financial Statements. The City engages them to issue this opinion. The Financial Statements are prepared by the City and the responsibility of the City. It is his company's responsibility to audit those numbers, to make sure that the numbers are fairly presented in accordance with professional standards and if they are satisfied then they issue an opinion. Starting on page three is the Management's discussion and analysis, which is a high level summary

of the financial conditions of the City during the fiscal year. Page 13 is the financial statements, balance sheets, income statements, etc. On Page 35 there are the notes to the financial statements, which is a way to give more detailed information related to the financials. Then on Page 65 Mr. Cotherman addressed a couple questions asked by Mr. Heady (letter on file in the City Clerk's office). The first issue Mr. Heady raised was related to the OUC contract and the requirements of the City to disclose that information in the financial statements. He reported that they were aware of the issues going on with the contract. It was something that they addressed throughout their audit. He read from Mr. Heady's letter, "that this Elected Official's legal opinion is that changes were material." Mr. Cotherman said that what they were talking about here was, in professional standards, is that disclosure of legal issues in the financial statements is the City's responsibility to disclose those legal issues if they meet the standards. There are two components to the standards on determining if an issue should be disclosed. First it talks about pending or threatened litigation. He said that his company was not aware of any pending or threatened litigation related to this issue. He noted that Mr. Heady's second point in his letter stated, "Although this issue is not contested at this time I would likely join as a plaintiff against the City regarding the legal enforceability". He said that his company would have believed that something would have been brought before the City Attorney's office if there was pending or threatened litigation. Therefore, they do not believe that it met the first standard. The second part of the standard is that if something is unasserted, which they feel falls into that category; they first have to look to see if it is probability that a claim would be asserted. He did not think this met that part of the second standard. He reported that they confirmed with the City Manager, the City Attorney, and the majority of the City Council who believes that this is a legally enforceable contract. Therefore, his company does not believe that there is a reasonable possibility that the outcome would be unfavorable. The last point was that the resulting liability would be material to the financial statements. He noted that the contract in question took place on January 1, 2010, so there is no financial impact at all to the financial statements of September 30, 2009. Mr. Cotherman referred to Page 65 regarding the FMPA contract and the equity ownership in the contract. He went back to 1996 when the City first entered into the contract and found the original footnote that was contained in the audited financial statement on September 30, 1996 and there was a paragraph which stated, "It is important to note that no participant as an individual entity by agreement has any equity interest in any of the assets owned by the agency. Each member has only the intangible right to purchase power from FMPA." He also looked up five of the participating municipalities and he read from the City of Fort Mead's September 30, 2008 financial statements, "Under the terms of the contract the City has no equity interest in any of the assets of the FMPA" and the City of Leesburg has a similar statement which read, "The City by agreement has no equity interest in any of the assets owned by the FMPA." He also confirmed with FMPA, and they agree, that there is no ownership interest or any assets that should be recorded on the financial statements of the City of Vero Beach. He then reported that on Page 105 was the statistical section, which includes information that is five and ten years of comparisons. He then went over the compliance section of the report, which he explained that part of their audit was to make sure that the City is complying with laws, rules and regulations. On Page 139 was a report on the City's single audit, which has all the Federal grants that the City received.

He pointed out that the management letter located on page 143 was an area that if there were any internal control issues this is where it would be located. He noted that they did not report any this year. Last year there were two comments and both have been resolved. He then thanked Mr. Maillet and his staff noting that it has been a pleasure working with Mr. Maillet over the past few years. He wished Mr. Maillet well in his retirement.

Mayor Sawnick made a motion to accept the Auditors Financial Report. Mr. White seconded the motion and it passed unanimously.

B) Discussion of Indian River County, Indian River Shores, and the City of Vero Beach Utilities Study

Mr. Bolton reported that on October 15, 2009 the Board of County Commissioners, the City of Vero Beach, and the Town of Indian River Shores held a meeting to discuss performing a study to look at what infrastructure is out there, how the organizations operate and if there is a possibility of consolidation on part of the water department, the sewer department, or both. A Committee was formed with two members of each entity and he and Mr. Falls were the Committee members for the City of Vero Beach. He reported that they brought back to Council a scope of work they were going to advertise, which discussed the possibility of status quo, the possible consolidation and what it would look like, such as a Utility Authority, Co-op, etc. He said that the advertisement was completed and the Committee met and ranked the consultants, which is before the Council tonight. He recommended that Council approve the ranking, which has been approved by the Board of County of Commissioners as well as by the Town of Indian River Shores Town Council. He was in favor of the ranking and felt that GAI Consultants, Inc., was a reputable firm. He reported that the Committee has a meeting scheduled for Thursday and they could start the scope of work for the project and if there are any changes they would bring them back before the Council. If the City Council still feels that they need to move forward as they originally looked at then the Committee is willing to move forward.

Mayor Sawnick explained that the government entities wanted to have an objective look on the options for all three entities. He felt that they were going in the right direction if they all keep an open mind and see what the facts are.

Mayor Sawnick made a motion to accept GAI Consultants, Inc., as the top choice.

Mr. Bolton explained that the Committee would move forward and if the scope of work is not in the interest of the City they would bring it back to the City Council for their direction. He said that they would bring back the final task and the cost for Council's approval.

Mr. White seconded motion the motion for discussion. He said that in the backup there is information that the County is pulling back from status quo and withdrawing from the franchise agreement or taking over it completely.

Mr. Bolton said that is the County's Comp Plan amendment, which stated either a consolidation or terminations. He recommended to Council that they allow the Committee to move forward in negotiating with the consultant and then they will come back to Council.

Mr. Daige was in favor of the recommendations made by Mr. Bolton. He attended the meeting where the different firms were ranked and he did his own ranking and came up with the same choice that they did.

Mayor Sawnick amended his motion to approve the ranking. Mr. White seconded the amendment to the motion.

Mr. Heady noted that the former employee of the County was hired as a consultant for Post Buckley (firm that was ranked number two). He watched parts of the meeting where they were ranking the consultants and it seemed that Jim Davis, former employee for the County, has done a tremendous amount of work. He wondered if they would have chosen that firm that a large part of the work would have already been completed.

Mr. Bolton did not know what Mr. Davis did and did not understand why a consulting firm would move ahead and do a lot of work before they were awarded the contract.

Mr. Heady commented that it seemed like there was a tremendous amount of work already done that will have to be done, at a cost to the City. He asked Mr. Bolton why did they choose the consultant that they did (what made that consultant stand out).

Mr. Bolton expressed that the consultant has an extensive knowledge in acquisitions, they showed what they would look at as far as different scopes and different processes. A lot of their recommendations were not fixed as to which way to go. They will look at the City's transfers if they do switch or if they choose to consolidate how it will affect the City's revenue. He said that they will do a very thorough analysis. He said that Post Buckley gave the same presentation that was given to the County over a year ago. He expressed that the Committee made it clear in the beginning that there would not be any solicitations with the proposed consultant.

Mr. Heady asked would it be fair to say that your vote for the number one ranked firm was open to many different avenues and the other consultants already had a desired result to where they were heading.

Mr. Bolton said that the other consultant didn't seem to focus on everything that he was looking at.

Mr. Heady stated that what he is hearing is that the number one firm chosen is open to all options.

Mr. Daige said that Mr. Bolton gave a very good overview on what went on at that meeting. He felt that the consultant who has been ranked number one will fit their needs. He said that Mr. Bolton's analysis was very well done.

The motion passed 5-0.

At this time, Council heard the public hearing that was on tonight's agenda.

C) Discussion and Update of Opening of Humiston Park

Mr. Falls reported on the grand opening of Humiston Park and said that they are 99% finished with the whole project.

Council thanked Mr. Falls for all of his work in making this Park beautiful.

D) Electric Utility Update – Utility Commission Meeting of 3/9/2010

Mr. John Lee, Acting Electric Director, gave an update on the recent Utilities Commission meeting. He said that the City of Vero Beach sent a letter to FP&L and other power providers asking them if they were interested in buying some or all of their utilities. They received a letter back from FP&L who had some questions, which the City answered. At this meeting there was a representative from FP&L attending the meeting to give an update on their status. The person's title was External Affairs Manager for the Treasure Coast and what this person said was that FP&L was doing a high level financial investigation of their documents and they had not yet reached a conclusion. However, they expect that their conclusion will be finished in April and at that time there will be more discussion. Staff and the Utilities Commission asked what the status was of the 80 or so questions that they had sent to FP&L. This person answered by saying that they have those questions, but it is premature for those questions to be answered and they would be heard at the proper time and in the proper manner. Mr. Lee said that once they receive their response from FP&L, they will proceed in moving forward.

Mayor Sawnick asked Mr. Lee to let the Council know when they have received a response back from FP&L and keep them updated.

Mr. Heady asked Mr. Lee if there were any other representatives at this meeting that he knew of.

Mr. Lee said that there were some representatives from OUC and a couple of consultants from Black & Veatch who thought that maybe in the future they might get some work out of this.

Mr. Heady then asked did he know the names of the representatives from OUC.

Mr. Lee answered no. However, he could get their names if that is the wishes of Council.

Mr. Heady asked if there was anything that the City needs to do at this point to ensure that FP&L has all of the documents that they need.

Mr. Lee understood that FP&L has received everything that they asked for from the City and has not asked for any additional information.

E) Electric Rate Comparison – January 2010

Mr. Lee showed on the doc cam the Residential Rate Comparison – January 2010/1,000 kilowatt hours (please see attached).

Mr. Heady asked if the numbers shown for FP&L are without the one-time rebate that they gave their customers in January. Mr. Lee answered yes. Mr. Heady asked if there were taxes included in the investor owned utility average of \$119.27. Mr. Lee said there was not. Mr. Heady referred back to 2005 when the City added something similar to FP&L's storm charge and included it in their rates. Mr. Lee explained that they had a hurricane recovery charge for about eighteen months.

Mr. Heady referred to the cost of fuel. He said that when they changed from FMPA to OUC they increased the percentage of coal in their fuel as opposed to FMPA, which was just about all gas. He asked Mr. Lee if he could get him the percentage breakdown of what they have now.

Mr. Lee answered yes and no. He explained that on a day where it is not particularly hot or cold they have what is called a base load day. He said what he would do is pick an average day and give Mr. Heady a percentage breakdown.

Mr. Heady asked how does the two new gas generators at OUC operate. He wondered if they run all the time. Mr. Lee explained that it depends on what the price of natural gas is versus the price of coal.

Mr. Daige asked Mr. Lee to site his source as to where he came up with these numbers for this residential rate comparison. Also, when he received these numbers does he feel that they are true or just numbers that he has been given.

Mr. Lee quoted the website where he retrieved these numbers.

Mr. Daige expressed that they were doing everything that they could to continue to lower their utility bills.

F) Discussion and Update of Vero Beach's Vero Man Site

Mr. Tim McGarry, Planning and Development Director, gave a brief update on where they are with the Vero Man site. He recalled that at the last Council meeting they adopted a Resolution supporting the Historic Preservation Commission (HPC) to coordinate what is going on with the Vero Man Site. He said that they were going to

fence the property and will be working on getting more studies done. Mrs. Granpierre from the Vero Old Ice Age Committee will be at the next HPC meeting to give them an update.

Mr. Daige asked when will they install the fencing.

Mr. Gabbard said that they will probably start the fencing project within two or three weeks and it will cost under \$10,000, which will come out of Airport funding as part of their security plan.

G) Tree Trimming Annual Contract Renewal – Updated Information

Mr. John O'Brien, Manager of Purchasing and Warehouse Operations, recalled that this item was tabled from their last meeting. He said that Council was interested in knowing if the hourly rates that they received in 2006 are above or below the current market prices. In addition, Council was interested in using local contractors. His office did a survey to compare current rates and the current contract that the City has with Asplundh is for \$69.91 per hour for a three man crew and equipment, which is \$6.82 per hour less than Fort Pierce Utility Authority (FPUA) who has the next lowest rate. As a result, they are saving \$28,371.20 a year compared to FPUA and even more compared to the remaining three surveyed utilities. He recommended renewing their contract with Asplundh for one more year.

Mr. White made a motion to approve a one-year renewal of the Annual Tree Trimming Contract with Asplundh Tree Experts Company. Mr. Abell seconded the motion and it passed unanimously.

H) One-Cent Sales Tax Contribution to Indian River County

Mr. Maillet referred to the letter that they received from the County informing them that on August 18, 2009 the Indian River County Board of County Commissioners voted to approve a request to notify the cities of Vero Beach, Fellsmere, Sebastian and the Town of Orchid for a contribution from the share of the one-cent optional sales tax receipts for fiscal year 2009/2010. He feels that what the County should do is fund fire capital out of the fire district.

Mayor Sawnick asked how much the City would have to give the County if they agreed to do this.

Mr. Maillet said the way that the County Management and Budget Director had it worked out it would be about \$280,000.

Mr. Maillet continued stating that he didn't understand why the County wants to use one-cent sales tax money when they have a small fortune in the Fire District. At the end of fiscal year 2008 the Fire District had fifteen million dollars in cash. He made it clear that the taxpayers of the City have already contributed so they should use that money that

they have already received from the taxpayers for the Fire District. He also felt that the City should not get into the practice of subsidizing the County's budget.

Mr. White mentioned the property that they have given the County for some of their fire stations.

Mayor Sawnick made a motion to reject the request of the one-cent optional sales tax contribution. Mr. White seconded the motion.

Mr. Daige commented that the City have been good neighbors with the County. We (the City) are paying as we go and we have been cooperative and right now the City just can't do this.

Mr. Gabbard would recommend that Council decline to participate.

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

I) Discussion of Transmission Agreement with Florida Power and Light

Mr. Lee briefly explained the transmission agreement with FP&L. He said that there were no negotiations on the price because it is a fixed tariff.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1) Local Preference Ordinance – Requested by Councilmember Daige

Mr. Daige who initiated the Local Preference Ordinance said that he is doing this because he is a big supporter of local businesses.

Mr. Vitunac explained that there already is a certain kind of local preference in the Vero Beach Code, which does grant them some lead way. He said in the Florida Legislature there are several bills right now dealing with this issue. Whatever action they take here might be affected by the State Legislation. He suggested adopting something similar to the Indian River County Ordinance for first reading at their next meeting. He said by the time they are ready to hear the Ordinance at the public hearing they should know what the State has decided to do and that will make their decision as to whether they continue or not.

Mr. O'Brien explained that they do currently in their Code afford the opportunity to award to their local contractors. He has reviewed the County's Local Preference

Ordinance and in their Ordinance they indicate after six months they are going to conduct a report to see what the outcome is and then after a year they will determine if they wish to continue with what they are doing. He said according to their six month report there has been no impact at all on awards. He said that if Council chooses not to do anything that they still have the option to use the local preference that is already in their Ordinance.

Mr. Daige asked Council to please allow this to move forward. Also, when they are in Tallahassee next week they need to let the Legislatures know that they are pushing for this.

Mr. Vitunac said that they might want to consider adopting a Resolution in support of the Statewide bill that allows local preference.

Mr. Daige made a motion to move this forward and at their next meeting hear the Ordinance on first reading. Mayor Sawnick seconded the motion.

Mr. Heady said that they want to move forward, but they don't know whether they can until the State makes up their mind. Mr. O'Brien pointed out that they have a provision in the City Code to make sure that there is a local preference. He felt that it was premature doing this at this time. He said they should wait until the State decides what they are going to do.

Mr. White clarified that right now they have the option to choose the local bidder even if they are not the lowest bidder. He was told that was correct.

Mr. O'Brien added that they have not had a situation where they needed to use local preference.

Mr. Vitunac will bring back an Ordinance for first reading at their next meeting.

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

Mayor Sawnick made a motion to extend the meeting to 8:45 p.m. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mayor Sawnick reported that he attended the Utility Commission meeting, Coffee with the Council, the Humiston Park reopening event, a meeting with Mainstreet Vero Beach where they are discussing reopening the Theater Downtown and possibilities of creating a CRA. He also announced that the next Mayor's beach cleanup will be held on March 27th at Humiston Park between 11:00 a.m. and 1:00 p.m. He also mentioned that on March 29th the City Council will be holding a Special Call meeting (to discuss their quarterly budget). He asked Council to give ideas to the Clerk if they have any for that meeting. Also, they have scheduled a Special Call meeting for May 11th to discuss Economic goals for the City of Vero Beach.

Mayor Sawnick felt that by setting a deadline for tonight's meeting and extending it if they needed to has worked out real well. What he is trying to do is help the Council to narrow their points down to be more precise and to the point. He thought that they made a lot of progress on doing that tonight. He said after talking to people in town they feel that marathon meetings deter people from watching the meeting. He said at the next meeting he will be bringing this up again and have backup material to provide to Council. In addition, any action that the Council would like to take he asked that they provide backup material for the Council and the public. This is another item that will be voted on at their next meeting. Another step that they need to take is to limit Council Matters to fifteen minutes. That also will be voted on at their next meeting. He encouraged Councilmembers that if they have questions about an item on the agenda, to ask staff before the meeting. This gives staff enough time to find out the answers to their questions. He is happy that they are engaging in discussions with FP&L and feels that they are moving in the right direction to reduce utility costs and looking at other options that they might have.

3. Comments

B. Vice Mayor Sabin Abell's Matters

1. Correspondence

Mr. Abell referred to the email that they received on this year's Under the Oak's Art show and what a success the show was this year. They had over 80,000 people attend the event.

2. Committee Reports

Mr. Abell reported that he attended the Chamber of Commerce Economic meeting, the Utilities Commission meeting, an MPO meeting and the reopening of Humiston Park.

3. Comments

A) Discuss efficiencies for Vero Beach Council Meetings

Mr. Abell felt that they needed to be more efficient in how their City Council meetings are run. He has come up with a few suggestions, which he will bring back at their next

meeting to vote on and make a part of their policy. His suggestions included: A) Meetings are not allowed to run for more than three (3) hours – four (4) hours max; B) Confine questions to the matter under discussion; C) Councilmembers may have up to two (2) items on the agenda under their matters and may be given up to five (5) minutes for presentation and discussion on each item; D) Limit Councilmembers speaking on an agenda item to five (5) minutes; E) Per the City Attorney, any item requiring action of the City Council should be placed under New Business and not under City Council Matters; and F) If a Councilmember wishes to remove an item from the “consent agenda,” the Councilmember must do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. If an item is removed, it will be heard at the time that it is removed from the consent agenda.

C. Councilmember Tom White’s Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. White gave an extensive report on his Beach and Shore’s Preservation Commission meeting, he attended the reopening of Humiston Park, he attended a charity event sponsored by the Veteran’s Association, he attended Coffee with the Council and participated in the St. Patrick ’s Day Parade.

3. Comments

- A) Discussion of Water & Sewer Rate Increases – (Backup Provided)**

This item was discussed earlier in the meeting.

D. Councilmember Brian Heady’s Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Heady referred to Mr. White’s Beach and Shore’s Preservation Commission report and asked if he has any data as to what the Pep Reef has added.

Mr. White said that he could get that information. He has been told that the Pep Reef has helped excrete sand, but the State will not recognize the Pep Reef as being a mitigation point for sand.

Mr. Heady asked if the Commission was doing any studies for additional Pep Reefs in other areas of the beach where there is erosion problems.

Mr. White said that the State will not approve any more reefs. They have been trying to convince the State of Florida that the Pep Reef really worked.

Mayor Sawnick asked Mr. White if he could get that information for the whole Council. Mr. Heady had another question to ask Mr. White concerning his report. Mayor Sawnick said that because of the time he asked Mr. Heady if the question could wait. He wanted to make sure that his (Mr. Heady's) matters were discussed as well as Mr. Daiges'. Mr. Heady told the Mayor that Mr. White gave his report and asked does he not want him to ask a question concerning his report. Mayor Sawnick just wanted to make sure that they had enough time to discuss the other matters that still remain on the agenda.

Mr. Heady then asked Mr. White if there was any data with these truck trips to what this does to the roads.

Mr. White said apparently staff has said that it does not affect Wabasso Bridge. He said that the only thing Ranger Construction is responsible for is for the damage that they do from A-1-A to the beach and not anything that happens on the roadway.

A) Web Page Facts

Mr. Heady mentioned that he got into a debate with someone who was telling him about different electric rates and he told them that it was not true and he checked out the facts displayed on the City's webpage. He then did some more checking and found that the facts on our webpage are different than what is being reported by the State. He felt that if they are going to put things on their webpage then they need to be accurate. He also went back and checked on some minutes where a correction was made and the corrected minutes were not on the webpage. He said it is important to make sure that if there have been corrections made to the minutes that the correct minutes are on the webpage.

B) Progress for Internet connection for meetings

This item will be heard at their next meeting under Old Business.

C) Still waiting for written answers from City Manager

Mr. Heady reported that he still has not received any written answers from the City Manager.

D) OUC Contract

Mr. Heady commented that there seems to be this on-going debate about the OUC contract. The City Manager and the City Attorney have both said that he was shown the original contract. He said if you listen to the words that they used you hear that he was shown a copy. The point that he was making was that he wanted to see the original and the original should never have been removed from City Hall. He has checked with different attorneys' that work for municipalities throughout the State of Florida and asked for their opinion on the removal of such a document from City Hall and not having it available to the public for over two years, and they all said the same thing that it was improper and the City Manager and City Attorney should have made sure that there was a

copy of the document at City Hall. He said as it stands now there is no way to be sure that the document that is in the files is in fact what the Councilmembers discussed. If he had the time he could ask Councilmembers, the City Manager, and the City Attorney, questions on what was in the contract and there would be no way that they could recite it because they have not memorized the contract. Mr. Abell has stated that he has had a copy of the contract since shortly after the April 21st signing. Mr. Heady made a public records request to Mr. Abell that he supply him with a copy of the document that he has had in possession for a couple of years.

Mr. Heady mentioned that the other thing in the OUC contract is that they hear from Councilmembers who voted in favor of it that they really need to do something to reduce the rates for the ratepayers in this community. When he looks at the document that was presented to him, what he sees is that the contract has increases that are built into it.

Mr. White stated that he voted against any increases.

Mr. Heady thought that the increases were included in the contract.

Mr. White explained that what is in the contract is the normal increases from year to year. What he is referring to is rate increases passed on to their customers.

Mr. Heady explained that what he was referring to was the built in increases that are in the contract.

E) Refusal of staff to answer questions

Mr. Heady brought up refusal of staff to answer questions. He said that if he says something that is incorrect then it needs to be identified as to what he said is wrong. He said if he doesn't get something right he wants to be told. He has asked staff to identify what he said was wrong referring to the City Manager who has refused to put what he said was wrong in writing.

F) November Elections

Mr. Heady expressed that he is the only sitting Councilmember who is not up for re-election in November. He said that there is also a voter initiative that Mr. Wilson is trying to get on the November ballot. He felt that they could have some discussions at these Council meetings about the issues of this voter initiative and the different things that are coming up. He suggested that maybe the Council could allow the use of the public television air time that they have available to them to air some debates with anyone from the public who wanted to challenge any of the four incumbents that are up for election. He thought that this would be a good use for their television time. He said if they are going to have productive meetings, this would be one way to be productive and to educate the public. The qualifying period for someone wishing to file to run for City Council for the November election is August 19, 2010 through September 3, 2010.

G) Public Discussion of FP&L offer progress

This item was discussed earlier in the meeting.

H) Financial Reports Electric Breakdown/Rates

Mr. Heady handed Mr. Lee a memo that he wanted to Mr. Lee to have. He said that he had given the memo to the Clerk and for whatever reason, Mr. Lee never received it. He told Mr. Lee that he would appreciate it if he could get back to him with those breakdowns sometime between now and the next meeting.

Mr. Heady commented that he has talked about the issue on what the ratepayers would be paying if the City had accepted FP&L's contract. He posed this question to the representative from FP&L and she said that Vero Beach would be paying essentially FP&L rates. He does not know if this statement was accurate, which is why he has asked Mr. Lee to provide him with this information.

I) March 2 City Council Meeting

Mr. Heady stated that at the March 2, 2010 City Council meeting, Mr. Abell said that he received a copy of the document from OUC shortly after the April 21st signing. He again made a public records request to receive a copy of this contract. The second item he brought up was at this meeting of March 2nd the City Clerk clearly stated that she could not certify that the contract that is in the file is the original. The last thing that occurred at the March 2nd meeting was that the Mayor apparently doesn't appreciate some of the questions that he has and has more than once gaveled him down. He said one example was at the March 2nd meeting, he was asking the City Manager a question and the City Attorney interrupted and when he started to say to whom he was asking the question to the Mayor gaveled him down and told him that he was out of order. He said that he was the one who had the floor and the City Attorney was interrupting, but the Mayor uses the gavel at his pleasure and the end result was that the City Manager never did answer the question. He thought that this was an improper use of the gavel by the Mayor. He said that each Councilmember has the right to ask questions and expect answers from their staff that are on the payroll.

J) Direction City Manager for new staff

Mr. Heady commented that he first heard that Mr. Maillet was leaving the City on a radio show that Mr. Daige was on where he was going over the process of hiring a new Finance Director. He felt that the Finance Director was an extremely important position in the City and that the Council should have some input, rather than just be told who the replacement is going to be.

E. Councilmember Ken Daige's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. Daige mentioned that with the rate increases that were discussed earlier, he was not on Council at that time. He also asked for a recommendation from Mrs. Vock on the video streaming.

Mr. Daige went over his Committee report (please see attached).

3. Comments

A) Water & Sewer Rate Increase

This item was discussed earlier in the meeting.

Mr. Abell mentioned that earlier Mr. Heady wanted to be told if he says something incorrectly. He explained to Mr. Heady that the Council hires only the Charter Officers and the Charter Officers hire their own staff members.

Mayor Sawnick reminded everyone to fill out their census survey when they receive it and mail it back.

11. ADJOURNMENT

Tonight's meeting adjourned at 8:54 p.m.

/tv

CITY OF VERO BEACH, FLORIDA
MARCH 16, 2010 5:00 P.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

Minister Steve Jones of Vero Christian Church gave the invocation.

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

Mr. White requested that his item for discussion – “Discussion of Water & Sewer Rate Increases” be placed under Old Business so that action can be taken.

The Clerk requested that under Proclamations “A Day of Service” be added.

Mr. Abell wanted to discuss limiting the number of hours for their meetings to either three or four hours. He wanted to make a recommendation that they limit this meeting to three hours and adjourn at 8:00 p.m. He said the reason for this was because it is a long day for staff and he feels that they can get their business done in three hours. He made a motion to limit this meeting to three hours and adjourn at 8:00 p.m.

Mayor Sawnick asked if they could make that motion at this time.

Mr. Charles Vitunac, City Attorney, answered yes. He said that this is more of a procedural manner and if they decide that three hours is enough time to get their business done then they have the power to do that. He said if they are not done with their business in three hours, they might have to consider when they will continue discussing the remaining items (either the next day or at their next meeting).

Mr. White wanted to make sure that if they approve this motion that they are able to extend the meeting past 8:00 p.m., if they wish to do so.

Mr. Vitunac said that was correct.

Mr. White seconded the motion.

Mr. Daige referred to his matters and asked that his item – “Water & Sewer Rate Increase” also be placed under Old Business with Mr. White’s item, because both items are along the same lines.

Mr. White added that staff has been here all day and they are due a dinner break. He felt that there may be some legalities as far as keeping staff here after a certain amount of time. He said that they need to take staff into consideration.

Mr. Heady quoted what Mr. White just said, “ We are treading on legalities because staff doesn’t get dinner time” the legality of holding a public meeting in the public eye and conducting all of the business that they need to do does not seem to be a legality it seems to be important, at least to a couple of members. He thinks it is outrageous that this is even before them for a vote. He said whatever it takes to conduct the people’s business they (City Council) bought into that when they applied for this job. If they don’t like the number of hours it takes to do the public’s business then they probably should work somewhere else. He said that would include every single member of this Council and any staff member. He mentioned at their last meeting Mr. White made some comments that this is more like the “Heady hour.” He went back and viewed the meeting in question. It started at 9:30 a.m. and ended at 5:30 p.m. One of the big problems that other Councilmembers had was the number of items that he had on the agenda. He went back and timed the items that he had on the agenda. Mayor Sawnick interrupted Mr. Heady and told him that the motion on the floor is about whether to limit the time to 8:00 p.m. Mr. Heady told the Mayor that what he is doing right now is under discussion and he understands what the motion is. He intends to discuss the motion unless he is ruled out of order. He commented that this is part of the reason why their meetings take so long, because of constant interruptions. He asked the Mayor if he could continue. Mayor Sawnick asked him to please summarize his comments in the next minute. Mr. Heady did not know if he could do it in a minute, he will take whatever time it takes him to finish. Again, part of the problem is that the Mayor keeps interrupting. He probably could have been done by now if he hadn’t been interrupted. Mayor Sawnick told Mr. Heady that he may continue. Mr. Heady continued by saying that he went back and he timed last month’s meeting and his matters that were a great concern took one hour and six minutes of the meeting. He said of that one hour and six minutes, staff presentation took thirty-six minutes, which means his matters took all of thirty minutes. This is not about limiting the time of the meeting, this is not about staff having time for lunch or dinner, this is about limiting the public debate on issues that are important to the people of this community. This is about doing public business behind closed doors because they don’t like what is said out loud for public consumption.

Mr. White stated that they could not conduct business behind closed doors.

Mr. Daige stated that he was not going to support the motion for the following reasons: He would prefer to vote on it at the next meeting as far as limiting the time of the meetings. He concurs with Mr. White as far as the employees go, that they are due a dinner break. He said that is part of some of the contracts that they operate under. He said that if they are going to have evening meetings then he would recommend going back to 7:00 p.m. and they might need to limit those meetings to a certain time and then continue the meeting the next day. He feels more comfortable discussing this at their next meeting, so at this time he is not going to support the motion.

Mayor Sawnick agreed with setting their adjournment time for 8:00 p.m. and with his approval, if they need to, they can extend it if there are only a few matters left.

The motion passed 3-2, with Mr. Daige and Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed unanimously.

B. Proclamations

1. Boys & Girls Club Week – March 22-28, 2009

Mayor Sawnick read and presented the proclamation.

2. A Day of Service

Mayor Sawnick read and presented the proclamation.

C. Public Comment

Ms. Jane Howard referred to the Vero Man Site and said that they are sitting on top of one of the most exciting things to happen in Vero Beach. She thanked the Council for what has already been done and commented that this might put Vero Beach in the history books.

Mr. J. Rock Tonkel looked at the agenda and didn't see Mr. Gregg and Mr. Little's offer and was wondering what Councils' intent was.

Mayor Sawnick told him that at this time it is on hold.

Mr. Tonkel continued by saying that he listened to the discussion about limiting the meeting to 8:00 p.m. He felt that sends an incorrect message to the citizens. He said they should be encouraging public participation. He said that this was an artificial means to cut off serious debate.

There was applauding from the audience after Mr. Tonkel spoke. Mr. Heady stood up and applauded. Mayor Sawnick asked him to refrain from applauding. Mr. Heady answered no sir.

Ms. Jeannette Coppertone (spelling may not be correct) begged Council to not raise their electric, water, and garbage rates any more. She said please consider the people who are on a limited income.

Ms. Susan Granpierre thanked Council for protecting the Vero Ice Age Site. She explained that she was involved with the Vero Ice Age Site Committee, who will be working with the Historic Preservation Commission in moving forward on this great community project.

Mr. Daige provided the Clerk with some information concerning the Vero Ice Age Site and asked her to make copies for the City Council.

Mr. Joseph Guffanti didn't have enough time to explain to the lady who spoke earlier why all the fees are going up in the City of Vero Beach. He said that for years the City's finances have been totally mismanaged. In the past they have borrowed heavily so that prior Councils' could make themselves look good as if they were keeping taxes down.

D. Adoption of Consent Agenda

Mr. Daige pulled item 2D-3) off of the consent agenda.

Mr. Heady pulled items 2D-1, 2, 3, 4, 5, 6, and 7 off of the consent agenda.

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

The items pulled off of the consent agenda were discussed at this time instead of moving them to City Manager's Matters.

1. Regular City Council Minutes – March 2, 2010

Mr. Heady wanted to make sure that Council had received a new copy of the minutes with the changes made to them. Council concurred that they had.

Mr. White made a motion to approve the March 2, 2010 City Council minutes. Mayor Sawnick seconded the motion and it passed unanimously.

2. Clean Vessel Act Grant Agreement

Mr. Heady noted that this is a grant awarding \$5,418.75 and as he looks through the paperwork he sees that there are a lot of requirements for the City. He asked if there

were any cost estimates that could be provided. He wanted to know how much it is going to cost the City to accept this money. He asked if there was any work involved.

Mr. Tim Grabenbauer, Marina Director, reported that there are several people at the Marina who are willing to volunteer to run the boat and perform the operation. He said that they are also permitted to go back under this program and request money for maintenance and labor if they need to later on. They are going to try to do twenty boats a day, three days a week. This grant money will be used for a portable waste pump out system to be used in the managed mooring field.

Mr. Heady asked Mr. Grabenbauer again if there was any estimate at all as to what this was going to cost the City.

Mr. Jim Gabbard, City Manager, explained that Mr. Grabenbauer would be managing the grant itself and there would be volunteers to help with the project. He will not be hiring any new personnel because of the project and the boat he is using is the old police boat.

Mr. Heady referred to the nine pages of requirements in the backup material. He just wanted to make sure that there was no additional money required from the City.

Mayor Sawnick asked Mr. Heady to wrap up his discussion in the next thirty seconds.

Mr. Heady reiterated that he wanted to make sure that the nine page requirements were not costing the City more than the \$5,418.75 grant money.

Mr. White made a motion to approve the Clean Vessel Act Grant Agreement. Mayor Sawnick seconded the motion and it passed unanimously.

3. Maintenance Memorandum of Agreement (MMOA) between Kimley-Horn Associates, Inc., and City of Vero Beach – SR Storm Drain Pipe

Mr. Daige commented that usually when they pull an item off of the consent agenda it is placed under the City Manager's Matters. He asked if they have changed the way that they are going to handle the agenda in the future.

Mr. Vitunac explained that because of the last Council meeting being so long, the Mayor decided that they would hear the consent items under the consent agenda so staff would not have to wait until the end of the meeting for their items to be heard if they are pulled off of the consent agenda.

Mr. Daige said the way they are doing the agenda tonight has been changed. He asked if this has been voted on.

Mr. Vitunac said that this is a change from what they have done in the past. It is a procedural change, which they have the power to do or not do.

Mr. Daige said to his knowledge that policy change has not been put into place. He would continue moving forward with the way they have been doing business because there has not been any policy change made. He wanted to see this put on their next agenda under New Business to make this policy change.

Mr. Vitunac explained that the Ordinance addresses items taken off the consent agenda must be heard by Council, but it doesn't say where the item has to be placed. He said if Council objects to the way that the Mayor has done this then they could challenge his decision.

Mr. Daige had no problem handling it this way tonight as long as they make it a policy change at their next meeting.

Mr. Daige asked if there would be direct discharge into the Indian River Lagoon.

Mr. Monte Falls, Public Work's Director, explained that there will be indirect discharge into the Indian River Lagoon. He said that the storm water system for the Parc 24 site has an on-site storm water management system that retains the required amount of water for quality and quantity set forth by the St. John's Water Management District. Once that has been done and managed, the excess water is then discharged through the new outfall out to the Lagoon. In the system there are provisions that have been made for sediment retention so that there is no discharge of sediment into the Vero Isles canal and the water quality meets the standard set forth by the regulatory agencies.

Mr. Daige asked that in the event that sediment does go through and after an inspection is done and sediment is found and must be removed, who pays for the removal.

Mr. Falls stated that for the sediment to get there, the way that the system works and discharges once the retention pond has been filled to capacity the level of the water in the pond then goes up over a collection device and flows in from the top. So any sediment that would be in the water would have to be suspended in the solution of the water. He said that any maintenance that is required of this system would be the responsibility of the property owner.

Mr. Heady commented that the handling of the water on site is allowed within the original scope, but the installation of this conduit would then allow a rain event to discharge into the Indian River Lagoon. One of the things that they hear constantly is about the quality of the water in the Lagoon. He said that it seems to him that putting a direct line from this property, into the Lagoon, into the Intercostal is not something that they should be doing.

Mr. Falls explained that the water quality that is discharged to the Lagoon is managed by St. John's Water Management District. When the property owner developed the site, their legal positive outfall was the 23rd Street ditch was maintained by the City. He said that outfall is at or near capacity in many of the storm events that they experience. The developer of this property suggested that they build another outfall to handle their

discharge, which then freed up capacity in our outfall that serves the other properties. They took water that was previously being discharged to the ditch at 23rd Street and have lessened the likelihood of flooding in the 23rd Street ditch by the development of this outfall.

Mr. Heady mentioned that in 1992 there was a vision group that met at the college and one of the things that they discussed was the continual dumping into the Lagoon. He said for long term it sounded like a good idea, however there has been negative impact on the environment and on the Lagoon and the quality of water. At that workshop there was a lot of discussion about reversing the plan in draining the swamp and sending some of the water back inland.

Mr. Falls commented that he would gladly follow any direction about the Lagoon, but direction for water quality and quantity comes from the St. John's Water Management District.

Mr. Daige asked Mr. Falls that if in the future it is determined that something needs to be done about the quality of the water going into the Indian River Lagoon, will it be up to the property owners to come up with another plan. He just wants to make sure that this does not fall back on the City. He reiterated that in the future if there is a problem down the road that everything is covered.

Mr. Falls stated that if the Water Management District changes their regulations, the people that have valid permits would be grandfathered in.

Mr. Daige wanted it clear that in moving forward in the future that the City would not be financially liable for anything that goes wrong.

Mr. Falls did not want to say that. He said right now the Environmental Protection Agency (EPA), through the Clean Water Act is doing additional regulations that will cause all the cities and counties to do additional cleanup work of their systems.

Mr. Daige said when this project came to Council all of this was supposed to have been taken care of and then a redesign had to be done. He mentioned that with this redesign he still is concerned for the future of the City.

Mr. Falls was not familiar with any redesign that was done.

Mr. Abell made a motion to approve the Maintenance Memorandum of Agreement between Kimley-Horn Associates, Inc., and the City for the SR 60 Storm Drain Pipes, in connection with the Parc 24 project, which is located North of 23rd Street on Indian River Boulevard. Mr. White seconded the motion and it passed 4-1 with Mr. Daige voting no.

4. Monthly Capital Project's Status Report

Mr. Heady mentioned the different capital projects outlined in the Monthly Capital Project's Status Report and that there were a lot of expenditures. He felt rather than put these things on a consent agenda and not talk about them at all they need to remember that these things increase the cost to their citizens. He said it is going to be tough when Indian River Shores and the County decide to pull out of their utilities. If they continue doing these things, without question, the City taxpayers are going to be left holding the bag and then the rates are going to soar.

Mr. Gabbard explained that all of these items are budgeted and have been talked about. The purpose of the Monthly Capital Project's Status Report is to give information to the Council and the public as to where they are on certain projects. He said that some of these projects are expensive, but they are part of the overall maintenance of the City. A lot of decisions to do these projects were made at budget time back in July or even earlier than that.

Mayor Sawnick made a motion to accept the Monthly Capital Project's Report. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

5. Investments and Earnings on Investments FY09

Mr. Heady mentioned that there were several investments and he wanted an idea of how variable the interest rate is.

Mr. Steve Maillet, Finance Director, said that those interest rates range between .1% and .2% and it drifts up and down month by month.

Mr. Heady asked if there was any place where he could look and find a number on the total losses that the City has had over the past four years.

Mr. Maillet was not sure what that meant.

Mr. Heady explained all investments not yielding a positive return.

Mr. Maillet explained to Mr. Heady where he could locate that information.

Mayor Sawnick made a motion to accept the report on the Investments and Earnings on Investments for FY09. Mr. Daige seconded the motion and it passed unanimously.

6. General Fund's Undesignated, Unreserved Fund Balance

Mr. Heady said there is an unreserved fund balance of \$6,571,791. He asked if this unreserved money that could be spent on anything.

Mr. Maillet answered yes.

Mr. Heady noted that it would be nice if they could see how this has changed over the last three to five years. He suggested putting two or three more columns in the report.

Mr. Maillet said that could be done. However, that information is in the CAFR on page 112. It shows the unrestricted balance in the General Fund for the last ten years.

Mr. Heady just wanted the extra columns added to show what the trend seems to be from year to year.

Mayor Sawnick made a motion to accept the report for the General Fund's Undesignated, Unreserved Fund Balance. Mr. Daige seconded the motion and it passed 5-0.

7. Proposed New Lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision

Mr. Heady noted that this new lease between the City and Corporate Air was for thirty (30) years. He wondered if it would be advantageous to the City to have a shorter term.

Mr. Eric Menger, Airport Director, explained that a thirty (30) year lease is standard. He felt that a shorter lease term would be more advantageous to the City; however the developer is going to want to have a longer term to amortize his lease. The Florida State Statutes allow up to a thirty (30) year lease.

Mr. Daige asked Mr. Menger if this was one of their standard leases. Mr. Menger answered yes. He said that the rate on the property is determined based on the fair market value (based on federal requirements).

Mr. Abell added that at the end of the lease term the property reverts back to the City, which includes any improvements that have been made.

Mayor Sawnick made a motion to approve the lease agreement between the City and Corporate Air, Inc., for Parcel 21, Airport West Subdivision. Mr. Daige seconded the motion and it passed unanimously.

8. Request from Main Street Vero Beach for the Use of Downtown Vero Beach and Adjacent Park Areas for the Annual Hibiscus Festival

This item was adopted under the consent agenda.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Section 58-78 of the Vero Beach, Florida, amending Section 58-78 of the Vero Beach Municipal Firefighters Retirement Trust; providing for expanded Investment Authority as permitted by Law; providing for Codification; providing for severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Terry Zokvic, Secretary/Treasurer of the Fire Pension Board, was at tonight's meeting to answer any questions that Council might have. He explained that this Ordinance is necessary because of the new rules that have been imposed by the State.

Mayor Sawnick opened and closed the public hearing at 7:14 p.m., with no one wishing to be heard.

Mr. White made a motion to approve the Ordinance. Mr. Abell seconded the motion.

Mr. Heady noted that if one of the investments disappears it does not have any impact on the firefighters, but more impact on the taxpayers.

Mr. Zokvic made it clear that for the last twenty years the City has not contributed to this plan. He said that this is the Ordinance that they have in place in order to protect the taxpayers from having that problem.

Mr. Heady felt that by making the changes to this Ordinance, they will be less restrictive on investments in foreign countries.

Mr. Zokvic explained that the Fire Pension Board is recommending that they stay between 10% and 20%.

Mr. Heady was concerned with increasing foreign investments because the taxpayers are on the "hook."

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, calling for a Referendum to be held in conjunction with the General Election of November 2, 2010 on the Question of Whether the City of Vero Beach may Grant Economic Development Ad Valorem Tax Exemptions pursuant to the State Constitution; authorizing the City Clerk to include the Question on the Ballot; providing an Effective Date; providing for the Repeal of Resolutions in Conflict Herewith; and Providing for Adoption.**

Mayor Sawnick read the Resolution by title only.

Mayor Sawnick recalled that a few meetings ago that he talked to Council about having an item on the ballot similar to what Sebastian has done and what Indian River County is going to do regarding property tax exemptions to new businesses that create jobs and for

expansions of existing businesses that create new jobs. He felt that this was an important step for them to take to become more business friendly and to help decrease unemployment.

Mr. White commented that he was a business owner and agrees that it is good to bring new businesses to the area, but asked what about the existing businesses. He thinks that this would put a burden on the existing businesses.

Mayor Sawnick explained that this is just passing a Resolution in order to get this item on the ballot. He said if it passes on the referendum then they will need to set the parameters.

Mr. Vitunac added that if the item passes under referendum then he will prepare an Ordinance for Council (after the November election) and in that Ordinance the Council will outline whatever parameters that they wish to have.

Mr. Daige agreed with moving forward on the Resolution and felt that it was important for the community.

Mr. Heady commented that this is for new businesses and clearly they want to do things to create new jobs. He said that any property tax exemption to someone is a tax increase to someone else. He said when putting this item on the ballot that the only thing that the public will see is one short paragraph, "Shall the City Council of the City of Vero Beach be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses that create jobs and for expansions of existing businesses that create new jobs?"

Mayor Sawnick explained that the exemption would be on the increase and not what their paying now.

Mr. Heady said that according to the City Attorney the Ordinance has not been drafted yet, so no one knows what it is going to entail.

Mayor Sawnick was optimistic that the Ordinance was going to be similar to what Sebastian has. He said at least he hopes that it will.

Mr. Daige said that they will build a time frame into this. He said that right now they have to do something to help their community economically. People are losing their home and their jobs. We need to do something and this is something that we can do now. He encouraged Council to move forward on this.

Mayor Sawnick made a motion to approve the Resolution. Mr. Daige seconded the motion. The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

B) Resolution for Assistance under the Florida Inland Navigation District Waterways Assistance Program

Mayor Sawnick read the Resolution by title only.

Mr. Falls reported that the Resolution was to allow the City to apply for a Florida Inland Navigation District (FIND) grant to do some improvements to the MacWilliam Park boat ramp. The deadline to submit is April 1, 2010 to meet this funding cycle and they are asking for Councils' support.

Mr. Daige made a motion to approve the Resolution. Mr. Abell seconded the motion.

Mr. Heady reported that he was at the Park over the weekend. He asked is there anything that they could do to increase the space available for the fishermen to clean their fish.

Mr. Falls said if they are successful in getting the grant then they could incorporate that into the overall project design.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

Council took a 10-minute break at 6:11 p.m.

C) A Joint Resolution by and Between the City of Fort Pierce, the City of Port St. Lucie, the City of Stuart, the City of Fellsmere, the City of Vero Beach, the City of Sebastian, the City of Okeechobee, the Town of Sewall's Point, the Town of Indian River Shores, the Town of Jupiter Island, the Town of St. Lucie Village, Florida Municipal Corporations; Indian River County, Martin County, Okeechobee County and St. Lucie County, Political Subdivisions of the State of Florida; the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County and the School Board of St. Lucie County, amending Resolution 03-126; amending the Articles of Incorporation for the Treasure Coast Council of Local Governments, Inc.

Mayor Sawnick read the Resolution by title only.

Mr. White reported that he looked over the Resolution and did not have any problems with it, but he did have one question. He said that the original Board of Directors was made up of elected officials who are no longer in office and the signature page consists of their names. He asked do they still stay the same as the original names.

Mr. Vitunac explained that this Resolution shows the original incorporate document with the original signatures. The City Clerk spoke with the Secretary of the Treasure Coast Council of Local Governments and was told that they want to keep it the same way.

Mr. White made a motion to approve the Resolution. Mr. Abell seconded the motion.

Mr. Heady said the change to the Resolution was that it added School Board officials.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

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

- A) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2009 and Ending September 30, 2010, by decreasing the Water & Sewer Fund by \$571,000 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R&R Fund by \$4,071,000 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.**

Mayor Sawnick read the Ordinance by title only.

Mr. Maillet explained that these were projects for the water and sewer system that could either be eliminated or deferred. He said that one of the things they were looking to do was to eliminate in the budget the proposed borrowing. The difference between the \$4,071,000 and the \$571,000 would be funds that the water and sewer system does not have to spend. In addition there is another \$400,000 in projects that they would like to eliminate. Normally they don't go into all of this under first reading, but they would like approval to amend the Ordinance, which the Water and Sewer Director will discuss.

Mr. Sawnick made a motion to approve the Ordinance (with amendment made as outlined by Mr. Maillet) on first reading and set the public hearing for April 6, 2010. Mr. White seconded the motion.

Mr. Maillet clarified that the heading would be instead of \$4,071,000, it would be \$4,389,000, and the borrowing would be reduced to three and one half million dollars and the \$571,000 would increase to \$888,000. He explained that the details would be adjusted in the Ordinance for the public hearing.

Mr. Heady said decreasing expenditures is a wonderful thing. He asked would any of the decreases have any negative impact on the assets. He said that in decreasing the expenditures they need to make sure that they don't decrease the maintenance to the point where they would have a negative impact on the assets.

Mr. Rob Bolton, Water and Sewer Director, said that they would not have any negative impact on the assets. He explained that he went through future planned projects and some were expansions to the Water Treatment Plant, which he felt that they could forgo the expansion at this time. They also looked at some road construction projects and there were a lot of projects that were suppose to start, but have not started and would not be

started until next year. Therefore, they would fall into next year's budget cycle. He said by handling these projects this way that the water increase that was proposed for April 1st could be reduced.

Mr. White said that he met with Mr. Bolton, Mr. Gabbard and Mr. Maillet several times and discussed the increase scheduled to begin on April 1st. After these discussions, Mr. Bolton came up with a plan to help reduce the rates rather than raising them to the amount they originally requested.

Mayor Sawnick said that this item was on today's agenda under Old Business and asked if they wanted to go ahead and vote on this right now.

Mr. Gabbard said that they would like to go ahead with this now. He said that they could hold the public hearing at their budget meeting on March 29, 2010.

Mayor Sawnick said that there is a motion and a second to approve the Ordinance, with amendments, for a public hearing on April 6, 2010.

Mr. Vitunac said that the Council already had a public hearing where they authorized a rate increase. What Mr. Bolton would like to do now is reduce that increase. In order to have a first and second reading by March 29, 2010 it would mean they would need to hold a Special Call meeting. He said that Council could make this the first public reading and bring back the document on March 29, 2010 and hold a public hearing, so it would be in place for the April 1st deadline. He said otherwise the rate would go into effect automatically.

Mr. Daige supported this Ordinance. He was glad they were moving forward in a positive direction on this.

Mr. White said what they wanted to do was to make sure that the bills could still be paid for the projects the City is involved in now and in October they possibly could look at a decrease.

Mr. Heady asked would the items Mr. Bolton would be presenting have an impact.

Mr. Bolton said that he prepared a balance sheet to show Council what their revenue projections are, what their operating expenses are, what was originally budgeted, what they adjusted the first time and what they are now adjusting.

Mr. Heady said that he would like to have staff's input before they vote.

Mayor Sawnick called for a vote on the motion.

The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

At this time, Mr. Bolton went through the operating revenue as shown on the doc cam (please see attached memo). He reported that there was about \$17,573,000 budgeted at the beginning of the year. After the budget they were notified by the County that they would no longer pay fire hydrant rental, which has an effect of about \$128,000. He reported that the debt service remained the same. He said that next year there should not be any problems with balancing the budget. He stated that they had \$7,000,000 in capital improvements. Their first adjustment brought it down to \$3,025,000 and with this adjustment it would go down to \$2,007,000. He reported that on April 1st the existing usage rate on sewer was suppose to go up from \$2.93 to \$4.06. The new rate would be firm \$2.93 to \$3.59. He said that based on the rate they are proposing there should not be any problems balancing next year's budget.

Mr. White made a motion to move this to public hearing on March 29, 2010 at their quarterly budget meeting. 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. Daige asked the way they bill, do they charge for separate billing.

Mr. Bolton answered no.

Mr. Daige wanted to make it clear that they do not charge for billing by the meter, it is included. There is no separate billing charge.

Mr. Bolton said that was correct.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Presentation of the Comprehensive Annual Financial Report 2009

Mr. Ross Cotherman, Harris Cotherman Jones Price and Associates, gave a quick overview of the City's financial statements (on file in the City Clerk's office). He reported that this report is comprised of four sections, which were the introductory section, financial section, statistical section and a compliance section. He reported that they have a copy of the Certificate of Excellent for Financial Reporting in their package. He explained that the first page of the Financial Section was their opinion. Pages one and two were the only thing that they take credit for in the Financial Statements. The City engages them to issue this opinion. The Financial Statements are prepared by the City and the responsibility of the City. It is his company's responsibility to audit those numbers, to make sure that the numbers are fairly presented in accordance with professional standards and if they are satisfied then they issue an opinion. Starting on page three is the Management's discussion and analysis, which is a high level summary

of the financial conditions of the City during the fiscal year. Page 13 is the financial statements, balance sheets, income statements, etc. On Page 35 there are the notes to the financial statements, which is a way to give more detailed information related to the financials. Then on Page 65 Mr. Cotherman addressed a couple questions asked by Mr. Heady (letter on file in the City Clerk's office). The first issue Mr. Heady raised was related to the OUC contract and the requirements of the City to disclose that information in the financial statements. He reported that they were aware of the issues going on with the contract. It was something that they addressed throughout their audit. He read from Mr. Heady's letter, "that this Elected Official's legal opinion is that changes were material." Mr. Cotherman said that what they were talking about here was, in professional standards, is that disclosure of legal issues in the financial statements is the City's responsibility to disclose those legal issues if they meet the standards. There are two components to the standards on determining if an issue should be disclosed. First it talks about pending or threatened litigation. He said that his company was not aware of any pending or threatened litigation related to this issue. He noted that Mr. Heady's second point in his letter stated, "Although this issue is not contested at this time I would likely join as a plaintiff against the City regarding the legal enforceability". He said that his company would have believed that something would have been brought before the City Attorney's office if there was pending or threatened litigation. Therefore, they do not believe that it met the first standard. The second part of the standard is that if something is unasserted, which they feel falls into that category; they first have to look to see if it is probability that a claim would be asserted. He did not think this met that part of the second standard. He reported that they confirmed with the City Manager, the City Attorney, and the majority of the City Council who believes that this is a legally enforceable contract. Therefore, his company does not believe that there is a reasonable possibility that the outcome would be unfavorable. The last point was that the resulting liability would be material to the financial statements. He noted that the contract in question took place on January 1, 2010, so there is no financial impact at all to the financial statements of September 30, 2009. Mr. Cotherman referred to Page 65 regarding the FMPA contract and the equity ownership in the contract. He went back to 1996 when the City first entered into the contract and found the original footnote that was contained in the audited financial statement on September 30, 1996 and there was a paragraph which stated, "It is important to note that no participant as an individual entity by agreement has any equity interest in any of the assets owned by the agency. Each member has only the intangible right to purchase power from FMPA." He also looked up five of the participating municipalities and he read from the City of Fort Mead's September 30, 2008 financial statements, "Under the terms of the contract the City has no equity interest in any of the assets of the FMPA" and the City of Leesburg has a similar statement which read, "The City by agreement has no equity interest in any of the assets owned by the FMPA." He also confirmed with FMPA, and they agree, that there is no ownership interest or any assets that should be recorded on the financial statements of the City of Vero Beach. He then reported that on Page 105 was the statistical section, which includes information that is five and ten years of comparisons. He then went over the compliance section of the report, which he explained that part of their audit was to make sure that the City is complying with laws, rules and regulations. On Page 139 was a report on the City's single audit, which has all the Federal grants that the City received.

He pointed out that the management letter located on page 143 was an area that if there were any internal control issues this is where it would be located. He noted that they did not report any this year. Last year there were two comments and both have been resolved. He then thanked Mr. Maillet and his staff noting that it has been a pleasure working with Mr. Maillet over the past few years. He wished Mr. Maillet well in his retirement.

Mayor Sawnick made a motion to accept the Auditors Financial Report. Mr. White seconded the motion and it passed unanimously.

B) Discussion of Indian River County, Indian River Shores, and the City of Vero Beach Utilities Study

Mr. Bolton reported that on October 15, 2009 the Board of County Commissioners, the City of Vero Beach, and the Town of Indian River Shores held a meeting to discuss performing a study to look at what infrastructure is out there, how the organizations operate and if there is a possibility of consolidation on part of the water department, the sewer department, or both. A Committee was formed with two members of each entity and he and Mr. Falls were the Committee members for the City of Vero Beach. He reported that they brought back to Council a scope of work they were going to advertise, which discussed the possibility of status quo, the possible consolidation and what it would look like, such as a Utility Authority, Co-op, etc. He said that the advertisement was completed and the Committee met and ranked the consultants, which is before the Council tonight. He recommended that Council approve the ranking, which has been approved by the Board of County of Commissioners as well as by the Town of Indian River Shores Town Council. He was in favor of the ranking and felt that GAI Consultants, Inc., was a reputable firm. He reported that the Committee has a meeting scheduled for Thursday and they could start the scope of work for the project and if there are any changes they would bring them back before the Council. If the City Council still feels that they need to move forward as they originally looked at then the Committee is willing to move forward.

Mayor Sawnick explained that the government entities wanted to have an objective look on the options for all three entities. He felt that they were going in the right direction if they all keep an open mind and see what the facts are.

Mayor Sawnick made a motion to accept GAI Consultants, Inc., as the top choice.

Mr. Bolton explained that the Committee would move forward and if the scope of work is not in the interest of the City they would bring it back to the City Council for their direction. He said that they would bring back the final task and the cost for Council's approval.

Mr. White seconded motion the motion for discussion. He said that in the backup there is information that the County is pulling back from status quo and withdrawing from the franchise agreement or taking over it completely.

Mr. Bolton said that is the County's Comp Plan amendment, which stated either a consolidation or terminations. He recommended to Council that they allow the Committee to move forward in negotiating with the consultant and then they will come back to Council.

Mr. Daige was in favor of the recommendations made by Mr. Bolton. He attended the meeting where the different firms were ranked and he did his own ranking and came up with the same choice that they did.

Mayor Sawnick amended his motion to approve the ranking. Mr. White seconded the amendment to the motion.

Mr. Heady noted that the former employee of the County was hired as a consultant for Post Buckley (firm that was ranked number two). He watched parts of the meeting where they were ranking the consultants and it seemed that Jim Davis, former employee for the County, has done a tremendous amount of work. He wondered if they would have chosen that firm that a large part of the work would have already been completed.

Mr. Bolton did not know what Mr. Davis did and did not understand why a consulting firm would move ahead and do a lot of work before they were awarded the contract.

Mr. Heady commented that it seemed like there was a tremendous amount of work already done that will have to be done, at a cost to the City. He asked Mr. Bolton why did they choose the consultant that they did (what made that consultant stand out).

Mr. Bolton expressed that the consultant has an extensive knowledge in acquisitions, they showed what they would look at as far as different scopes and different processes. A lot of their recommendations were not fixed as to which way to go. They will look at the City's transfers if they do switch or if they choose to consolidate how it will affect the City's revenue. He said that they will do a very thorough analysis. He said that Post Buckley gave the same presentation that was given to the County over a year ago. He expressed that the Committee made it clear in the beginning that there would not be any solicitations with the proposed consultant.

Mr. Heady asked would it be fair to say that your vote for the number one ranked firm was open to many different avenues and the other consultants already had a desired result to where they were heading.

Mr. Bolton said that the other consultant didn't seem to focus on everything that he was looking at.

Mr. Heady stated that what he is hearing is that the number one firm chosen is open to all options.

Mr. Daige said that Mr. Bolton gave a very good overview on what went on at that meeting. He felt that the consultant who has been ranked number one will fit their needs. He said that Mr. Bolton's analysis was very well done.

The motion passed 5-0.

At this time, Council heard the public hearing that was on tonight's agenda.

C) Discussion and Update of Opening of Humiston Park

Mr. Falls reported on the grand opening of Humiston Park and said that they are 99% finished with the whole project.

Council thanked Mr. Falls for all of his work in making this Park beautiful.

D) Electric Utility Update – Utility Commission Meeting of 3/9/2010

Mr. John Lee, Acting Electric Director, gave an update on the recent Utilities Commission meeting. He said that the City of Vero Beach sent a letter to FP&L and other power providers asking them if they were interested in buying some or all of their utilities. They received a letter back from FP&L who had some questions, which the City answered. At this meeting there was a representative from FP&L attending the meeting to give an update on their status. The person's title was External Affairs Manager for the Treasure Coast and what this person said was that FP&L was doing a high level financial investigation of their documents and they had not yet reached a conclusion. However, they expect that their conclusion will be finished in April and at that time there will be more discussion. Staff and the Utilities Commission asked what the status was of the 80 or so questions that they had sent to FP&L. This person answered by saying that they have those questions, but it is premature for those questions to be answered and they would be heard at the proper time and in the proper manner. Mr. Lee said that once they receive their response from FP&L, they will proceed in moving forward.

Mayor Sawnick asked Mr. Lee to let the Council know when they have received a response back from FP&L and keep them updated.

Mr. Heady asked Mr. Lee if there were any other representatives at this meeting that he knew of.

Mr. Lee said that there were some representatives from OUC and a couple of consultants from Black & Veatch who thought that maybe in the future they might get some work out of this.

Mr. Heady then asked did he know the names of the representatives from OUC.

Mr. Lee answered no. However, he could get their names if that is the wishes of Council.

Mr. Heady asked if there was anything that the City needs to do at this point to ensure that FP&L has all of the documents that they need.

Mr. Lee understood that FP&L has received everything that they asked for from the City and has not asked for any additional information.

E) Electric Rate Comparison – January 2010

Mr. Lee showed on the doc cam the Residential Rate Comparison – January 2010/1,000 kilowatt hours (please see attached).

Mr. Heady asked if the numbers shown for FP&L are without the one-time rebate that they gave their customers in January. Mr. Lee answered yes. Mr. Heady asked if there were taxes included in the investor owned utility average of \$119.27. Mr. Lee said there was not. Mr. Heady referred back to 2005 when the City added something similar to FP&L's storm charge and included it in their rates. Mr. Lee explained that they had a hurricane recovery charge for about eighteen months.

Mr. Heady referred to the cost of fuel. He said that when they changed from FMPA to OUC they increased the percentage of coal in their fuel as opposed to FMPA, which was just about all gas. He asked Mr. Lee if he could get him the percentage breakdown of what they have now.

Mr. Lee answered yes and no. He explained that on a day where it is not particularly hot or cold they have what is called a base load day. He said what he would do is pick an average day and give Mr. Heady a percentage breakdown.

Mr. Heady asked how does the two new gas generators at OUC operate. He wondered if they run all the time. Mr. Lee explained that it depends on what the price of natural gas is versus the price of coal.

Mr. Daige asked Mr. Lee to site his source as to where he came up with these numbers for this residential rate comparison. Also, when he received these numbers does he feel that they are true or just numbers that he has been given.

Mr. Lee quoted the website where he retrieved these numbers.

Mr. Daige expressed that they were doing everything that they could to continue to lower their utility bills.

F) Discussion and Update of Vero Beach's Vero Man Site

Mr. Tim McGarry, Planning and Development Director, gave a brief update on where they are with the Vero Man site. He recalled that at the last Council meeting they adopted a Resolution supporting the Historic Preservation Commission (HPC) to coordinate what is going on with the Vero Man Site. He said that they were going to

fence the property and will be working on getting more studies done. Mrs. Granpierre from the Vero Old Ice Age Committee will be at the next HPC meeting to give them an update.

Mr. Daige asked when will they install the fencing.

Mr. Gabbard said that they will probably start the fencing project within two or three weeks and it will cost under \$10,000, which will come out of Airport funding as part of their security plan.

G) Tree Trimming Annual Contract Renewal – Updated Information

Mr. John O'Brien, Manager of Purchasing and Warehouse Operations, recalled that this item was tabled from their last meeting. He said that Council was interested in knowing if the hourly rates that they received in 2006 are above or below the current market prices. In addition, Council was interested in using local contractors. His office did a survey to compare current rates and the current contract that the City has with Asplundh is for \$69.91 per hour for a three man crew and equipment, which is \$6.82 per hour less than Fort Pierce Utility Authority (FPUA) who has the next lowest rate. As a result, they are saving \$28,371.20 a year compared to FPUA and even more compared to the remaining three surveyed utilities. He recommended renewing their contract with Asplundh for one more year.

Mr. White made a motion to approve a one-year renewal of the Annual Tree Trimming Contract with Asplundh Tree Experts Company. Mr. Abell seconded the motion and it passed unanimously.

H) One-Cent Sales Tax Contribution to Indian River County

Mr. Maillet referred to the letter that they received from the County informing them that on August 18, 2009 the Indian River County Board of County Commissioners voted to approve a request to notify the cities of Vero Beach, Fellsmere, Sebastian and the Town of Orchid for a contribution from the share of the one-cent optional sales tax receipts for fiscal year 2009/2010. He feels that what the County should do is fund fire capital out of the fire district.

Mayor Sawnick asked how much the City would have to give the County if they agreed to do this.

Mr. Maillet said the way that the County Management and Budget Director had it worked out it would be about \$280,000.

Mr. Maillet continued stating that he didn't understand why the County wants to use one-cent sales tax money when they have a small fortune in the Fire District. At the end of fiscal year 2008 the Fire District had fifteen million dollars in cash. He made it clear that the taxpayers of the City have already contributed so they should use that money that

they have already received from the taxpayers for the Fire District. He also felt that the City should not get into the practice of subsidizing the County's budget.

Mr. White mentioned the property that they have given the County for some of their fire stations.

Mayor Sawnick made a motion to reject the request of the one-cent optional sales tax contribution. Mr. White seconded the motion.

Mr. Daige commented that the City have been good neighbors with the County. We (the City) are paying as we go and we have been cooperative and right now the City just can't do this.

Mr. Gabbard would recommend that Council decline to participate.

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

I) Discussion of Transmission Agreement with Florida Power and Light

Mr. Lee briefly explained the transmission agreement with FP&L. He said that there were no negotiations on the price because it is a fixed tariff.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1) Local Preference Ordinance – Requested by Councilmember Daige

Mr. Daige who initiated the Local Preference Ordinance said that he is doing this because he is a big supporter of local businesses.

Mr. Vitunac explained that there already is a certain kind of local preference in the Vero Beach Code, which does grant them some lead way. He said in the Florida Legislature there are several bills right now dealing with this issue. Whatever action they take here might be affected by the State Legislation. He suggested adopting something similar to the Indian River County Ordinance for first reading at their next meeting. He said by the time they are ready to hear the Ordinance at the public hearing they should know what the State has decided to do and that will make their decision as to whether they continue or not.

Mr. O'Brien explained that they do currently in their Code afford the opportunity to award to their local contractors. He has reviewed the County's Local Preference

Ordinance and in their Ordinance they indicate after six months they are going to conduct a report to see what the outcome is and then after a year they will determine if they wish to continue with what they are doing. He said according to their six month report there has been no impact at all on awards. He said that if Council chooses not to do anything that they still have the option to use the local preference that is already in their Ordinance.

Mr. Daige asked Council to please allow this to move forward. Also, when they are in Tallahassee next week they need to let the Legislatures know that they are pushing for this.

Mr. Vitunac said that they might want to consider adopting a Resolution in support of the Statewide bill that allows local preference.

Mr. Daige made a motion to move this forward and at their next meeting hear the Ordinance on first reading. Mayor Sawnick seconded the motion.

Mr. Heady said that they want to move forward, but they don't know whether they can until the State makes up their mind. Mr. O'Brien pointed out that they have a provision in the City Code to make sure that there is a local preference. He felt that it was premature doing this at this time. He said they should wait until the State decides what they are going to do.

Mr. White clarified that right now they have the option to choose the local bidder even if they are not the lowest bidder. He was told that was correct.

Mr. O'Brien added that they have not had a situation where they needed to use local preference.

Mr. Vitunac will bring back an Ordinance for first reading at their next meeting.

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

Mayor Sawnick made a motion to extend the meeting to 8:45 p.m. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mayor Sawnick reported that he attended the Utility Commission meeting, Coffee with the Council, the Humiston Park reopening event, a meeting with Mainstreet Vero Beach where they are discussing reopening the Theater Downtown and possibilities of creating a CRA. He also announced that the next Mayor's beach cleanup will be held on March 27th at Humiston Park between 11:00 a.m. and 1:00 p.m. He also mentioned that on March 29th the City Council will be holding a Special Call meeting (to discuss their quarterly budget). He asked Council to give ideas to the Clerk if they have any for that meeting. Also, they have scheduled a Special Call meeting for May 11th to discuss Economic goals for the City of Vero Beach.

Mayor Sawnick felt that by setting a deadline for tonight's meeting and extending it if they needed to has worked out real well. What he is trying to do is help the Council to narrow their points down to be more precise and to the point. He thought that they made a lot of progress on doing that tonight. He said after talking to people in town they feel that marathon meetings deter people from watching the meeting. He said at the next meeting he will be bringing this up again and have backup material to provide to Council. In addition, any action that the Council would like to take he asked that they provide backup material for the Council and the public. This is another item that will be voted on at their next meeting. Another step that they need to take is to limit Council Matters to fifteen minutes. That also will be voted on at their next meeting. He encouraged Councilmembers that if they have questions about an item on the agenda, to ask staff before the meeting. This gives staff enough time to find out the answers to their questions. He is happy that they are engaging in discussions with FP&L and feels that they are moving in the right direction to reduce utility costs and looking at other options that they might have.

3. Comments

B. Vice Mayor Sabin Abell's Matters

1. Correspondence

Mr. Abell referred to the email that they received on this year's Under the Oak's Art show and what a success the show was this year. They had over 80,000 people attend the event.

2. Committee Reports

Mr. Abell reported that he attended the Chamber of Commerce Economic meeting, the Utilities Commission meeting, an MPO meeting and the reopening of Humiston Park.

3. Comments

A) Discuss efficiencies for Vero Beach Council Meetings

Mr. Abell felt that they needed to be more efficient in how their City Council meetings are run. He has come up with a few suggestions, which he will bring back at their next

meeting to vote on and make a part of their policy. His suggestions included: A) Meetings are not allowed to run for more than three (3) hours – four (4) hours max; B) Confine questions to the matter under discussion; C) Councilmembers may have up to two (2) items on the agenda under their matters and may be given up to five (5) minutes for presentation and discussion on each item; D) Limit Councilmembers speaking on an agenda item to five (5) minutes; E) Per the City Attorney, any item requiring action of the City Council should be placed under New Business and not under City Council Matters; and F) If a Councilmember wishes to remove an item from the “consent agenda,” the Councilmember must do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. If an item is removed, it will be heard at the time that it is removed from the consent agenda.

C. Councilmember Tom White’s Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. White gave an extensive report on his Beach and Shore’s Preservation Commission meeting, he attended the reopening of Humiston Park, he attended a charity event sponsored by the Veteran’s Association, he attended Coffee with the Council and participated in the St. Patrick ’s Day Parade.

3. Comments

- A) Discussion of Water & Sewer Rate Increases – (Backup Provided)**

This item was discussed earlier in the meeting.

D. Councilmember Brian Heady’s Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Heady referred to Mr. White’s Beach and Shore’s Preservation Commission report and asked if he has any data as to what the Pep Reef has added.

Mr. White said that he could get that information. He has been told that the Pep Reef has helped excrete sand, but the State will not recognize the Pep Reef as being a mitigation point for sand.

Mr. Heady asked if the Commission was doing any studies for additional Pep Reefs in other areas of the beach where there is erosion problems.

Mr. White said that the State will not approve any more reefs. They have been trying to convince the State of Florida that the Pep Reef really worked.

Mayor Sawnick asked Mr. White if he could get that information for the whole Council. Mr. Heady had another question to ask Mr. White concerning his report. Mayor Sawnick said that because of the time he asked Mr. Heady if the question could wait. He wanted to make sure that his (Mr. Heady's) matters were discussed as well as Mr. Daiges'. Mr. Heady told the Mayor that Mr. White gave his report and asked does he not want him to ask a question concerning his report. Mayor Sawnick just wanted to make sure that they had enough time to discuss the other matters that still remain on the agenda.

Mr. Heady then asked Mr. White if there was any data with these truck trips to what this does to the roads.

Mr. White said apparently staff has said that it does not affect Wabasso Bridge. He said that the only thing Ranger Construction is responsible for is for the damage that they do from A-1-A to the beach and anything that happens on the roadway.

A) Web Page Facts

Mr. Heady mentioned that he got into a debate with someone who was telling him about different electric rates and he told them that it was not true and he checked out the facts displayed on the City's webpage. He then did some more checking and found that the facts on our webpage are different than what is being reported by the State. He felt that if they are going to put things on their webpage then they need to be accurate. He also went back and checked on some minutes where a correction was made and the corrected minutes were not on the webpage. He said it is important to make sure that if there have been corrections made to the minutes that the correct minutes are on the webpage.

B) Progress for Internet connection for meetings

This item will be heard at their next meeting under Old Business.

C) Still waiting for written answers from City Manager

Mr. Heady reported that he still has not received any written answers from the City Manager.

D) OUC Contract

Mr. Heady commented that there seems to be this on-going debate about the OUC contract. The City Manager and the City Attorney have both said that he was shown the original contract. He said if you listen to the words that they used you hear that he was shown a copy. The point that he was making was that he wanted to see the original and the original should never have been removed from City Hall. He has checked with different attorneys' that work for municipalities throughout the State of Florida and asked for their opinion on the removal of such a document from City Hall and not having it available to the public for over two years, and they all said the same thing that it was improper and the City Manager and City Attorney should have made sure that there was a

copy of the document at City Hall. He said as it stands now there is no way to be sure that the document that is in the files is in fact what the Councilmembers discussed. If he had the time he could ask Councilmembers, the City Manager, and the City Attorney, questions on what was in the contract and there would be no way that they could recite it because they have not memorized the contract. Mr. Abell has stated that he has had a copy of the contract since shortly after the April 21st signing. Mr. Heady made a public records request to Mr. Abell that he supply him with a copy of the document that he has had in possession for a couple of years.

Mr. Heady mentioned that the other thing in the OUC contract is that they hear from Councilmembers who voted in favor of it that they really need to do something to reduce the rates for the ratepayers in this community. When he looks at the document that was presented to him, what he sees is that the contract has increases that are built into it.

Mr. White stated that he voted against any increases.

Mr. Heady thought that the increases were included in the contract.

Mr. White explained that what is in the contract is the normal increases from year to year. What he is referring to is rate increases passed on to their customers.

Mr. Heady explained that what he was referring to was the built in increases that are in the contract.

E) Refusal of staff to answer questions

Mr. Heady brought up refusal of staff to answer questions. He said that if he says something that is incorrect then it needs to be identified as to what he said is wrong. He said if he doesn't get something right he wants to be told. He has asked staff to identify what he said was wrong referring to the City Manager who has refused to put what he said was wrong in writing.

F) November Elections

Mr. Heady expressed that he is the only sitting Councilmember who is not up for re-election in November. He said that there is also a voter initiative that Mr. Wilson is trying to get on the November ballot. He felt that they could have some discussions at these Council meetings about the issues of this voter initiative and the different things that are coming up. He suggested that maybe the Council could allow the use of the public television air time that they have available to them to air some debates with anyone from the public who wanted to challenge any of the four incumbents that are up for election. He thought that this would be a good use for their television time. He said if they are going to have productive meetings, this would be one way to be productive and to educate the public. The qualifying period for someone wishing to file to run for City Council for the November election is August 19, 2010 through September 3, 2010.

G) Public Discussion of FP&L offer progress

This item was discussed earlier in the meeting.

H) Financial Reports Electric Breakdown/Rates

Mr. Heady handed Mr. Lee a memo that he wanted to Mr. Lee to have. He said that he had given the memo to the Clerk and for whatever reason, Mr. Lee never received it. He told Mr. Lee that he would appreciate it if he could get back to him with those breakdowns sometime between now and the next meeting.

Mr. Heady commented that he has talked about the issue on what the ratepayers would be paying if the City had accepted FP&L's contract. He posed this question to the representative from FP&L and she said that Vero Beach would be paying essentially FP&L rates. He does not know if this statement was accurate, which is why he has asked Mr. Lee to provide him with this information.

I) March 2 City Council Meeting

Mr. Heady stated that at the March 2, 2010 City Council meeting, Mr. Abell said that he received a copy of the document from OUC shortly after the April 21st signing. He again made a public records request to receive a copy of this contract. The second item he brought up was at this meeting of March 2nd the City Clerk clearly stated that she could not certify that the contract that is in the file is the original. The last thing that occurred at the March 2nd meeting was that the Mayor apparently doesn't appreciate some of the questions that he has and has more than once gaveled him down. He said one example was at the March 2nd meeting, he was asking the City Manager a question and the City Attorney interrupted and when he started to say to whom he was asking the question to the Mayor gaveled him down and told him that he was out of order. He said that he was the one who had the floor and the City Attorney was interrupting, but the Mayor uses the gavel at his pleasure and the end result was that the City Manager never did answer the question. He thought that this was an improper use of the gavel by the Mayor. He said that each Councilmember has the right to ask questions and expect answers from their staff that are on the payroll.

J) Direction City Manager for new staff

Mr. Heady commented that he first heard that Mr. Maillet was leaving the City on a radio show that Mr. Daige was on where he was going over the process of hiring a new Finance Director. He felt that the Finance Director was an extremely important position in the City and that the Council should have some input, rather than just be told who the replacement is going to be.

E. Councilmember Ken Daige's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. Daige mentioned that with the rate increases that were discussed earlier, he was not on Council at that time. He also asked for a recommendation from Mrs. Vock on the video streaming.

Mr. Daige went over his Committee report (please see attached).

3. Comments

A) Water & Sewer Rate Increase

This item was discussed earlier in the meeting.

Mr. Abell mentioned that earlier Mr. Heady wanted to be told if he says something incorrectly. He explained to Mr. Heady that the Council hires only the Charter Officers and the Charter Officers hire their own staff members.

Mayor Sawnick reminded everyone to fill out their census survey when they receive it and mail it back.

11. ADJOURNMENT

Tonight's meeting adjourned at 8:54 p.m.

/tv

SUBJECT TO CHANGE

AGENDA

CITY MANAGER'S OFFICE

MARCH 16, 2010

Consent Agenda

1. Regular City Council Minutes – March 16, 2010
2. Clean Vessel Act Grant Agreement
3. Maintenance Memorandum of Agreement (MMOA) between Kimley-Horn Associates, Inc., and City of Vero Beach – SR 60 Storm Drain Pipe
4. Monthly Capital Project's Status Reports
5. Investments and Earnings on Investments FY09
6. General Fund's Undesignated, Unreserved Fund Balance
7. Proposed New Lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision
8. Request from Main Street Vero Beach for the Use of Downtown Vero Beach and Adjacent Park Areas for the Annual Hibiscus Festival

City Manager's Matters

- A) Presentation of the Comprehensive Annual Financial Report 2009
- B) Discussion of Indian River County, Indian River Shores, and the City of Vero Beach Utilities Study
- C) Discussion and Update of Opening of Humiston Park
- D) Electric Utility Update – Utility Commission Meeting of 3/9/2010
- E) Electric Rate Comparison – January 2010
- F) Discussion and Update of Vero Beach's Vero Man Site
- G) Tree Trimming Annual Contract Renewal – Updated Information
- H) One-Cent Sales Tax Contribution to Indian River County
- I) Discussion of Transmission Agreement with Florida Power and Light

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council

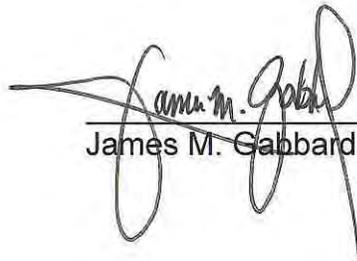
FROM: James M. Gabbard, City Manager

DATE: March 3, 2010

SUBJECT: CLEAN VESSEL ACT GRANT AGREEMENT

Please find attached a memo from Tim Grabenbauer, dated March 1, 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 Clean Vessel Act Grant Agreement between the State of Florida Department of Environmental Protection and the City of Vero. This grant awards the City \$5,418.75 (75 percent match) for a portable waste pumpout system to be used in the managed mooring field.


James M. Gabbard

:jav
Attachments

xc: Tim Grabenbauer
Stephen Maillet

N:\AGENDA\MARINA\2010\CLEAN VESSEL ACT GRANT AGREEMENT.DOC

Memo

To: James Gabbard, City Manager

From: Tim Grabenbauer, Marina Director

TGB

CC:

Date: 3/1/2010

Re: AGENDA ITEM FOR REGULAR CITY COUNCIL MEETING MARCH 16, 2010

ITEM:

Clean Vessel Act Grant Agreement.

RECOMMENDATION:

Recommend signing agreement.

BACKGROUND INFORMATION:

The State of Florida Department of Environmental Protection has awarded the City \$5,418.75 (75% match) for a portable Waste Pumpout system to be used in our Managed Mooring Field. Once implemented we will schedule pumpouts as customers request.

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
CLEAN VESSEL ACT GRANT PROGRAM**

**DEP Agreement No: MV007
For CVA 09-561**

PROJECT AGREEMENT

THIS AGREEMENT is entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (hereinafter referred to as the "Department" or "DEP") and the CITY OF VERO BEACH, whose address is 3611 Rio Vista Boulevard, Vero Beach, Florida 32963 (hereinafter referred to as the "Grantee" or "Recipient"), a local government, to conduct Clean Vessel Act Grant; CVA 09-561, Vero Beach City Marina, approved under the Clean Vessel Act Grant Program (CFDA 15.616).

WHEREAS, the Department is the recipient of federal financial assistance from the Department of Interior, U.S. Fish and Wildlife Service; and,

WHEREAS, as the result of this Agreement the Grantee has been determined to be a subrecipient of federal financial assistance from the U.S. Fish and Wildlife Service.

NOW, THEREFORE, in consideration of the premises and the mutual benefits to be derived herefrom, the Department and the Grantee do hereby agree as follows:

1. The Agreement shall be performed in accordance with Public Law 102-587, Subtitle F, the Clean Vessel Act of 1992, and the Federal Clean Vessel Act Grant Program Guidelines (50 CFR Parts 80 and 85), which are hereby incorporated by reference as if fully set forth herein.
2. The Grantee agrees to conduct the project known as the Clean Vessel Act Grant; CVA 09-561, Vero Beach City Marina, in accordance with the terms and conditions set forth in this Agreement, the Scope of Work and Conditions, provided as Attachment A, and all exhibits and attachments referenced herein and made a part hereof.
3. By executing this Agreement, the Department certifies that a site visit has been conducted by Department personnel to verify and document that the project activities and location of the work described in Attachment A meet the categorical exclusion criteria under the National Environmental Policy Act (NEPA) and that activities conducted as a result of this Agreement will have no impact on any species listed in the NEPA criteria. The Department will maintain the site visit documentation in its files in Tallahassee in accordance with the conditions of the Department's source grant agreement with the U.S. Fish and Wildlife Service.
4.
 - A. This Agreement shall become effective upon execution by both parties and shall remain in effect for a period of five (5) years from the date of project completion for the reporting requirements as identified in paragraph 7 of this Agreement. The Grantee must make project facilities available to the boating public for a minimum of five (5) years after the completion date of the project established above. However, it is understood and agreed that the Project shall be completed on or before February 11, 2011.
 - B. In the event of a change in ownership, the Grantee is required to notify the Department in writing of such change no later than ten (10) days after the change in ownership occurs, and the Grantee is required to notify the new owner of this Agreement, the obligation to continue maintenance and operations as well as reporting for the remaining life of this Agreement prior to the change. The "Bill of Sale" or other official document transferring ownership shall include these grant requirements. Any change in ownership will require an amendment to this Agreement. Should the new owner refuse to assume the obligations as set forth in this Agreement, the original Grantee shall reimburse the Department for the value of the equipment as specified in 43 CFR, Part 12.72.

5. A. As consideration for the services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis an amount not to exceed \$5,418.75 toward all eligible costs associated with the Project as described in **Attachment A, Scope of Work and Conditions**. Prior written approval from the Department's Grant Manager shall be required for changes between approved budget categories of up to 10% of the total budget amount. The Department Grant Manager will transmit a copy of the written approval and revised budget to the Department Procurement Office and the Department Contracts Disbursements Office for inclusion in the Agreement file. Changes greater than 10% will require a formal amendment to the Agreement. This Agreement may be amended to provide for additional services if additional funding is made available by the U.S. Fish and Wildlife Service and/or the Florida Legislature.
- B. The Grantee shall be reimbursed on a cost reimbursement basis for all eligible project costs upon receipt and acceptance of a properly completed **Attachment B, Grant Payment/Match Request Form**, an invoice, and supporting documentation. Supporting Documentation shall include an invoice on the Grantee's letterhead clearly marked as invoice; an itemized listing (by category) of all expenditures claimed, including the dates of service. Receipts and cancelled checks clearly reflecting the dates of service and back-up documentation, including any subcontractor invoices if applicable, shall be available upon request. The Chief Financial Officer requires detailed supporting documentation of all costs under a cost reimbursement agreement. In accordance with **Attachment C, Contract Payment Requirements**, the Grantee shall comply with the minimum requirements set forth therein. Invoices for the deliverables described in **Attachment A** must explicitly reference the deliverables and the grant award amounts associated with each deliverable. Partial payments of project costs are allowed under this Agreement. The Grantee shall submit a final invoice to the Department no later than February 25, 2011, to assure the availability of funds for final payment. The final invoice shall be accompanied by a completed and signed Project Completion Form to be provided by the Department, an Operational Plan as described in the Operations section of Attachment A of this Agreement, a copy of the operational log required under Condition 8 of the Operations section of Attachment A, a photograph of the completed pumpout installation as well as a photograph of the pumpout logo sign and informational sign. Upon approval and payment of the final invoice, any funds remaining under this Agreement will be unencumbered. No travel expenses are authorized under the terms of this Agreement.
- C. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits) if applicable. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. State guidelines for allowable costs can be found in the Department of Financial Services' Reference Guide for State Expenditures at <http://www.fldfs.com/aadir/reference%5Fguide> and allowable costs for Federal Programs can be found under 48 CFR Part 31 and Appendix E of 45 CFR Part 74, at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html> and OMB Circulars A-87 (2 CFR 225), A-122 (2 CFR 230), A-21 (2 CFR 220); and administrative requirements can be found in OMB Circulars A-102 and A-110 (2 CFR 215) at <http://www.whitehouse.gov/omb/circulars/index.html#numerical>.
- D. The Grantee shall obtain at least three written quotes for the purchase of goods or services costing more than \$2,500 and less than \$100,000 and submit said quotes to the Department for review and approval of the quote amount prior to the commencement of any work under this Agreement. Written quotes shall be for items that are alike in function, operation and purpose. An explanation will be required whenever the Grantee elects to use the vendor quoting other than the lowest price. The Department has the right to reject all quotes and require additional documentation supporting the projected Project costs. The Department shall make no reimbursement from grant funds until this documentation has been provided and approved. Any purchase over \$100,000 shall comply with the procurement requirements described in 43 CFR 12.76.
- E. The parties hereto understand and agree that this Agreement requires a cost sharing or match in the form of cash or third party in-kind, on the part of the Grantee. The match expended by the Grantee shall be at least 25% of the total amount actually expended on the Project. All cost sharing/match shall meet the federal requirements established in 43 CFR, Part 12 and OMB Circulars A-87 (2 CFR 225), A-122 (2 CFR 230) and A-21 (2 CFR 220).

- F. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. For purposes of this Agreement, the following cost principles are incorporated by reference.

Organization Type	Applicable Cost Principles
State, local or Indian tribal government.	OMB Circular A-87 (2 CFR 225)
Private non-profit organization other than (1) an institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122 (2 CFR 230)
Education Institutions	OMB Circular A-21 (2 CFR 220)
For-profit organization including an organization named in OMB A-122 as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal agency.
Hospital	45 CFR Subtitle A - Appendix E to Part 74- Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals

6. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Agreement is not a commitment of future appropriations.
7. A. The Grantee shall submit progress reports on a quarterly basis until the Project completion date identified in paragraph 4.A. Progress reports shall describe the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31. The Grantee shall utilize **Attachment D, Progress Report Form**, for submitting its progress report. Reports shall be submitted to the Department's Grant Manager no later than fifteen (15) days following the completion of the quarterly reporting period. The Department's Grant Manager shall have thirty (30) calendar days to review deliverables submitted by the Grantee.
- B. The Grantee shall submit quarterly, the gallons pumped, fees collected, vessels pumped, number of out of state vessels, and maintenance costs. This information shall be submitted to the Department on the form provided at: http://www.dep.state.fl.us/cleanmarina/CVA/quarterly_pumpout.htm for a period of five years following the Project completion date identified in paragraph 4.A. This form shall be submitted quarterly to the Department's Grant Manager no later than fifteen (15) days following the last day of the reporting quarter beginning with the quarter during which the completion of the construction or installation of equipment occurred.
8. The Grantee shall save and hold harmless and indemnify the State of Florida, the Department and the U.S. Fish and Wildlife Service, against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this Agreement, resulting from the negligent acts of the Grantee, his subcontractor, or any of the employees, agents or representatives of the Grantee or subcontractor to the extent allowed by law.
9. A. The Department may terminate this Agreement at any time in the event of the failure of the Grantee to fulfill any of its obligations under this Agreement. Prior to termination, the Department shall provide thirty (30) calendar days written notice of its intent to terminate and shall provide the Grantee an opportunity to consult with the Department regarding the reason(s) for termination.
- B. The Department may terminate this Agreement for convenience by providing the Grantee with thirty (30) calendar days written notice.

- C. This Agreement may be unilaterally canceled by the Department for refusal by the Grantee to allow public access to all documents, papers, letters, or other material made or received by the Grantee in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1)(a), Florida Statutes.
 - D. This Agreement may be terminated by the Department if written confirmation is received from the Grantee that the pumpout vessel or the pumpout equipment has been destroyed by an act of nature.
10. If the Grantee materially fails to comply with the terms and conditions of this Agreement, including any Federal or State statutes, rules or regulations, applicable to this Agreement, the Department may take one or more of the following actions, as appropriate for the circumstances.
- A. Temporarily withhold cash payments pending correction of the deficiency by the Grantee.
 - B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
 - C. Wholly or partly suspend or terminate this Agreement.
 - D. Withhold further awards for the project or program.
 - E. Take other remedies that may be legally available.
 - F. Costs of the Grantee resulting from obligations incurred by the Grantee during a suspension or after termination of the Agreement are not allowable unless the Department expressly authorizes them in the notice of suspension or termination. Other Grantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the following apply.
 - 1. The costs result from obligations which were properly incurred by the Grantee before the effective date of suspension or termination, are not in anticipation of it, and in the case of termination, are noncancellable.
 - 2. The cost would be allowable if the Agreement were not suspended or expired normally at the end of the funding period in which the termination takes place.
 - G. The remedies identified above, do not preclude the Grantee from being subject to debarment and suspension under Executive Orders 12549 and 12689.
11. A. The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The Department, the State, the U.S. Fish and Wildlife Service or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five years following Agreement completion. In the event any work is subgranted or subcontracted, the Grantee shall similarly require each subgrantee and subcontractor to maintain and allow access to such records for audit purposes.
- B. The Grantee agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
 - C. Records for real property and equipment acquired with Federal funds shall be retained for five years following final disposition.
12. A. In addition to the requirements of the preceding paragraph, the Grantee shall comply with the applicable provisions contained in **Attachment E (Special Audit Requirements)**, attached hereto and made a part hereof. **Exhibit I to Attachment E** summarizes the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment E**. A revised copy

of **Exhibit 1** must be provided to the Grantee for each amendment which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of **Exhibit 1**, the Grantee shall notify the Department's Grants Development and Review Manager at 850/245-2361 to request a copy of the updated information.

- B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in **Attachment E, Exhibit 1** when making its determination. For federal financial assistance, the Grantee shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section __.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

<https://apps.fldfs.com/fsaa>

The Grantee should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

- C. In addition, the Grantee agrees to complete and submit the **Certification of Applicability to Single Audit Act Reporting, Attachment F**, attached hereto and made a part hereof, within four (4) months following the end of the Grantee's fiscal year. Attachment F should be submitted to the Department's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

13. A. The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. The Department of Environmental Protection supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of minority owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- C. This Agreement is neither intended nor shall it be construed to grant any rights, privileges, or interest in any third party without the mutual written agreement of the parties hereto.
- D. This Agreement is an exclusive grant and may not be assigned in whole without the written approval of the Department.
14. A. The Grantee certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients certify accordingly.

- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. In accordance with Section 216.347, Florida Statutes, the Grantee is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

- 15. The Grantee shall comply with all applicable federal, state and local rules and regulations in performing under this Agreement. The Grantee acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulations. The Grantee further agrees to include this provision in all subcontracts issued as a result of this Agreement.
- 16. The Department's Grant Manager (which may also be referred to as the Department's Project Manager) for this Agreement is identified below.

Brenda Leonard	
Florida Department of Environmental Protection	
Office of Sustainable Initiatives	
3900 Commonwealth Boulevard, MS#30	
Tallahassee, Florida 32399-3000	
Telephone No.:	(850) 245-2847
Fax No.:	(850) 245-2159
E-mail Address:	Brenda.leonard@dep.state.fl.us

- 17. The Grantee's Grant Manager (which may also be referred to as the Grantee's Project Manager) for this Agreement is identified below. The Department must be notified in writing of any change in this information within thirty (30) days.

Tim Grabenbauer	
City of Vero Beach	
3611 Rio Vista Boulevard	
Vero Beach, Florida 32963	
Telephone No.:	(772) 231-2819
Fax No.:	(772) 231-6893
E-mail Address:	tgrabenbauer@covb.org

- 18. To the extent required by law, the Grantee will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Grantee. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.
- 19. The Grantee warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Grantee's officers, employees, servants and agents while acting within the scope of their employment with the Grantee.
- 20. The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

21. Upon satisfactory completion of this Agreement, the Grantee may retain ownership of the non-expendable personal property or equipment purchased under this Agreement. However, the Grantee shall complete and sign **Attachment G, Property Reporting Form**, DEP 55-212, and forward it along with the appropriate invoice to the Department's Grant Manager. The following terms shall apply:
- A. The Grantee shall have use of the non-expendable personal property or equipment for the authorized purposes of the contractual arrangement as long as the required work is being performed.
 - B. The Grantee is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.
 - C. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in his possession for use in a contractual arrangement with the Department.
22. A. The Department may at any time, by written order designated to be a change order, make any change in the work within the general scope of this Agreement (e.g., specifications, task timelines within current authorized Agreement period, method or manner of performance, requirements, etc.). All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the Grantee's cost or time, or a change in ownership shall require formal amendment to this Agreement, and will not be eligible for processing through the change order procedures described above.
- B. In the event of a change in the Grant manager for the Grantee or for the Department, each party will notify the other party in writing of such change within thirty (30) days after the change becomes effective. The notice shall be sent from the Grantee's representative authorized to execute agreements to the Department's Grant Manager. The Department's Grant Manager will transmit a copy of such change to the Department's Procurement Office and the Contract Disbursement Office for inclusion in the Agreement file.
23. A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.
24. In accordance with Executive Order 12549, Debarment and Suspension (**2 CFR 1400**), the Grantee certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency; and, that the Grantee shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction, unless authorized in writing by the U.S. Fish and Wildlife Service to the Department. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement. The Grantee shall include the language of this section in all subcontracts or lower tier agreements executed to support the Grantee's work under this Agreement.
25. The U.S. Fish and Wildlife Service and the Department, reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:

- A. The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant.
 - B. Any rights of copyright to which a Grantee, subgrantee or a contractor purchases ownership with grant support.
26. Land acquisition is not authorized under the terms of this Agreement.
27. A 3 x 4 foot sign of the International Pumpout Symbol shall be placed on a dock or on land, facing the waterway and easily visible to the boaters. Sign specifications can be found at the following link: <http://wsfirprograms.fws.gov/Subpages/ToolkitFiles/fasymb.pdf>. In addition, informational signage stating fees, hours of operation, instructions, and operator name and telephone number shall be posted in a clearly visible location. The sign shall have posted emergency phone numbers for reporting service problems and shall include the following statement:
- “Funded in part by the U.S. Fish and Wildlife Service, Clean Vessel Act through the Florida Department of Environmental Protection.”
28. The Grantee agrees to comply with, and include as appropriate in contracts and subgrants, the provisions contained in **Attachment H, Contract Provisions**, attached hereto and made a part hereof. In addition, the Grantee acknowledges that the applicable regulations listed in **Attachment I, Regulations**, attached hereto and made a part hereof, shall apply to this Agreement.
29. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, the day and year last written below.

CITY OF VERO BEACH

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
*Signature of Person Authorized to Sign

By: _____
Director, Office of Sustainable Initiatives

Print Name and Title of Authorized Person

Date: _____

Date: _____

FEID No. 59-6000445

Brenda Leonard
Brenda Leonard, DEP Grant Manager

Ruth Hepper
DEP Contracts Administrator

Approved as to form and legality:
M. [Signature]
DEP Attorney

*For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Agreement, a resolution, statement or other document authorizing that person to sign the Agreement on behalf of the governmental board/commission must accompany the Agreement.

List of attachments/exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
<u>Attachment</u>	<u>A</u>	<u>Scope of Work and Conditions (3 Pages)</u>
<u>Attachment</u>	<u>B</u>	<u>Grant Payment/Match Request Form (1 Page)</u>
<u>Attachment</u>	<u>C</u>	<u>Contract Payment Requirements (1 Page)</u>
<u>Attachment</u>	<u>D</u>	<u>Progress Report Form (2 Pages)</u>
<u>Attachment</u>	<u>E</u>	<u>Special Audit Requirements (5 Pages)</u>
<u>Attachment</u>	<u>F</u>	<u>Certification of Applicability to Single Audit Act Reporting (3 Pages)</u>
<u>Attachment</u>	<u>G</u>	<u>Property Reporting Form (1 Page)</u>
<u>Attachment</u>	<u>H</u>	<u>Contract Provisions (3 Pages)</u>
<u>Attachment</u>	<u>I</u>	<u>Regulations (1 Page)</u>

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council

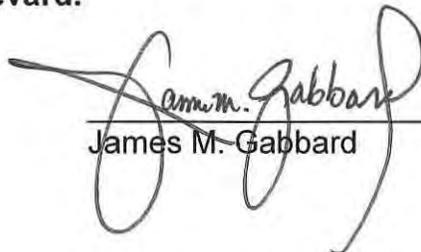
FROM: James M. Gabbard, City Manager

DATE: March 3, 2010

**SUBJECT: MAINTENANCE MEMORANDUM OF AGREEMENT (MMOA)
BETWEEN KIMLEY-HORN ASSOCIATES, INC., AND CITY OF
VERO BEACH – SR 60 STORM DRAIN PIPE**

Attached is a memorandum from Bill Messersmith, dated February 26, 2010, providing background information and a recommendation for the above-referenced subject.

It is the recommendation of the City Manager's Office that the Council approve the Maintenance Memorandum of Agreement (MMOA) between Kimley-Horn Associates, Inc., and City of Vero Beach, for the SR 60 Storm Drain Pipe, in connection with the parc24 project which is located north of 23rd Street on Indian River Boulevard.


James M. Gabbard

:jav
Attachments

xc: Monte Falls
Bill Messersmith
Stephen Maillet



DEPARTMENTAL CORRESPONDENCE

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

VIA: Monte K. Falls, Director
DEPT: Public Works *MK Falls 3/11*

FROM: Bill Messersmith, Assistant City Engineer *WB 2/26/10*
DEPT: Public Works

DATE: February 26, 2010

**RE: Maintenance Memorandum of Agreement (MMOA)
Between Kimley-Horn Associates, Inc. and City of Vero Beach
SR 60 Storm Drain Pipe**

Recommendation:

- Place this item on the City Council agenda for March 16, 2010;
- Approve the proposed MMOA with Kimley-Horn and Associates, Inc (KHA) for the maintenance of a 24" HDPE storm drain pipe installed by KHA in connection with their parc24 project located north of 23rd Street on Indian River Boulevard, as outlined in the Agreement.

Funding:

No funding is required as all maintenance costs will be borne by KHA in accordance with this Agreement.

Background:

This Agreement is a result of discussions with KHA during preliminary design of their parc24 site. During those discussions it was acknowledged that the existing 23rd Street stormwater outfall was already at full capacity and no additional stormwater would be allowed to discharge into it from the KHA site. KHA suggested the construction of a second outfall from the site directly to the Indian River, thereby eliminating the question of sufficient capacity. The City recognized the advantage of having a second outfall for the 23rd Street corridor and agreed in concept to the proposal with the stipulation that KHA would be responsible for permitting, construction and maintenance of the new outfall.

James M. Gabbard, City Manager
KHA Maintenance Memorandum of Agreement
February 26, 2010
Page 2

This agreement, drafted by the City Attorney's office, formalizes that understanding.

Attachments

Cc: Charles Vitunac, City Attorney
James Vitter, PE, Kimley-Horn and Associates, Inc.

WBM:MKF/ntn

T:\REVIEWS\Site Plan\2007-SP-1165 Kimley Horn Indian River Bo\Docs\Agenda_KHA Storm Drain MMOA_JGabbard_Feb 25 2010.docx

**MAINTENANCE MEMORANDUM OF AGREEMENT
BETWEEN CITY OF VERO BEACH AND KIMLEY-HORN and ASSOCIATES, INC.
For Storm Drain Pipe**

THIS AGREEMENT by and between **CITY OF VERO BEACH**, a Municipal Corporation of the State of Florida, the address of which is P.O. Box 1389, Vero Beach, Florida 32961 (hereinafter called the “**CITY**”) and **KIMLEY-HORN and ASSOCIATES, INC.**, the address of which is 601 21st Street, Vero Beach, Florida 32960 (hereinafter called the “**DEVELOPER**”) is effective upon execution by the **CITY**.

WHEREAS, the drainage outfall ditch at 23rd Street is at or near its maximum design capacity; and

WHEREAS, the CITY agreed to let DEVELOPER construct a new stormwater outfall for the Parc24 site as part of the required stormwater improvements for the site in order to reduce the discharge to the 23rd Street ditch; and

WHEREAS, the new outfall is proposed to run from the Parc24 site under SR 60 (Indian River Boulevard) and Vero Isles Drive and discharge into Canal No 3 between Seahorse Lane and Starfish Drive; and

WHEREAS, DEVELOPER was required to construct roadway improvements for 24th Street including required drainage improvements; and

WHEREAS, the 24th Street drainage improvements will be dedicated to the City of Vero Beach; and

WHEREAS, the runoff from those improvements is to be routed through the Parc24 drainage system and are included in the drainage basin served by the proposed drainage pipe; and

WHEREAS, dedication of on-site easements for the 24th street stormwater was a plat requirement, and

WHEREAS those easements do not extend through the proposed pipe, and the CITY requires a guaranteed outfall for the 24th street runoff; and

WHEREAS, the DEVELOPER requested the necessary permit from FDOT to construct the new outfall pipe under SR 60; and

WHEREAS, Florida DOT refused to issue the permit to a private corporation; and

WHEREAS, to facilitate the construction of the new discharge pipe, the City agreed to be the permittee for the drainage pipe under SR 60, and

WHEREAS, the FDOT required and on January 6, 2009, the CITY approved Amendment #1 to our existing Maintenance Memorandum of Agreement dated August 7, 2006 to provide the required assurances to FDOT that the pipe would be maintained; and

WHEREAS, said Amendment #1, added provisions for the installation and maintenance of the proposed 24" HDPE drainage pipe, to the existing landscape maintenance agreement.

WHEREAS, in exchange for the CITY agreeing to act as permittee for the drain pipe, DEVELOPER agreed to enter into an agreement with the CITY for the construction and maintenance of the 24" HDPE drainage pipe, and that under said agreement all the installation and maintenance responsibilities which the CITY assumed as the result of the FDOT Permit and Amendment #1 of the Maintenance Memorandum of Agreement would be assumed by DEVELOPER.

WHEREAS, the DEVELOPER has constructed the 24" drainage pipe as described in Exhibit B; and

NOW THEREFORE, and in consideration of the mutual benefits to each party, the DEVELOPER does hereby covenant and agree as follows:

1. The DEVELOPER shall perform a directional bore under State Road 60 and install 24" HDPE pipe. The installation of this pipe should not cause any disturbances to the roadway or any other features in the right-of-way as specified in the enclosed plans, attached as **EXHIBIT B** at the location specified by **EXHIBIT A** attached hereto.
2. The DEVELOPER agrees to provide maintenance of said HDPE drainage pipe as follows: a) An annual inspection, beginning six (6) months after installation of the pipe, will be performed to visually inspect the inlet and outfall structures to ensure that there is no blockage or visual damage; b) A TV inspection will be performed every five (5) years, beginning five (5) years after installation of the pipe, to ensure the structural stability of the pipe; c) If there is any noticeable damage it will be the responsibility of the DEVELOPER to repair the structure and the roadway to operational standards; annual inspection reports will be provided in writing to City of Vero Beach.

3. Should the DEVELOPER fail to maintain the pipe to the required standards, the CITY may perform the necessary inspections and maintenance work, and such work shall be reimbursed to the CITY by the Developer within thirty (30) days of delivery of invoice.
4. The DEVELOPER agrees that this recorded Maintenance Agreement shall run with the land and be transferred along with the deed to said property as part of any subsequent sale.

IN WITNESS WHEREOF, the parties hereto have executed with this Agreement
 _____ day of _____ 2009.

ATTEST:

THE CITY OF VERO BEACH

Sign: _____
 Print: Tammy Vock
 Title: City Clerk

Sign: _____
 Print: Kevin Sawnick
 Mayor

STATE OF FLORIDA
 COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by Kevin Sawnick, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida. They are both known to me and did not take an oath.

NOTARY PUBLIC

Sign: _____
 Print: _____
 State of Florida at Large [SEAL]
 Commission No.
 My Commission Expires:

ATTEST:

Sign: [Signature]
Print: KEITH PELAN

KIMLEY-HORN AND ASSOCIATES, INC.

Sign: [Signature]
Print: BROOKS H. PEED

If Corporation
[AFFIX CORPORATE SEAL HERE]

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The forgoing instrument was acknowledged before me this 23 day of November, 2009, by Brooks Peed, and attested by Keith Pelan. They are personally known to me or produced as identification and did/did not take an oath.



HEATHER L. MELANSON
MY COMMISSION # DD 928964
EXPIRES: September 29, 2013
Bonded Thru Budget Notary Services

NOTARY PUBLIC

Sign: [Signature]
Print: Heather L. Melanson
State of Florida at Large [SEAL]
Commission No. DD928964
My Commission Expires: 9/29/13

Approved as to form
And legal sufficiency:

[Signature]

Charles P. Vitunac
City Attorney

Approved as to technical
requirements:

[Signature]
James M. Gabbard
City Manager

This instrument prepared
in the Office of the
City Attorney
P.O. Box 1389
Vero Beach, FL 32961-1

EXHIBIT A

I. PROJECT LOCATION

Approximately 1200 feet north of Indian River Boulevard and 20th Street on the west side of State Road 60. Approx. M.P. 31.427.

II. PROJECT LIMITS OF MAINTENANCE:

This maintenance agreement pertains to the area within fifteen feet of the referenced pipe. Referencing Kimley-Horn and Associates, Inc. proposed roadway stationing the maintenance area begins at approx. 106+41 and ends at approx. 106+71.

The proposed maintenance plan follows:

1. An annual inspection, beginning six (6) months after installation of the pipe, will be performed to visually inspect the inlet and outfall structures to ensure that there is no blockage or visual damage.
2. A TV inspection will be performed every five (5) years, beginning five (5) years after installation of the pipe, to ensure the structural stability of the pipe.
3. If there is any noticeable damage it will be the responsibility of Kimley-Horn and Associates, Inc. to repair the structure to operational standards.
4. Annual inspection reports will be provided in writing to City of Vero Beach.

III. PROJECT LOCATION MAP OF DEVELOPER'S MAINTENANCE BOUNDARIES:



EXHIBIT B

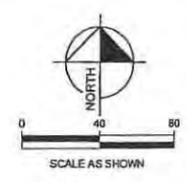
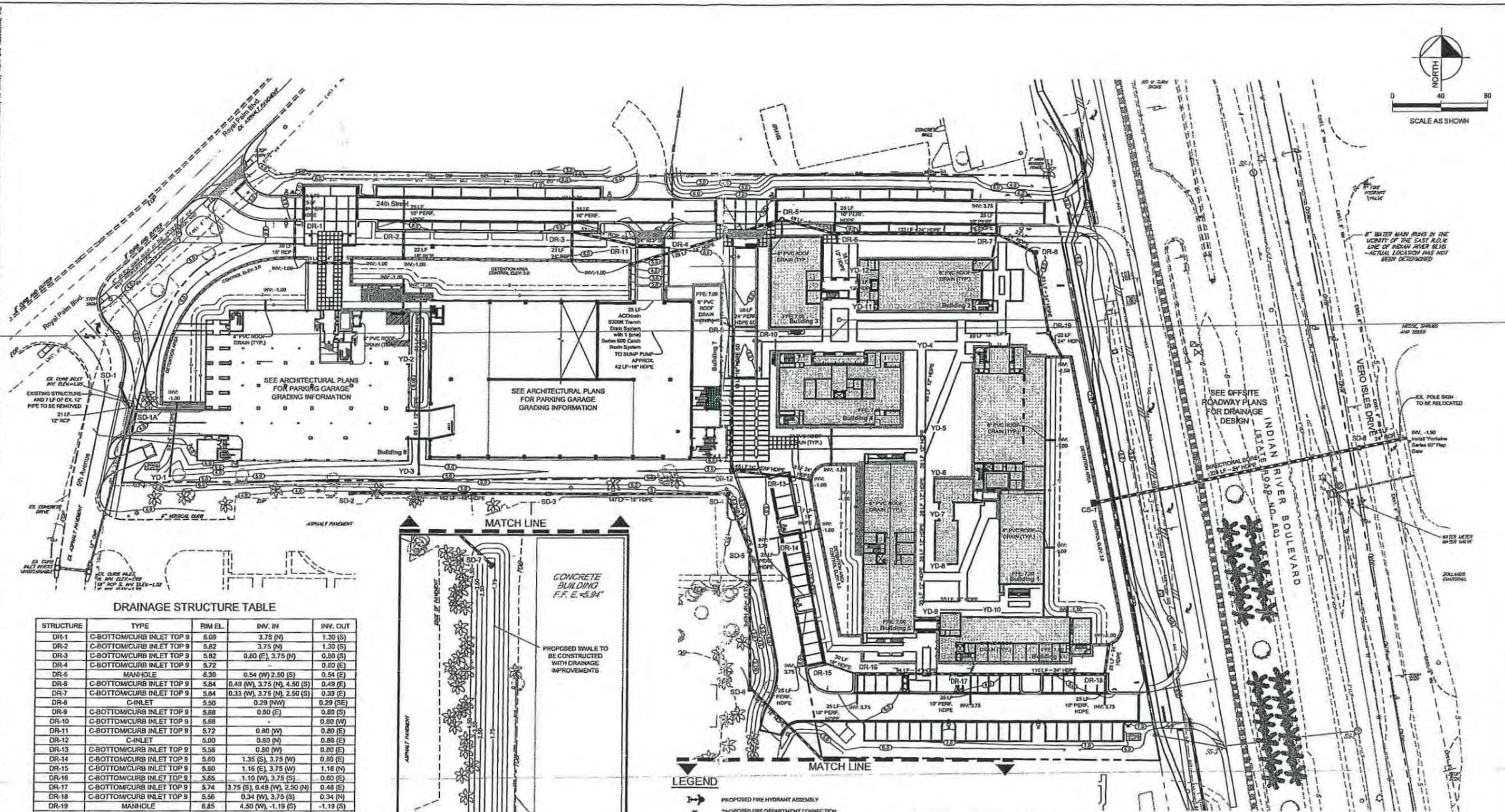
PROJECT PLANS

Kimley-Horn and Associates agrees to install the Project in accordance with the plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by: James G. Vitter II, P.E.

Dated: _____

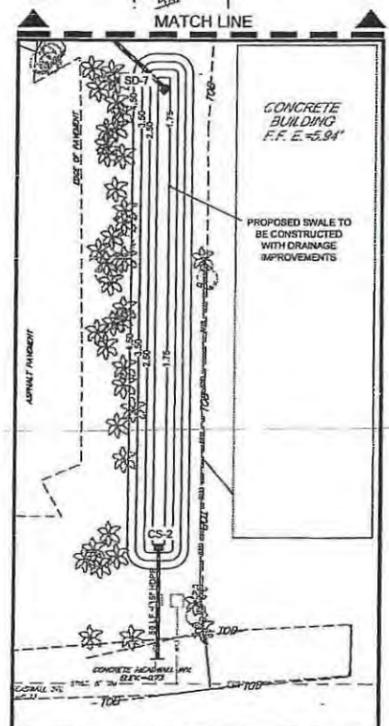
Drawing name: G:\47909000\CADD\Exhibit\WDA maintenance Exhibit.dwg C-200 Oct 27, 2008 3:20pm by: jason_jarrell
 The document, together with the contract and design presented herein, is to be used only for the specific project and site for which it was prepared. It is not to be used for any other project or site without the written consent of Kimley-Horn and Associates, Inc. and the City of Vero Beach, Florida. It is the responsibility of the user to verify the accuracy of the information and data used in the preparation of this document.



DRAINAGE STRUCTURE TABLE

STRUCTURE	TYPE	RIM EL.	INV. IN	INV. OUT
DR-1	C-BOTTOM CURB INLET TOP 9	6.08	3.75 (N)	1.30 (S)
DR-2	C-BOTTOM CURB INLET TOP 9	5.82	3.75 (N)	1.30 (S)
DR-3	C-BOTTOM CURB INLET TOP 9	5.82	0.80 (E), 3.75 (N)	0.80 (S)
DR-4	C-BOTTOM CURB INLET TOP 9	5.72	-	0.80 (E)
DR-5	MANHOLE	6.30	0.54 (W), 2.50 (S)	0.54 (E)
DR-6	C-BOTTOM CURB INLET TOP 9	5.84	0.49 (W), 3.75 (N), 4.50 (S)	0.49 (E)
DR-7	C-BOTTOM CURB INLET TOP 9	5.84	0.33 (W), 3.75 (N), 2.50 (S)	0.33 (E)
DR-8	C-INLET	5.50	0.29 (NW)	0.29 (SE)
DR-9	C-BOTTOM CURB INLET TOP 9	5.68	0.80 (E)	0.80 (S)
DR-10	C-BOTTOM CURB INLET TOP 9	5.68	-	0.80 (W)
DR-11	C-BOTTOM CURB INLET TOP 9	5.72	0.80 (W)	0.80 (E)
DR-12	C-INLET	5.00	0.50 (N)	0.80 (E)
DR-13	C-BOTTOM CURB INLET TOP 9	5.58	0.80 (W)	0.80 (E)
DR-14	C-BOTTOM CURB INLET TOP 9	5.80	1.35 (S), 3.75 (W)	0.80 (E)
DR-15	C-BOTTOM CURB INLET TOP 9	5.60	1.16 (E), 3.75 (W)	1.16 (N)
DR-16	C-BOTTOM CURB INLET TOP 9	5.65	1.10 (W), 3.75 (S)	0.80 (E)
DR-17	C-BOTTOM CURB INLET TOP 9	5.74	3.75 (S), 0.48 (W), 2.50 (N)	0.48 (E)
DR-18	C-BOTTOM CURB INLET TOP 9	5.56	0.34 (W), 3.75 (S)	0.34 (N)
DR-19	MANHOLE	6.85	4.50 (W), -1.19 (S)	-1.19 (S)
YD-1	YARD DRAIN	4.00	-	2.00 (N)
YD-2	YARD DRAIN	4.50	2.00 (S)	2.00 (N)
YD-3	YARD DRAIN	4.00	-	2.00 (N)
YD-4	YARD DRAIN	6.80	4.50 (S)	4.50 (E)
YD-5	YARD DRAIN	6.70	4.50 (S)	4.50 (N)
YD-6	YARD DRAIN	6.70	4.50 (S)	4.50 (N)
YD-7	YARD DRAIN	6.70	4.50 (S)	4.50 (N)
YD-8	YARD DRAIN	6.70	4.50 (S)	4.50 (N)
YD-9	YARD DRAIN	6.70	4.50 (E)	4.50 (N)
YD-10	YARD DRAIN	6.70	-	4.50 (W)
YD-11	YARD DRAIN	6.70	-	4.50 (N)
YD-12	YARD DRAIN	6.70	4.50 (S)	4.50 (N)
CS-1	MODIFIED D-INLET (SEE DETAIL, SHEET C-202)	5.80	WEIR 1: 2.00 WEIR 2: 3.70	-6.30 (E)

SEE PROFILE SHEETS C301-C302 FOR CROSSING DATA



- LEGEND
- PROPOSED FIRE HYDRANT ASSEMBLY
 - PROPOSED FIRE DEPARTMENT CONNECTION
 - PROPOSED RPZ FOR POTABLE SERVICE
 - PROPOSED BOX FOR FIRE SERVICE
 - PROPOSED SINGLE SEWER SERVICE
 - PROPOSED SEWER STRUCTURE
 - PROPOSED INLET STRUCTURE
 - PROPOSED STORM DRAINAGE PIPE
 -
 - PROPOSED UTILITY EASEMENT
 - PROPOSED INLET TRANSFORMER PAD
 - PROPOSED LIGHT POLE
 - PROPOSED CONTOUR

OFF-SITE DRAINAGE STRUCTURE TABLE

STRUCTURE	TYPE	RIM EL.	INV. IN	INV. OUT
SD-1	CURB INLET TOP 9	3.75	-	-2.65 (SE)
SD-1A	MANHOLE	3.65	-2.65 (NW)	1.95 (S)
SD-2	C-INLET	4.04	-	1.54 (E)
SD-3	C-INLET	3.88	1.25 (W)	1.25 (E)
SD-4	C-INLET	4.15	1.00 (W)	1.00 (S)
SD-5	MANHOLE	5.95	0.80 (N)	0.80 (S)
SD-6	C-INLET	2.00	0.00 (N)	0.00 (SE)
SD-7	C-INLET	1.75	-2.50 (NW)	-
SD-8	MANHOLE	5.00	-6.80 (N)	-1.70 (E)
CS-2	MODIFIED C-INLET (SEE DETAIL, SHEET C-202)	4.00	WEIR 1: 1.75	1.00

SEASON HIGH WATER TABLE AT EL. 3.0
 DEWATERING ANTICIPATED FOR ALL
 UNDERGROUND UTILITY
 CONSTRUCTION

Call 48 Hours
 before you dig
 Dial: 811
 It's the Law!

No.	REVISIONS	DATE	BY

SCALE AS NOTED

DESIGNED BY KHA

DRAWN BY KHA

CHECKED BY KHA

Kimley-Horn and Associates, Inc.
 2008 KIMLEY-HORN AND ASSOCIATES, INC.
 601 21ST STREET, SUITE 300, VERO BEACH, FL 32960
 PHONE: 772-562-7981 FAX: 772-562-9889
 WWW.KIMLEY-HORN.COM CA 00000695

DATE 10/23/08

PROJECT NO. 047909000

CITY OF VERO BEACH

DESIGN ENGINEER: James G. Vitter II, P.E.

FLORIDA REGISTRATION NUMBER: 59536

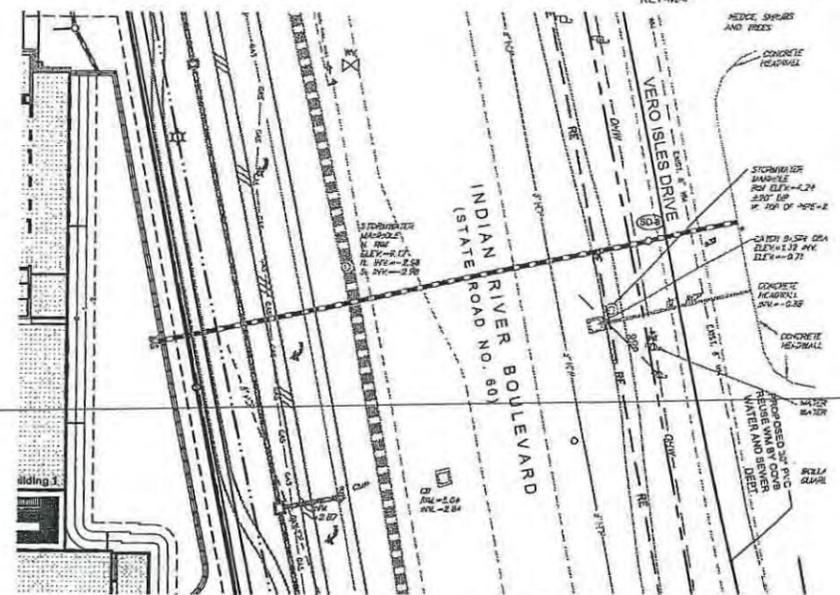
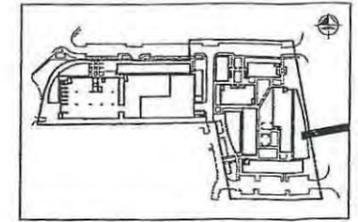
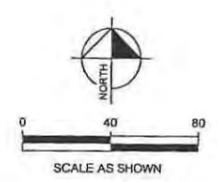
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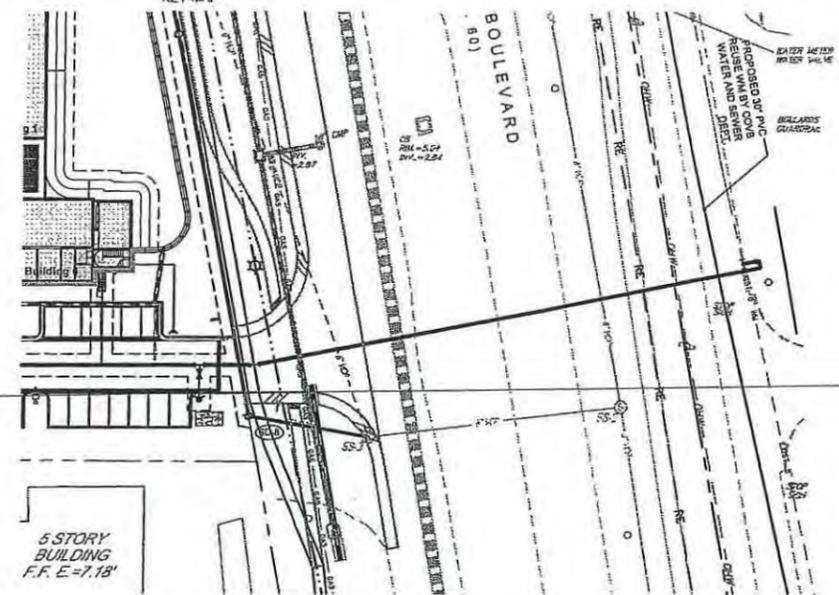
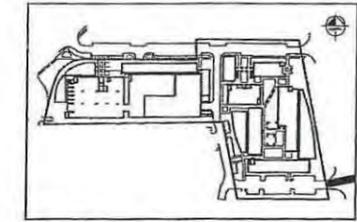
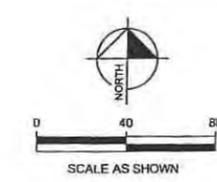
DRAINAGE PLAN

SHEET NUMBER C-200

Drawing name: G:\47909000\CADD\CIVIL\CON\0-301 UTILITY PROFILES.dwg C-303 Oct 29, 2008 9:25am by: heather.melanson
 This document, together with the concepts and designs presented herein, is an instrument of service, is intended only for the specific purpose and client for which it was prepared. It is not to be used for any other purpose without written authorization and adaptation by Kimley-Horn and Associates, Inc. and shall be without liability to Kimley-Horn and Associates, Inc.

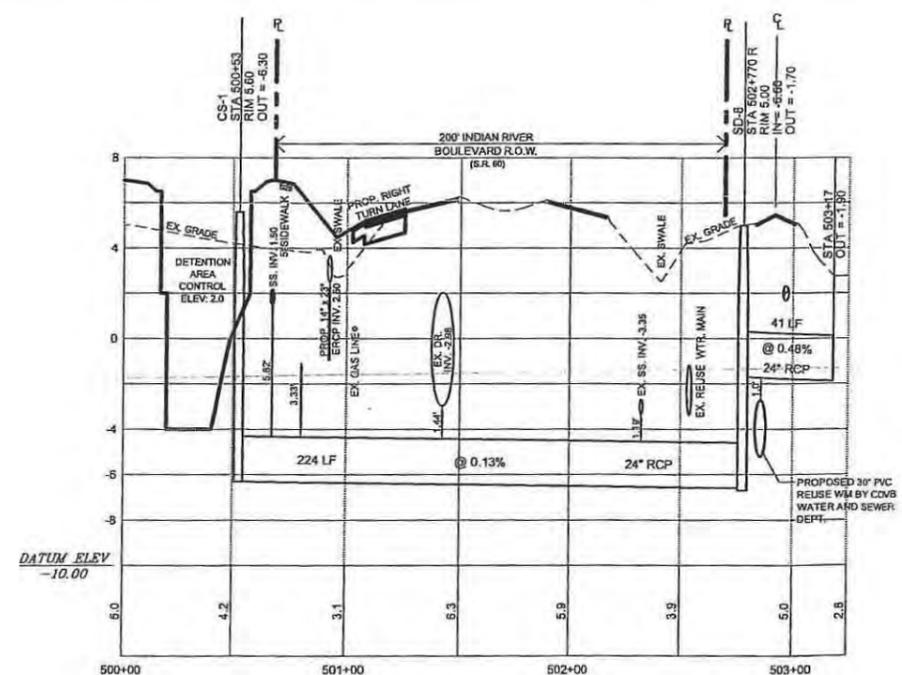


PLAN
SCALE 1"=40'

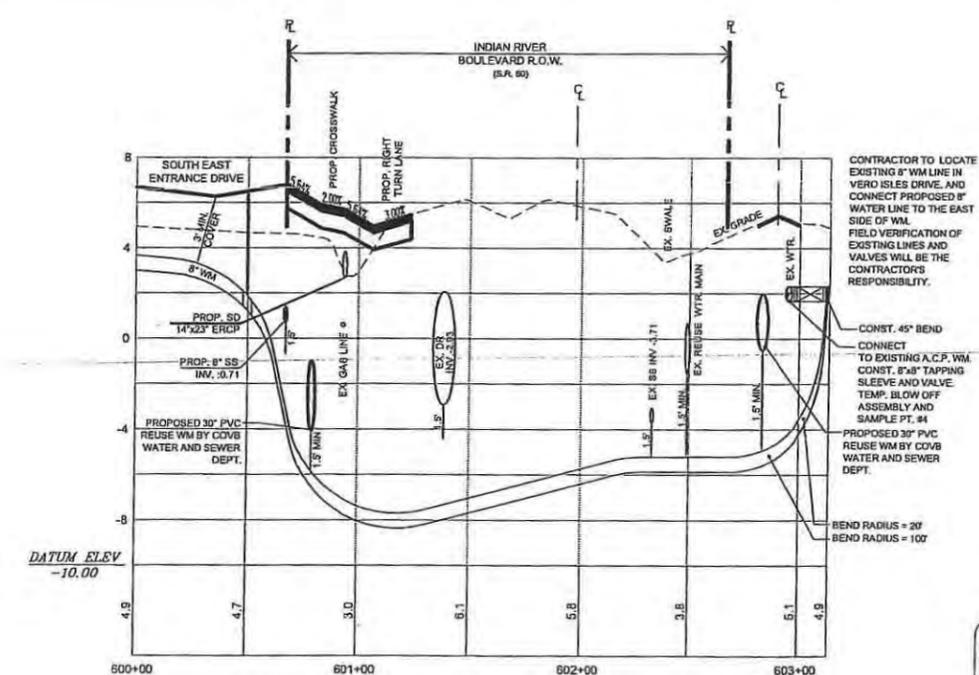


PLAN
SCALE 1"=40'

- LEGEND**
- PROPOSED FIRE HYDRANT ASSEMBLY
 - PROPOSED FIRE DEPARTMENT CONNECTION
 - PROPOSED RPZ FOR 2" POTABLE SERVICE
 - PROPOSED ODCV FOR 4" FIRE SERVICE
 - PROPOSED SINGLE SEWER SERVICE
 - PROPOSED SEWER STRUCTURE
 - PROPOSED INLET STRUCTURE
 - PROPOSED STORM DRAINAGE PIPES
 - PROPOSED UTILITY EASEMENT
 - PROPOSED 15x12 TRANSFORMER PAD
 - PROPOSED LIGHT POLE



PROFILE
SCALE H: 1"=40'
V: 1"=4'



PROFILE
SCALE H: 1"=40'
V: 1"=4'

CONTRACTOR TO LOCATE EXISTING 8" WM LINE IN VERO ISLES DRIVE, AND CONNECT PROPOSED 8" WATER LINE TO THE EAST SIDE OF WM.

FIELD VERIFICATION OF EXISTING LINES AND VALVES WILL BE THE CONTRACTOR'S RESPONSIBILITY.

CONST. 45° BEND CONNECT TO EXISTING A.C.P. WM. CONST. 8" TAPPING SLEEVE AND VALVE. TEMP. BLOW OFF ASSEMBLY AND SAMPLE PT. #4

PROPOSED 30" PVC REUSE WM BY COVB WATER AND SEWER DEPT.

BEND RADIUS = 20'

BEND RADIUS = 100'

Call 48 Hours before you dig
 Dial: 811
 It's the Law!

No.	REVISIONS	DATE	BY

Kimley-Horn and Associates, Inc.
 © 2008 KIMLEY-HORN AND ASSOCIATES, INC.
 601 21ST STREET, SUITE 300, VERO BEACH, FL 32960
 PHONE: 772-562-7981 FAX: 772-562-9589
 WWW.KIMLEY-HORN.COM CA 0000896

DATE: 10/23/08
 PROJECT NO.: 047909000
 CITY OF VERO BEACH

parc24

DESIGN ENGINEER:
 James G. Vitter II, P.E.
 FLORIDA REGISTRATION NUMBER:
 59534
 FLORIDA DATE: 11/19/08

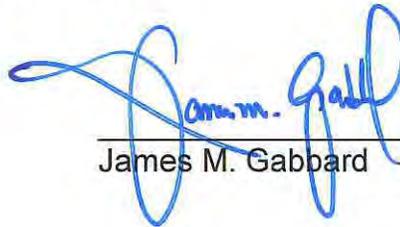
UTILITY CONNECTION PLAN AND PROFILES

SHEET NUMBER
C-303

COUNCIL AGENDA REPORT
MEETING MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: March 9, 2010
SUBJECT: MONTHLY CAPITAL PROJECTS' STATUS REPORTS

The Monthly Capital Projects' Status Reports are prepared and presented to Council at the second meeting of each month for all capital construction projects over \$100,000. They are for review and discussion, if so desired.



James M. Gabbard

:jav
Attachments

xc: Rob Bolton
Ericson Menger
Monte Falls
Jackie Mitts
Carol Shoaf

N:\Agenda\MONTHLY.RPT\report.cc.doc

CAPITAL PROJECTS REPORT – AIRPORT

FAA PAPI Test Project:

The Vero Beach Airport has been selected as a national test bed for state-of-the-art LED Precision Approach Path Indicators (PAPI). This one-year test project is entirely funded by the Federal Aviation Administration (FAA).

Obstruction Survey:

Staff has prepared data necessary to determine existing natural and man-made obstructions to flight paths in the vicinity of the airport. Aerial and ground surveys have been completed and data has been consolidated for submittal to FAA and to the City Council for approval. The final data package will be presented to City Council in early 2010, with obstruction removal to be requested as Phase 2 of this project in late 2010.

ARFF Vehicle:

The Airport Rescue and Fire Fighting (ARFF) vehicle manufacturer is in the process of installing specialized fire-fighting equipment onto the new truck chassis. The Airport expects final inspection in late March or early April and vehicle delivery by May of this year.

Rehabilitate Runway 11L/29R and Taxiway F

Storm water management permits were received November 23, 2009. Advertised for bids on February 11, 2010. Bids will be received and opened on March 16, 2010. Staff anticipates presenting the bids to City Council in April with a recommendation to award the contract.

Airport Operations Facility

Conceptual design work has been completed in preparation for obtaining cost estimates for construction. No further work is anticipated until funding is offered by the Florida Department of Transportation and accepted by the City Council.

Rehabilitate Sections Runway 11R/29L and Taxiway C

Staff anticipates grant funds from FDOT and FAA to investigate and repair a surface deviation on Runway 11R-29L and to rehabilitate sections of Taxiway C by milling the surface, sealing cracks in the pavement, and overlaying with a structural asphalt surface course. Work should begin this fall or upon receipt of FAA funding.

Updated 23 FEB 2010

Royal Palm Sidewalk Construction

Prepared By:
 CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
 Constructed by COVB Staff

PROJECT NO. 2007-02

For Period: 2/15/10 through 3/05/10

NOTES:

Total length of sidewalk for this project is 7,640 linear feet.

Sidewalk has been constructed on the south side of Royal Palm Boulevard from Ponce de Leon Circle to 10th Avenue (approximately 700 linear feet).

This is an in-house project being constructed by COVB Public Works Department Crews

ORIGINAL BUDGET AMOUNT	\$334,873.60	Percent of Work Complete	9%



01-Feb-10

New sidewalk on Royal Palm Boulevard looking west from Ponce de Leon Circle toward US 1



09-Mar-10

Newly poured sidewalk on Royal Palm Boulevard looking west toward 10th Avenue.

Bay Drive and River Drive Bridge Replacements

Prepared By:
 CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
 Contractor: Misener Marine Construction, Inc.

PROJECT NO. 2005-24

For Period: 11/24/09 through 3/05/10

NOTES:

- Demolition of the north half of the Bay Drive bridge is complete.
- New pilings for the north half of the Bay Drive bridge have been installed.
- Pile cap for the west and east end bents is complete on Bay Drive
- Demolition of the east half of the River Drive bridge is complete.
- Piling for the SE River Drive end bent is complete.
- Deck and approach slabs in place for north side of Bay Drive bridge.
- Northeast end bent cap for River Drive bridge is complete and southeast end bent cap is formed.
- Bay Drive utility relocation (water and electric) underway.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$1,699,671.30	CONTRACT DATE:	09/18/09
CHANGE ORDERS TO DATE (TOTAL)	(\$48,059.50)	NOTICE TO PROCEED:	11/24/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$1,651,611.80	TIME OF COMPLETION	90 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$704,449.38	CONTRACT DAY:	86
% OF WORK COMPLETE	42.65%	% OF CONTRACT TIME COMPLETE:	71.67%



05-Mar-10

Northeast retainin/barrier wall formed for Bay Drive bridge.



05-Mar-10

Footer for northwest retaining/barrier wall poured at Bay Drive bridge

Humiston Park Stormwater System Improvements

Prepared By:

PROJECT NO. 2008-08

CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS

Contractor: Sunshine Land Design, Inc.

For Period: 1/04/10 through 3/05/10

NOTES:

Contractor has submitted shop drawings for approval.

Gravity outfall pipe has been grouted for abandonment.

Beach outfall has been 100% demolished and removed. The new outfall has been fully constructed

Pump station is 20% complete. The pump has been ordered but is 30 to 45 days from delivery.

Work will be finished once pump arrives.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$310,144.49	CONTRACT DATE:	12/18/09
CHANGE ORDERS TO DATE (TOTAL)		NOTICE TO PROCEED:	01/04/10
ADJUSTED CONTRACT AMOUNT TO DATE	\$310,144.49	TIME OF COMPLETION	45 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$100,833.98	CONTRACT DAY:	60
% OF WORK COMPLETE	32.51%	% OF CONTRACT TIME COMPLETE:	66.67%



02/22/2010

New outfall pipe being installed on new concrete pilings



02/23/2010

New outfall pipe installation

18TH STREET PAVING, DRAINAGE & SIDEWALK IMPROVEMENTS COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: SPS Contracting., Inc.

PROJECT NO. 2004-11

For Period: 6/29/09 through 3/05/10

NOTES:

Change Order 1 - Water main construction is complete and FDEP approval has been received. New water meter set.

Change Order 2 - Removal of abandoned 8" force main; and Change Order 3 - Replacement of a small section of sanitary sewer line are complete.

Sidewalk is complete on 18th Street from 20th Avenue to 27th Avenue.

Drainage system installation is complete.

Paving is complete. Contractor has completed all punch list items.

Change order No. 4 for sidewalk on 25th Avenue from 18th Street to 19th Street is complete.

Change Order No. 5 for sidewalk on 19th Street from 27th Avenue to 23rd Avenue is in progress. Sidewalk is 95% complete.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$411,057.25	CONTRACT DATE:	07/02/09
CHANGE ORDERS TO DATE (TOTAL)	\$168,152.79	NOTICE TO PROCEED:	07/13/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$579,210.04	TIME OF COMPLETION	134 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$559,135.20	CONTRACT DAY:	236
% OF WORK COMPLETE	96.53%	% OF CONTRACT TIME COMPLETE:	176.12%



29-Jan-10
New sidewalk on 19th street with ADA warning mat



29-Jan-10
New 19th Street sidewalk at 24th Avenue intersection

SR A1A LANDSCAPE IMPROVEMENTS FROM TULIP LANE TO PAINTED BUNTING LANE

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: H&D Construction Co., Inc.

PROJECT NO. 2002-12

For Period: 6/29/09 through 3/05/10

NOTES:

Median construction and landscaping is complete.

Contractor performing paving and restriping this week including requested change order for west side shoulder.

*Contract time was temporarily stopped while waiting for FDOT approval of requested modifications.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$254,609.87	CONTRACT DATE:	06/15/09
CHANGE ORDERS TO DATE (TOTAL)	\$67,155.37	NOTICE TO PROCEED:	06/29/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$321,765.24	TIME OF COMPLETION	90 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$226,208.90	CONTRACT DAY:	
% OF WORK COMPLETE	70.30%	% OF CONTRACT TIME COMPLETE:	0.00%



19-Feb-10
Typical new landscaped median section



02-Mar-10
New median sections showing brick paver detail

**Florida Department of Transportation
Indian River Boulevard & Royal Palms Intersection**

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: Community Asphalt Corp.

FDOT Project No. 403596-2-52.01
For Period: 1/04/10 through 3/05/10

NOTES:

This is an FDOT project and the information provided herein is intended specifically for the information of the City Council.

The contractor is proceeding with the widening of Royal Palm Place along the north side of the road, installing concrete foundations for new traffic signal mast arms and is waiting on Florida Gas to complete the relocation of a portion of the gas main along the west side of Indian River Blvd.

Scheduled completion date is July 7, 2010, 1 weather day added to contract time.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$834,374.68	CONTRACT DATE:	09/10/09
CHANGE ORDERS TO DATE (TOTAL)		NOTICE TO PROCEED:	02/01/10
ADJUSTED CONTRACT AMOUNT TO DATE	\$834,374.68	TIME OF COMPLETION	156 Days
TOTAL COST OF WORK PERFORMED TO DATE		CONTRACT DAY:	33
% OF WORK COMPLETE	0.00%	% OF CONTRACT TIME COMPLETE:	27.50%



08-Mar-10
Subgrade work on Royal Palm Place looking eastward



08-Mar-10
Royal Palm Place looking eastward

STORAGE RESERVOIR AND INJECTION WELL PUMP STATION

STATUS REPORT AS OF 3/1/10
CITY OF VERO BEACH WATER AND SEWER DEPARTMENT

Prepared By: Jerry A. Gilbert, P.E.
 Consultant: Arcadis, Inc.
 Contract Date: 30-Sep-2009
 Notice to Proceed Date: 13-Oct-2009
 Time of Completion: 395 Calendar Days
 Scheduled Completion Date: 12-Nov-2010

PROJECT NO: 280-09/JV
 FOR PERIOD: 2/1/10 - 3/1/10

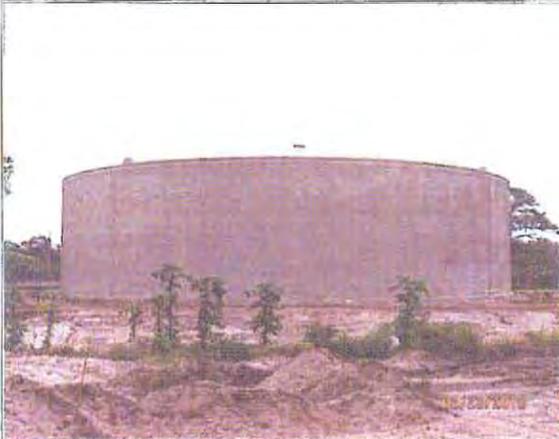
Director's Signature 

PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction, startup and testing of a three million gallon pre-stressed concrete storage reservoir, injection well pump station and related appurtenances.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	Florida Design Contractors, Inc.		
ORIGINAL CONTRACT AMOUNT	\$2,694,375.00		
CHANGE ORDERS TO DATE (TOTAL)	\$763,461.00		
ADJUSTED CONTRACT AMOUNT TO DATE	\$3,457,836.00		
TOTAL COST OF WORK PERFORMED TO DATE	\$948,690.00		
% OF WORK PAID	27.44%		
TOTAL WORK COMP.	\$853,821.00		



The 3 MG water tank, above left, is now awaiting compressive strength test results of the concrete. If all tests are satisfactory, the tank will be painted, instrumentation and electrical will be installed. The tank is currently full of water to allow for settling. The pumping station floor has been placed, above right, and covered with a visqueen sheet to cure. A second pump station, not shown, is being constructed by this contractor at the wastewater treatment plant.

FORCE MAIN FROM WWTP TO WTP, & REUSE WATER MAIN FROM RPP TO COUNTRY CLUB DRIVE

STATUS REPORT AS OF 3/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By: Jerry A. Gilbert, P.E.
 Consultant: Morgan & Associates
 Contract Date: 11-Dec-09
 Notice to Proceed Date: 19-Jan-10
 Time of Completion: 270 Days
 Scheduled Completion Date: 15-Oct-10

PROJECT NO: 1483
 FOR PERIOD: 2/1/10 - 3/1/10

Director's Signature



PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction, startup and testing of a 24" PVC force main from the WWTP to the WTP, and a 24" PVC Reuse main from Royal Palm Point to Country Club Drive.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR		S.P.S. Contracting, Inc.	
ORIGINAL CONTRACT AMOUNT		\$2,396,841.58	
CHANGE ORDERS TO DATE (TOTAL)		\$0.00	
ADJUSTED CONTRACT AMOUNT TO DATE		\$2,396,841.58	
TOTAL COST OF WORK PERFORMED TO DATE		\$254,371.51	
% OF WORK PAID		10.61%	
TOTAL WORK COMP.		\$228,934.36	



Force main construction has continued in February along Indian River Boulevard, admittedly the most difficult part of the project. In spite of numerous conflicts with existing utilities, progress has been good. Above right, one of a number of locations where existing utilities needed to be relocated to provide a pathway for the new force main.

WATER TREATMENT MAINTENANCE BUILDING AND FIELD SERVICES COMPLEX

STATUS REPORT AS OF 3/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By:	Jerry A. Gilbert, P.E.	PROJECT NO:	150-09/JV
Consultant:	Edlund, Dritenbas, Binkley Architects	FOR PERIOD:	2/1/10 - 3/1/10
Contract Date:	08/19/09		
Notice to Proceed Date:	12/04/09		
Time of Completion:	300 Calendar Days		
Scheduled Completion Date:	09/30/10		

Director's Signature 

PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction of a Water Treatment Maintenance Building and Field Services Complex for the City of Vero Beach, Florida.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	Summit Construction Management, Inc.		
ORIGINAL CONTRACT AMOUNT	\$1,924,000.00		
CHANGE ORDERS TO DATE (TOTAL)	\$141,156.05		
ADJUSTED CONTRACT AMOUNT TO DATE	\$2,065,156.05		
TOTAL COST OF WORK PERFORMED TO DATE	\$538,000.00		
% OF WORK PAID	26.05%		
TOTAL WORK COMP.	\$311,400.00		



Above left, the maintenance building has more blockwork completed, as well as painting of some of the steel framing. Above right, the field services building now has not only the floor slab, but some steel framing and blockwork. The plumbing, electrical conduits and water service work does not show, but had to be completed prior to placement of the floor slab.

WATER TREATMENT PLANT INJECTION WELL SYSTEM

STATUS REPORT AS OF 3/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By: Jerry A. Gilbert, P.E.
 Consultant: ARCADIS US
 Contract Date: 10/01/09
 Notice to Proceed Date: 10/07/09
 Time of Completion: 270 Calendar Days
 Substantial Completion Date: 06/04/10

PROJECT NO: 290-09/JV
 FOR PERIOD: 2/1/10 - 3/1/10

Director's Signature

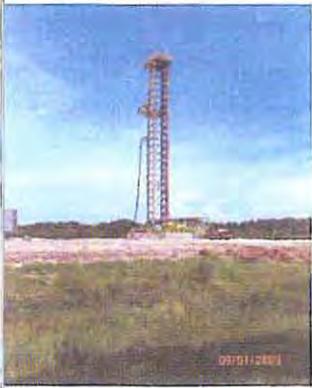


PROJECT DESCRIPTION:

THE WORK TO BE PERFORMED UNDER THIS CONTRACT CONSISTS OF CONSTRUCTING ONE CLASS I INJECTION WELL THAT MAY BE PERMITTED TO ACCEPT AN INJECTION RATE OF 9.7 MILLION GALLONS PER DAY, ONE DUAL ZONE DEEP MONITOR WELL, AND REQUIRED OPERATIONAL TESTING.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR		Youngquist Brothers, Inc.	
ORIGINAL CONTRACT AMOUNT		\$4,684,434.00	
CHANGE ORDERS TO DATE (APPROVED)		\$0.00	
ADJUSTED CONTRACT AMOUNT TO DATE		\$4,684,434.00	
TOTAL COST OF WORK PERFORMED TO DATE		\$1,593,132.00	
% OF WORK PAID		34.01%	
TOTAL WORK COMP.		\$1,433,818.80	



Drilling of the injection well is complete, installation of the steel casing liner for the well was also completed this month, along with testing. The fibreglas reinforced liner will be installed over the next two weeks. After liner installation the drill rig will be dismantled and again erected at the monitoring well site.

MEMORANDUM

To: Honorable Mayor and Councilmembers

Through: James M. Gabbard, City Manager 

From: Stephen J. Maillet, Finance Director 

Subject: Investments and Earnings on Investments FY09

Date: March 05, 2010

The attached statements show summaries of the City's investments as of September 30, 2009. Treasuries were the primary investment medium.

Interest received on investments was \$1,062,000, or \$833,000 less than the previous year. This decrease is due to lower average earnings. The average earnings rate in FY09 was 2.04% and in FY08 was 3.32%. The average amount available for investment decreased from \$57,200,000 to \$52,200,000.

For FY10, our goals continue to be preserving capital, maintaining the liquidity needed for operating and capital requirements, and safely earning the highest yield possible.

City of Vero Beach
Summary of Investments
09/30/09

By Fund	Combined Cash and Investments
General Fund and Other Governmental Funds	\$14,799,814
Electric Fund	17,179,219
Water & Sewer Fund	1,056,411
Airport Fund	2,209,592
Marina Fund	419,910
Solid Waste Fund	0
Health Insurance Fund	4,309,031
Self Insurance Fund	4,258,386
Confiscation Trust Fund	2,305
Law Enforcement Education Trust Fund	22,074
Cemetery Trust Fund	63,704
Asset Management Trust Fund	1,275,869
Whitaker Trust Fund	806,511
Total	\$46,402,826

By Class	
Cash	\$555,683
Investments	
U. S. Treasury Notes & Bonds	34,218,424
State & Local Government	
Book Entry Securities	1,094,100
Pooled Investment Accounts:	
Evergreen Investments	10,084,865
Regions Bank	193,718
Florida State Board of Administration	256,035
Total Investments	45,847,143
Total Cash and Investments	\$46,402,826

City Of Vero Beach
Detail of Cash and Investments
09/30/09

Type of Investment	Maturity Date	Interest Rate	Market	Face
Cash: Wachovia	NA	Variable	555,683	555,683
U S Treasury: State and Local Government Book Entry Securities	12/01/11 various	6.875% 9.268%	790,000 304,100 <u>1,094,100</u>	790,000 304,100 <u>1,094,100</u>
Treasury Notes and Bonds: See attached Average:	08/06/11	2.110%	<u>34,218,424</u>	<u>33,742,786</u>
Pooled Investment Accounts: Evergreen Investments Regions Bank Florida State Board of Administration	NA NA NA	Variable Variable Variable	10,084,865 193,718 256,035 <u>10,534,619</u>	10,084,865 193,718 289,190 <u>10,567,773</u>
Total Cash & Investments			<u>46,402,826</u>	<u>45,960,341</u>

Maturity	Type	Coupon	Par Amount	Mkt Value
11/30/09	T-NOTE	3.125%	250,000.00	251,210.00
02/15/10	STRIPS-P	3.120%	1,200,000.00	1,199,304.00
05/20/10	FHLB	0.400%	365,000.00	365,113.15
06/15/10	T-NOTE	3.625%	6,000,000.00	6,140,160.00
07/31/10	T-Note	2.750%	1,000,000.00	1,019,800.00
10/31/10	T-Note	1.500%	1,000,000.00	1,011,170.00
12/31/10	T-Note	0.875%	1,000,000.00	1,004,300.00
02/28/11	T-Note	0.875%	1,000,000.00	1,003,830.00
03/03/11	FFCB dtd 3/3/08	3.000%	450,000.00	463,783.50
03/11/11	GE	1.800%	300,000.00	303,726.00
03/31/11	T-Note	0.875%	1,000,000.00	1,003,360.00
04/30/11	T-Note	0.875%	1,000,000.00	1,002,730.00
05/31/11	T-Note	0.875%	1,000,000.00	1,002,380.00
06/15/11	FHLB dtd 6/15/09	1.300%	500,000.00	502,815.00
07/27/11	FHLB dtd 6/12/09	1.625%	500,000.00	505,780.00
07/31/11	T-Note	1.000%	2,000,000.00	2,005,700.00
08/31/11	T-Note	1.000%	1,000,000.00	1,001,760.00
09/22/11	Morgan Stanley	2.000%	300,000.00	304,860.00
11/28/11	FFCB	1.590%	500,000.00	500,155.00
12/01/11	JPMorgan	3.125%	300,000.00	311,289.00
12/09/11	FHLB	4.750%	390,000.00	419,737.50
12/09/11	AMEX FSB	3.150%	300,000.00	311,451.00
01/15/12	T-Note	1.125%	1,000,000.00	1,000,000.00
01/17/12	FFCB dtd 01/16/09	2.000%	500,000.00	506,720.00
03/23/12	FHLMC dtd 2/19/09	2.125%	800,000.00	814,752.00
03/30/12	Citigroup	2.000%	300,000.00	303,288.00
04/20/12	FNMA dtd 4/3/09	1.875%	500,000.00	506,720.00
04/24/12	FFCB dtd 2/24/09	2.250%	800,000.00	813,504.00
05/15/12	T-Note	1.375%	1,000,000.00	1,003,360.00
06/15/12	GoldmanSachs	3.250%	300,000.00	313,089.00
06/15/12	BOA MTN INSD	3.125%	300,000.00	312,024.00
06/15/12	FHLMC dtd 5/21/09	1.750%	500,000.00	502,655.00
06/15/12	T-Note	1.875%	1,000,000.00	1,015,630.00
07/15/12	T-Note	1.500%	1,000,000.00	1,005,000.00
09/15/12	T-Note	1.375%	1,000,000.00	998,280.00
10/31/12	T-Note	3.875%	1,000,000.00	1,073,520.00
12/19/12	GMAC	2.200%	310,000.00	313,310.80
03/31/13	T-Note	2.500%	325,000.00	334,369.75
04/15/13	TIP	0.625%	356,618.50	355,837.51
05/22/13	FHLM	4.250%	340,000.00	364,707.80
12/31/13	T-Note	1.500%	700,000.00	685,398.00
04/15/14	TIP	1.250%	356,167.00	361,844.30
Average:				
08/06/11		2.108%	<u>33,742,785.50</u>	<u>34,218,424.31</u>

City of Vero Beach
Summary of Investments and Interest Earnings 09/30/09

Fiscal Year	2005	2006	2007	2008	2009
Treasury Bills, Notes & Bonds	\$8,182,600	\$4,027,800	\$0	\$40,853,810	\$34,218,424
Book Entry Securities (SLGs)	2,921,000	2,870,300	2,816,000	1,157,500	1,094,100
Florida State Board of Administration	32,529,579	43,188,263	53,119,644	269,459	256,035
Evergreen Investments (Wachovia)	0	0	0	14,330,557	10,084,865
Regions Bank	0	0	0	0	193,718
Demand Deposit Cash (Wachovia)	2,001,938	2,084,244	488,781	1,335,565	555,683
Cash w/ Fiscal Agent	3,785,317	3,992,601	0	0	0
Total Cash and Investments	\$49,420,434	\$56,163,208	\$56,424,424	\$57,946,891	\$46,402,826
Interest Received	\$1,633,156	\$2,608,238	\$3,385,561	\$1,895,496	\$1,062,141
Unrealized gains/losses	(480,962)	(142,772)	(35,916)	453,810	21,829
Total Interest Reported	\$1,152,194	\$2,465,466	\$3,349,645	\$2,349,306	\$1,083,970
Average Estimated Yield on these Investments:					
Received	3.58%	4.94%	5.68%	3.32%	2.04%
Unrealized gains/losses	-1.05%	-0.27%	-0.06%	0.79%	0.04%
	2.53%	4.67%	5.62%	4.11%	2.08%

MEMORANDUM

To: Honorable Mayor and Members of the City Council
From: James M. Gabbard, City Manager 
Subject: General Fund's Undesignated, Unreserved Fund Balance
Date: March 09, 2010

This is a summary of the General Funds fund balance per the City of Vero Beach Code, Sec. 2-482. Unencumbered Funds, paragraph (a):

Balance 10/01/08	\$ 7,781,447
Decrease from operations	(1,170,219)
Changes to various reserves:	<u>(39,437)</u>
Balance 09/30/09	<u>\$ 6,571,791</u>

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council

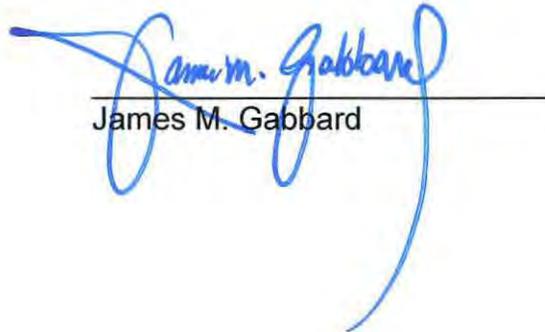
FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

SUBJECT: PROPOSED NEW LEASE BETWEEN THE CITY OF VERO BEACH AND CORPORATE AIR, INC., FOR PARCEL 21, AIRPORT WEST SUBDIVISION

Please find attached a memo from Ericson Menger, dated March 8, 2010, which provides background information and a recommendation on the above-referenced lease agreement.

It is the recommendation of the City Manager's Office that Council approve the Lease Agreement between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision.


James M. Gabbard

:jav
Attachments

xc: Ericson Menger
Stephen Maillet

MEMORANDUM

TO: James M. Gabbard, City Manager
VIA: Charles P. Vitunac, City Attorney
FROM: Ericson W. Menger, Airport Director
DATE: March 8, 2010
SUBJECT: **PROPOSED NEW LEASE BETWEEN THE CITY OF VERO BEACH AND CORPORATE AIR, INC., FOR PARCEL 21, AIRPORT WEST SUBDIVISION**

Attached, for your review and approval, is a copy of a proposed new lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision.

BACKGROUND – Corporate Air, Inc., FBO:

Corporate Air, Inc., has been a tenant and Full Service Fixed Base Operator at the Vero Beach Municipal Airport since early 1985 with a steady history of growth. Parcel 21 will be utilized as an addition to the operations immediately south of Runway 11R/29L, the main east/west runway. This business, owned and operated by Mr. Rodger Pridgeon, plans to construct a new headquarters office building, additional aircraft hangars, and a substantial amount of paved ramp to service these facilities with an intention to serve a growing clientele of corporate jet owners and operators.

Parcel 21 encompasses 64,674.6 square feet and will produce over \$450,717.29 in land rental for the Airport account over the next 30 years, plus fuel flowage fees at \$0.05 per gallon pumped, with periodic rental increases due to CPI adjustments. In addition, ownership of any improvements constructed upon the land by the tenant with the consent of the City will revert to the City at the end of the 30 year initial lease term.

This is a standard airport lease agreement for land intended and zoned for aviation use and development. The Airport Commission reviewed the lease at their regular meeting on March 5, 2010, and recommended approval.

RECOMMENDATION:

I respectfully request this item be placed on the March 16, 2010, City Council agenda. Staff recommends approval of the lease with Corporate Air effective April 1, 2010.

EWM/jm

Attachments

cc: Airport Commission Members (via email and USPS)
Joyce Vonada, City Manager's Office (via email)

FIXED BASE OPERATOR'S LEASE AGREEMENT
[Land ONLY]

This Lease Agreement is executed on this _____ day of _____, 2010, by and between the **CITY OF VERO BEACH**, a municipal corporation organized and existing under the laws of the State of Florida, whose mailing address is P.O. Box 1389, Vero Beach, Florida 32961-1389 ("LANDLORD"); **CORPORATE AIR, INC.**, whose mailing address is 3200 Airport West Drive, Vero Beach, Florida 32960 ("TENANT").

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, LANDLORD and TENANT agree as follows:

1. LEASED PREMISES.

LANDLORD hereby demises and leases to TENANT, and TENANT hereby hires, rents, and leases from LANDLORD, real property located at the Vero Beach Municipal Airport, Vero Beach, Indian River County, Florida. The Leased Premises consists of 64,674.6 square feet of land and is more particularly described in Attachment A to this Lease Agreement.

2. TERM; OPTION TO RENEW.

(a) The initial term of this Lease Agreement shall be thirty (30) years, commencing on April 1, 2010, and terminating on March 31, 2040.

(b) TENANT shall have the option to renew this Lease Agreement for a term of ten (10) years at the conclusion of the

initial term; provided, however, that TENANT is not in default hereunder, and provided that TENANT shall first give written notice to LANDLORD of TENANT's intention to exercise this option no less than three (3) months, and no more than eighteen (18) months, prior to the termination of the initial term. All terms and conditions herein shall apply during the second term unless otherwise provided herein.

3. RENT; RENT ADJUSTMENT.

TENANT's rent shall consist of land rent and a fuel flowage fee, if applicable, as described below:

(a) Land Rent: Subject to the adjustment, escalation, and other provisions of this Lease Agreement, including Vero Beach Resolution No. 2007-18, and Attachment B, (Effective date: May 15, 2007), as amended by SPECIAL PROVISIONS, if any herein, to this Lease Agreement, TENANT shall pay to LANDLORD, in lawful money of the United States, a total land rent during the initial term of this Lease Agreement of \$450,717.29. Pursuant to Section 8 of Attachment B of this Lease Agreement, TENANT also shall pay all legally imposed federal, state and local taxes, fees, and assessments accruing during the term of this Lease Agreement. The monthly rent shall be \$1,251.99. Pursuant to Section 8 of Attachment B of this Lease Agreement, TENANT also shall pay all legally imposed taxes, fees, or assessments accruing for that month. The monthly rental rate is based on 64,674.6 square feet of land at \$0.2323 per square foot per year. The monthly rent shall be due on the first day of each month. Failure to pay the

monthly rent in full by the tenth day of each month shall result in the assessment of a late charge of five percent (5%) of the amount then owing or \$50.00, whichever is greater.

(b) Fuel Flowage: TENANT shall also pay an initial rate of \$0.05 per gallon on fuel flowage, if applicable, in accordance with Vero Beach Resolution No. 2007-18, unless and until that resolution is amended, at which time TENANT shall pay the fuel flowage amount established by a resolution amending Resolution No. 2007-18.

(c) Ownership interest in all structures built, improvements made, and fixtures installed by TENANT, or at TENANT'S direction, upon the Leased Premises during the initial term or any renewal term of the Lease Agreement shall automatically revert to LANDLORD'S ownership and vest in LANDLORD at the expiration or termination of the initial term or the renewal term in which they are built, made or installed.

(f) If TENANT exercises the option to renew, TENANT's rent shall be adjusted as set forth in Attachment B.

4. STANDARD PROVISIONS.

The standard lease provisions for Airport Tenants, set forth in Attachment B to this Lease Agreement and entitled "Standard Lease Provisions For Airport Tenants, (Effective date: May 15, 2007)" are incorporated into and made a part of this Lease.

5. USE OF PREMISES.

TENANT is limited to the following activities for the term of this Lease Agreement and the option to renew period:

(a) Storage of aircraft;

(b) Leasing of space to store aircraft;

(c) Fixed Base Operator Category "G" as defined in Vero Beach Resolution No. 2677 (Minimum Standards for Fixed Base Operators), which Resolution is incorporated into and made part hereof by reference. TENANT agrees to be bound by Vero Beach Resolution No. 2677 as it now exists or as it may hereafter be amended.

6. AUDITS.

LANDLORD or LANDLORD's agent shall have the right and privilege to examine, inspect, and audit all books of account and records of TENANT pertaining to any operations under the terms of this Lease Agreement at any time during the term hereof. TENANT shall, at all times, maintain and keep available for such inspection complete and accurate books of account covering its operations hereunder, in accordance with generally accepted accounting practices for an FBO.

7. SPECIAL PROVISIONS.

To the extent that any of the following Special Provisions are in conflict with any other provision of this Lease Agreement, the Special Provision shall govern.

(a) TENANT is required, and TENANT agrees, to construct buildings and/or other improvements upon the Leased Premises. TENANT shall submit a complete site plan application to the City of Vero Beach Planning and Development Department as set forth in Paragraph 12 of Attachment B.

(b) Attached hereto, and incorporated herein as Attachment C, is a copy of the Phase I Environmental Property Assessment, dated February 14, 2003, by Fraser Environmental. LANDLORD and TENANT accept this report as an accurate representation of the environmental condition of the property as of the commencement date of this Lease Agreement.

(c) Upon termination of the Lease Agreement, TENANT shall pay for a Phase I Environmental Assessment of the leased property. The results of this report shall be compared to the results of the Phase I Environmental Property Assessment described in paragraph (c) above, to determine whether or not the leased property was contaminated during the term of the Lease Agreement. If a Phase II Environmental Assessment is recommended by the environmental auditor, TENANT shall be responsible for any and all costs associated with the Assessment and environmental remediation pursuant to the terms of Section 19, Environmental Provisions, of Attachment B of this Lease Agreement.

(d) TENANT shall provide LANDLORD with certificates of insurance stating that the coverages, as provided by Section 10 of Attachment B of this Lease Agreement, are in force prior to the commencement date of this Lease Agreement, and for each term of coverage thereafter.

8. INTEGRATION/AMENDMENTS.

(a) This written Lease Agreement and Attachments A, B, and C, contain the entire Agreement of the undertakings by and between the parties hereto relative to the leasing of the premises. No prior

or present agreements, representations, statements, or promises, whether oral or written, made by any party or agent of any party hereto which is not contained herein shall be binding or valid.

(b) No provision of this written Lease Agreement or Attachments A, B, or C may be amended, extended or modified except by written instrument executed by all parties to this Lease Agreement.

(c) The parties hereto acknowledge that they were given the opportunity to have their legal counsel review this Lease Agreement and Attachments "A", "B", and "C", and that the Lease Agreement and Attachments "A", "B", and "C" shall be construed neither against, nor in favor of, any party hereto, but rather in accordance with the fair meaning thereof.

IN WITNESS WHEREOF, we the LANDLORD and TENANT, have hereunto affixed our hands and seals.

(The remainder of this page is left blank intentionally.)

LANDLORD - CITY OF VERO BEACH
(This section to be completed by Landlord only)

ATTEST:

LANDLORD:

Sign: _____
Print: Tammy K. Vock
Title: City Clerk

Sign: _____
Print: _____
Title: Mayor

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as Mayor, and attested by Tammy K. Vock, as City Clerk of the City of Vero Beach, Florida. They are both known to me and did not take an oath.

NOTARY PUBLIC:

Sign: _____
Print: _____
State of Florida at Large [SEAL]
Commission No. _____
My Commission Expires: _____

TENANT

(This section to be completed by Tenant only)
CORPORATE AIR, INC., a Florida corporation

WITNESSED BY:

Sign: *Neil A. Pridgeon*
Print: Neil A. Pridgeon

Sign: *Justin Pridgeon*
Print: Justin Pridgeon

TENANT: Corporate Air, Inc.

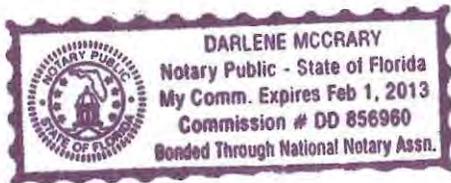
Sign: *Rodger Pridgeon*
Print: Rodger Pridgeon
Title: President

[AFFIX CORPORATE SEAL HERE]
SEAL

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

12th day of Feb, 2010, by Rodger Pridgeon, as President,
on behalf of Corporate Air, Inc., a Florida corporation. He is
personally known to me or produced known
as identification and did/did not take an oath.

NOTARY PUBLIC:

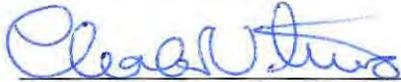


Sign: *Darlene Mccrary*
Print: Darlene Mccrary
State of Florida at Large [SEAL]
Commission No. _____
My Commission Expires: _____

CITY MANAGEMENT

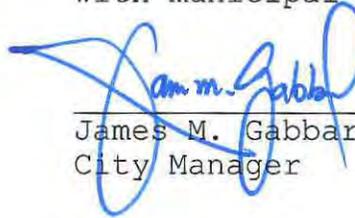
(This section to be completed by City Management Staff only)

Approved as to form
and legal sufficiency:



Charles P. Vitunac
City Attorney

Approved as in compliance
with municipal policy:



James M. Gabbard
City Manager

Approved as to technical
requirements:

Ericson W. Menger
Airport Director

**ATTACHMENT "A"
PROPERTY DESCRIPTION
LOT 21, AIRPORT WEST SUBDIVISION**

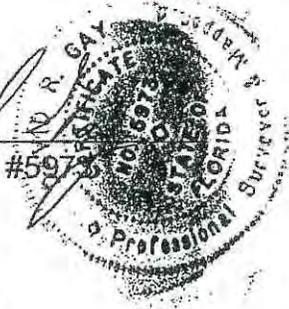
Situated in the State of Florida, County of Indian River, City of Vero Beach, being a part of Airport West Subdivision as recorded in Plat Book 10, Page 89 of the Public Records of Indian River County and being more particularly bounded and described as follows:

Lot 21 of said Airport West Subdivision;

Containing 64,674 square feet more or less.



David R. Gay, PSM #5975



VERO BEACH MUNICIPAL AIRPORT

S69°51'45"E



SCALE 1"=80'



AIRPORT WEST SUBDIVISION
 PLAT BOOK 10, PAGE 89
 INDIAN RIVER COUNTY, FLORIDA

DAVID GAY, PLS 5973
 STATE OF FLORIDA
 PROFESSIONAL ENGINEER
 SHEET 2

THIS SKETCH IS NOT A SURVEY

CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS AND ENGINEERING ENGINEERING DIVISION	SKETCH OF PROPERTY DESCRIPTION LOT 21 AIRPORT WEST SUBDIVISION	ATTACHMENT "A"		REV. NO.	AUTHORIZED BY
		CITY PROJECT NO. AIRPORT 2006-20		DRWN BY	DATE
		DATE 6/2006	DRWN BY BMM	CHKD BY DG	DESCRIPTION

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

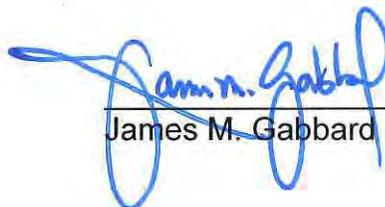
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

**SUBJECT: REQUEST FROM MAIN STREET VERO BEACH FOR THE USE OF
DOWNTOWN VERO BEACH AND ADJACENT PARK AREAS FOR THE
ANNUAL HIBISCUS FESTIVAL.**

Recommend approval.


James M. Gabbard

JMG:jav
Attachment

xc: Don Dappen
Monte Falls

N:\AGENDA\CITYMANAGER\2010\DOWNTOWN FRIDAY - MARCH 26.DOC



February 20, 2010

Mr. James Gabbard, City Manager
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960

Dear Mr.  Gabbard:

I am writing this note notifying you and City Council that Downtown Friday will be held in historic downtown Vero Beach on Friday, March 26 from 5:30 to 8:30 p.m. on 14th Avenue between 20th and 21st Streets and on 21st Street between 13th and 15th Avenue. We refer to this as the extended block. We will need the streets closed to traffic beginning at 2:30 p.m. on March 26 and reopened following the clean-up of the event that evening.

This event will be "Downtown Friday's 2nd Annual Dancing in the Street" party" which will highlight live music, entertainment during band breaks, a beer garden, food, children's activities and much more fun for the entire community! We invite you and the Council to come join the good time! You have a letter of support on file from the Downtown Vero Beach Merchants Association. Please consider this a request for approval of street closure. Please notify me at 234-4412 of approval, or mail to Main Street Vero Beach, P.O. Box 6253, Vero Beach, FL 32961. Thank You.

Sincerely,



Beverly S. Paris, Publicity (234-4412)
Main Street Vero Beach

CC: Robert Votaw, Chairman of Downtown Friday
Randy Hagood, President -Downtown Vero Beach Merchants Association
Doug Disomma, Maria Kovachev

3-A)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING SECTION 58-78 OF THE VERO BEACH MUNICIPAL FIREFIGHTERS RETIREMENT TRUST; PROVIDING FOR EXPANDED INVESTMENT AUTHORITY AS PERMITTED BY LAW; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Vero Beach Municipal Firemen's Relief and Pension Fund is governed by Chapter 175, Florida Statutes;

WHEREAS Chapter 175 was recently amended to expand the investment authority of Chapter 175 pension boards;

WHEREAS the Firefighter Pension Board works with an investment consultant to prepare an investment policy statement and guidelines, which govern the institutional money managers retained by the Board to invest the Board's portfolio;

WHEREAS the Board's investment consultant has recommended the updating of the Board's investment authority set forth in Section 58-78 of the City Code; and

WHEREAS the Vero Beach City Council has determined that the passage of this ordinance is in the best interest of the citizens of the City of Vero Beach;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA THAT:

Section 1: Section 58-78 of the Code of the City of Vero Beach is hereby amended to read as follows:

Sec. 58-78. Investment of funds.

- (a) Objective. It shall be the objective of the municipal firefighter's relief and pension fund that it be managed, administered, operated, and funded in such a manner as to maximize the protection of the fund. In pursuit of this objective, the assets of the fund will be invested primarily in publicly traded instruments of investment grade or higher, as described in F.S. § 175.071. Consistent with this objective is the mandate that the fund will be capable of providing retirement benefits to participants in accordance with the plan benefits as stated

in F.S. ch. 175 and this Code.

- (b) Investment guidelines. The board's investments shall be governed by the investment policy statement and guidelines, which may be periodically reviewed by the board. The board shall have the authority to invest in all lawful investments, as permitted by Chapter 175 and Section 215.47, Fla.Statutes.

~~(1) The aggregate at cost value of investments in equity securities shall not exceed 50 percent of the fund's total asset value.~~

~~(2) Subject to the 50 percent equity securities investment limit set forth in subsection (b)(1) of this section, the aggregate at cost value of investments in securities of foreign companies shall not exceed ten percent of the fund's total asset value.~~

- (c) Investment policy statement to be filed with city clerk by fire pension board. The fire pension board shall file a copy of its statement of investment policy relative to the firefighters' pension plan with the city clerk. In the event that the fire pension board amends its state of investment policy, the fire pension board shall file an amended copy of its statement of investment policy with the city clerk. The fire pension board's statement of investment policy shall complement the investment guidelines provided in all applicable state law and local ordinances.

- (d) Statement of investment policy for the municipal firefighters' pension plan.

- (1) **Introduction.** The Board of Trustees of the City of Vero Beach Municipal Firefighters' Pension Plan has established this statement of investment policy. This policy has been identified by the board as having the greatest expected investment return, and the resulting positive impact on asset values, funded status and benefits, without exceeding a prudent level of risk. The board determined this policy after evaluating the implications of increased investment return versus increased variability of return for a number of potential investment policies with varying commitments to stocks and bonds.

This statement of investment policy is intended to compliment the investment guidelines provided in all applicable state statutes and local ordinances. The purpose of this statement is to:

- a. Provide the investment manager a more accurate understanding of the trustees' investment objectives and,
 - b. Indicate the criteria by which the investment manager's performance will be evaluated.
- (2) **General objectives.** The primary investment objective of the City of Vero Beach Municipal Firefighters' Pension Plan is the preservation of invested capital. The secondary objective is to achieve moderate long-term real growth of the assets

while minimizing the volatility of returns.

To achieve these objectives, the board seeks to create a conservative, well diversified and balanced portfolio of high quality equity, fixed income and money market securities. The board has determined that one or more outside investment managers shall be retained to assure that all investments are managed in both a prudent and professional manner and in compliance with the stated investment guidelines.

(3) Investment manager responsibilities.

- a. Within the guidelines and restrictions set forth herein, it is the intention of the board to give the investment manager full investment discretion, with respect to assets under its management. The investment manager shall discharge its responsibilities in the same manner as it would if the fund were governed by the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 (ERISA). Although the fund trustees acknowledge that ERISA does not apply to a governmental fund, it hereby imposes the fiduciary provisions of ERISA upon the investment manager whose performance shall conform to the statutory provisions, rules, regulations, interpretations and case law of ERISA. The investment manager shall acknowledge, in writing, that it is a named fiduciary of the fund.
- b. The investment manager is expected to provide any reasonable information requested by the board of trustees. At a minimum, each manager shall provide a quarterly report detailing their investment activity, the portfolio's current value, and any changes in investment philosophy or strategy. The firm's investment manager is expected to meet with the board of trustees at least once per year. A designated representative will meet with the board of trustees, as requested.
- c. Unless otherwise provided by the custodian, the investment manager will monitor portfolio activity to minimize uninvested cash balances.
- d. The investment manager shall be responsible only for those assets under its management.
- e. It will be the responsibility of the investment manager to review the monthly valuations provided by the custodian and to note, in writing, any significant discrepancies from the valuations provided in their own reports.

(4) Investment objectives. Investment objectives are intended to provide quantifiable benchmarks to measure and evaluate portfolio return and risk. Most investment styles require a full market cycle to allow an investment manager to demonstrate his abilities. A full market cycle is generally defined as a three- to five-year time

period. As a result, performance objectives will be measured over three- to five-year periods. Monitoring shorter periods may be used to determine the trend of performance premiums or deficiencies.

The specific investment objectives of the municipal firefighters' pension plan are as follows:

Primary objective: To earn an average rate of return over the long term (three to five years) which exceeds the return of a target index. The target index for the municipal firefighters' pension plan ~~is defined as a 50 percent investment in the Standard & Poor's 500 Stock Index and a 50 percent investment in the Merrill Lynch Government/Corporate Bond Index~~ shall be set forth in the board's investment statement and guidelines.

In addition, it is expected that the total rate of return earned by the fund and the returns earned by the stock and bond portions of the portfolio will each rank above average when compared to a representative universe of other, similarly managed portfolios.

Secondary objectives: A further goal of the municipal firefighters' pension plan shall be to achieve an average annual rate of return greater than eight percent, over the longer term. This absolute return objective will be evaluated in the context of the prevailing investment market conditions.

Volatility: The volatility of the fund's total returns is expected to be similar to that of the target index and will be evaluated accordingly.

The above investment objectives have been established for the entire municipal firefighters' pension plan. The specific investment objectives for each investment manager will be outlined in addenda to this overall statement of investment policy.

- (5) Investment guidelines. ~~The board of trustees has established the following target asset allocation of the entire municipal firefighters' pension plan:~~

~~TABLE INSET:~~

Equity securities-	50 percent-
Fixed income securities-	50 percent-

~~To implement this strategy, the board has chosen to hire one or more professional investment managers. Specific assignments and additional guidelines for each investment manager will be outlined in addenda to this overall statement of investment policy. The following guidelines and restrictions apply to all fund investments.~~

In accordance with F.S. ch. 175, and the policies established by the board of

Trustees, the assets of the municipal firefighters' pension plan shall be invested in a diversified portfolio of fully negotiable, equity, fixed income, and money market securities, as set forth in the board's investment policy statement and guidelines, provided they meet the following criteria:

a. ~~Equity securities:~~

1. ~~Investments in equity securities shall be limited to no more than 60 percent (market value) of the fund's total asset value.~~
2. ~~Investments in all domestic equity securities shall be limited to those listed on a major U.S. stock exchange (including NASDAQ).~~
3. ~~No more than five percent at cost value of an investment manager's equity portfolio may be invested in the shares of a single corporate issuer.~~
4. ~~Investments in stocks of foreign companies shall be limited to ten percent of the value of the total investment portfolio (at cost).~~
5. ~~Investment in equity securities whose market capitalization is less than three billion dollars shall be limited to 20 percent of the total equity portfolio.~~
6. ~~Shares of stock in those corporations whose stock has been publicly traded for less than one year are limited to 15 percent of the equity portfolio.~~

b. ~~Fixed income securities:~~

1. ~~The fixed income portfolio shall comply with the following guidelines: The duration of the fixed income portfolio should be within 65 percent and 135 percent of the duration of the market index. The market index is defined as the Merrill Lynch Government/Corporate Bond Index.~~
2. ~~Investments in all corporate fixed income securities shall be limited to:~~
 - (i) ~~Those securities rated "A" or higher by Moodys' or Standard & Poor's rating services. Fixed income securities which are downgraded below the minimum rating shall be sold at the earliest beneficial opportunity.~~
 - (ii) ~~Securities issued by a corporation organized under the laws of the United States, any state or organized territory of the~~

~~United States, or the District of Columbia.~~

~~(iii) No more than ten percent at cost of an investment managers' total fixed income portfolio shall be invested in the securities of any single corporate issuer.~~

~~3. Investments in Collateralized Mortgage Obligations (CMOs) shall be limited to 15% of the market value of the investment managers' total portfolio and shall be restricted to issues which meet all of the following criteria:~~

~~(i) All issues must be backed mortgage securities, issued, guaranteed, or fully insured by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), or that are rated "AAA" by Moody's or "AAA" by Standard & Poor's rating services.~~

~~(ii) All issues must pass the FFIEC High Risk Security Test on an annual basis. Any CMO issue held in the investment managers' portfolio that fails the FFIEC test shall be sold at the earliest beneficial opportunity.~~

~~4. There is no limit imposed on investments in fixed income securities issued directly by the United States Government or any agency or instrumentality thereof.~~

~~Investments in interest only or principal only CMOs, precious metals, limited partnerships of any kind, real estate, venture capital, futures contracts, options contracts, trading on margin and short selling are prohibited.~~

~~c. Cash equivalent securities:~~

~~1. The investment manager may invest only in the following short term investment vehicles:~~

~~(i) The money market or STIF provided by the plan's custodian.~~

~~(ii) Direct obligations of the United States Government with a maturity of one year or less.~~

~~(iii) Commercial paper with a maturity of 270 days or less that is rated A-1 by Standard & Poor's or P-1 by Moody's.~~

~~(iv) Bankers acceptances issued by the largest 50 banks in the United States (in terms of total assets).~~

- (6) Review of policy. It is the intention of the Board of Trustees of the City of Vero Beach Municipal Firefighters' Pension Plan to review this statement of investment policy and its addenda periodically to amend it to reflect any changes in philosophy or objectives. However, if at any time the investment manager believes that the specific objectives defined herein cannot be met or that these guidelines unnecessarily constrict performance, the board shall be so notified in writing.

Section 2: This Section shall be codified and made a part of the Code of Ordinances of the City of Vero Beach. In any such codification, the editor shall have the authority to re-number or re-letter any section of this ordinance as may be necessary provided, however, that no such editorial change shall alter the substantive language of this ordinance.

Section 3: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction the remaining provisions of this ordinance shall remain in full force and effect as if the invalid provision had not been enacted.

Section 4: This Ordinance shall become effective immediately upon its adoption by the City Council.

This Ordinance was read for the first time on the _____ of _____, 2010, and was advertised in the Indian River Press Journal on the _____ of _____, 2010, as being scheduled for a public hearing to be held on the _____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick _____
Vice Mayor Sabin C. Abell _____
Councilmember Thomas P. White _____
Councilmember Brian T. Heady _____
Councilmember Ken Daige _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Kevin Sawnick
Mayor

Approved as to form and legal sufficiency: Approved as conforming to municipal policy:

Charles P. Vitunac
City Attorney

James M. Gabbard
City Manager

Approved as to technical requirements:

Steve Maillet
Finance Director

CITY OF VERO BEACH

(PLAN SPONSER)

FIREFIGHTERS' PENSION PLAN

Investment Policy Statement

I. PURPOSE OF INVESTMENT POLICY STATEMENT

The Pension Board of Trustees (Board) maintains that an important determinant of future investment returns is the expression and periodic review of the City of Vero Beach Firefighters' Pension Fund (the Plan) investment objectives. To that end, the Board has adopted this statement of Investment Policy and directs that it apply to all assets under their control.

In fulfilling their fiduciary responsibility, the Board recognizes that the retirement system is an essential vehicle for providing income benefits to retired participants or their beneficiaries. The Board also recognizes that the obligations of the Plan are long-term and that investment policy should be made with a view toward performance and return over a number of years. The general investment objective is to obtain a reasonable total rate of return - defined as interest and dividend income plus realized and unrealized capital gains or losses - commensurate with the Prudent Investor Rule and any other applicable ordinances and statutes.

Reasonable consistency of return and protection of assets against the inroads of inflation are paramount. However, interest rate fluctuations and volatility of securities markets make it necessary to judge results within the context of several years rather than over short periods of five years or less.

The Board will employ investment professionals to oversee and invest the assets of the Plan. Within the parameters allowed in this document and their agreements with the Board, the investment management professionals shall have investment discretion over their mandates, including security selection, sector weightings and investment style.

The Board, in performing their investment duties, shall comply with the fiduciary standards set forth in Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. s. 1104(a) (1) (A) - (C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this section shall prevail.

II. TARGET ALLOCATIONS

In order to provide for a diversified portfolio, the Board has engaged investment professional(s) to manage and administer the fund. The investment manager(s) are responsible for the assets and allocation of their mandate only and may be provided an addendum to this policy with their specific performance objectives and investment criteria. The Board has established the following asset allocation targets for the total fund:

Asset Class	Target	Range	Benchmark Index
Domestic Equity	45%	40% - 50%	S&P 500 Value
International Equity	15%	10% - 20%	MSCI-World (x-U.S.)
Broad Market Fixed Income	25%	20% - 30%	Barclays Aggregate
TIPS*	5%	0% - 10%	Barclays TIPS
Real Estate*	10%	0% - 15%	NCREIF Property

*Benchmark will default to "broad market fixed income" if these portfolios are not funded. Targets and ranges above are based on market value of total Plan assets.

The investment consultant will monitor the aggregate asset allocation of the portfolio, and will rebalance to the target asset allocation based on market conditions. If at the end of any calendar quarter, the allocation of an asset class falls outside of its allowable range, barring extenuating circumstances such as pending cash flows or allocation levels viewed as temporary, the asset allocation will be rebalanced into the allowable range. To the extent possible, contributions and withdrawals from the portfolio will be executed proportionally based on the most current market values available. The Board does not intend to exercise short-term changes to the target allocation.

III. INVESTMENT PERFORMANCE OBJECTIVES

The following performance measures will be used as objective criteria for evaluating the effectiveness of the Investment Managers.

A. Total Portfolio Performance

1. The performance of the total portfolio will be measured for rolling three and five year periods. The performance of the portfolio will be compared to the return of the policy indexes comprised of 50% S&P 500 Value, 10% MSCI World x-U.S., 25% Barclays Intermediate Aggregate Bond Index, 5% Barclays TIPS Index and 10% NCREIF Property Index.
2. On a relative basis, it is expected that the total portfolio performance will rank in the top 40th percentile of the appropriate peer universe over three and five-year time periods.
3. On an absolute basis, the objective is that the return of the total portfolio will equal or exceed the actuarial earnings assumption (7%), and provide inflation protection by meeting Consumer Price Index plus 3%.

B. Equity Performance

The combined equity portion of the portfolio, defined as common stocks and convertible bonds, is expected to perform at a rate at least equal to the 83% Russell 3000 and 17% MSCI World x-U.S. Index. Individual components of the equity portfolio will be compared to the specific benchmarks defined in each Investment Manager addendum. All portfolios are expected to rank in the top 40th percentile of the appropriate peer universe over three and five-year time periods.

C. Fixed Income Performance

The overall objective of the fixed income portion of the portfolio is to add stability and liquidity to the total portfolio. The fixed income portion of the portfolio is expected to perform at a rate at least equal to the Barclays Capital U.S. Aggregate Bond Index. All portfolios are expected to rank in the top 40th percentile of the appropriate peer universe over three and five-year time periods.

D. Treasury Inflation Protection Security (TIPS) Performance

The overall objective of the TIPS portfolio, if utilized, is to provide inflation protection while adding stability to the total portfolio. If TIPS are utilized the strategy is expected to approximate the structure and performance of the Barclays Capital U.S Treasury TIPS Index.

E. Real Estate Performance

The overall objective of the real estate portfolio of the portfolio, if utilized, is to add diversification and another stable income stream to the total fund. The real estate portion of the total fund; defined as core, open ended private real estate, is expected to perform at a rate at least equal to the NCREIF Index and rank in the top 40th percentile of the appropriate peer universe over three and five-year time periods.

F. Alternative and Other Asset Performance

The overall objective of the alternative and/or "other asset" portion of the portfolio, if utilized, is to reduce the overall volatility of the portfolio and enhance returns. This portion of the fund will be benchmarked as outlined in the manager addendum.

IV. **INVESTMENT GUIDELINES**

A. Authorized Investments

Pursuant to the investment powers of the Board of Trustees as set forth in the Florida Statutes and local ordinances, the Board of Trustees sets forth the following investment guidelines and limitations:

1. Equities:

- a. Must be traded on a national exchange or electronic network; and
- b. Not more than 5% of the Plan's assets, at the time of purchase, shall be invested in the common stock, capital stock or convertible stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5% of the outstanding capital stock of the company; and
- c. Additional criteria may be outlined in the manager's addendum.

2. Fixed Income:

- a. All fixed income investments shall have a minimum rating of investment grade or higher as reported by a major credit rating service; and
- b. The value of bonds issued by any single corporation shall not exceed 3% of the total fund; and
- c. Additional criteria may be outlined in the manager's addendum.

3. Money Market:

- a. The money market fund or STIF options provided by the Plan's custodian; and
- b. Have a minimum rating of Standard & Poor's A1 or Moody's P1.

4. Pooled Funds:

Investments made by the Board may include pooled funds. For purposes of this policy pooled funds may include, but are not limited to, mutual funds, commingled funds, exchange-traded funds, limited partnerships and private equity. Pooled funds may be governed by separate documents which may include investments not expressly permitted in this Investment Policy Statement. In the event of investment by the Plan into a pooled fund, the prospectus or governing policy of that pooled fund, as updated from time to time, shall be treated as an addendum to this Investment Policy Statement. The Investment Consultant shall periodically review with the Board any material changes in the prospectus or governing policy of a pooled fund.

B. Trading Parameters

When feasible and appropriate, all securities shall be competitively bid. Except as otherwise required by law, the most economically advantageous bid shall be selected. Commissions paid for purchase of securities must meet the prevailing best-execution rates. The responsibility of monitoring best price and execution of trades placed by each manager on behalf of the Plan will be governed by the Portfolio Management Agreement between the Plan and the Investment Managers.

C. Limitations

1. Investments in corporate common stock and convertible bonds shall not exceed seventy (70%) of the Plan assets at market.
2. Foreign securities shall not exceed twenty-five percent (25%) of Plan's market value.
3. All equity and fixed income securities must be readily marketable. Commingled funds must be independently appraised at least annually.

D. Absolute Restrictions

No investments shall be permitted in;

1. Any investment not specifically allowed as part of this policy.
2. Illiquid investments, as described in Chapter 215.47, Florida Statutes.
3. Direct investment in 'Scrutinized Companies' identified in the periodic publication by the State Board of Administration ("SBA list", updated on their website www.sbafla.com/fsb/), is prohibited. Any security identified as non-compliant on or before January 1, 2010 must be divested by September 1, 2010. Securities identified after January 1, 2010, are subject to the provisions of section V. (c) below. However, if divestiture of business activities is accomplished and the company is subsequently removed from the SBA list, the manager can continue to hold that security. Indirect investment in 'Scrutinized Companies' (through pooled funds) are governed by the provisions of Section V(G) below.

V. **COMMUNICATIONS**

- A. On a monthly basis, the custodian shall supply an accounting statement that will include a summary of all receipts and disbursements and the cost and the market value of all assets.
- B. On a quarterly basis, the Investment Managers shall provide a written report affirming compliance with the security restrictions of Section IV (as well as any provisions outlined in the Investment Manager's addendum). In addition, the Investment Managers shall deliver a report each quarter detailing the Plan's performance, forecast of the market and economy, portfolio analysis and current assets of the Plan. Written reports shall be delivered to the Board within 30 days of the end of the quarter. A copy of the written report shall be submitted to the person designated by the City, and shall be available for public inspection. The Investment Managers will provide immediate written and telephone notice to the Board of any significant market related or non-market related event, specifically including, but not limited to, any deviation from the standards set forth in Section IV or their Investment Manager addendum.
- C. If the Fund owns investments, that complied with section IV at the time of purchase, which subsequently exceed the applicable limit or do not satisfy the applicable investment standard, such excess or noncompliant investments may be continued until it is economically feasible to dispose of such investment in accordance with the prudent man

standard of care, but no additional investment may be made unless authorized by law or ordinance. An action plan outlining the investment 'hold or sell' strategy shall be provided to the Board immediately.

- D. The Investment Consultant shall evaluate and report on a quarterly basis the rate of return net of investment fees and relative performance of the Plan.
- E. The Board will meet periodically to review the Investment Consultant performance report. The Board will meet with the investment manager and appropriate outside consultants to discuss performance results, economic outlook, investment strategy and tactics and other pertinent matters affecting the Plan on a periodic basis.
- F. At least annually, the Board shall provide the Investment Managers with projected disbursement needs of the Plan so that the investment portfolio can be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due. To this end the Investment Managers should, to the extent possible, attempt to match investment maturities with known cash needs and anticipated cash-flow requirements.
- G. The Investment Consultant, on behalf of the Plan, shall send a letter to any pooled fund referring the investment manager to the listing of 'Scrutinized Companies' by the State Board of Administration ('SBA list'), on their website www.sbafla.com/fsb/. This letter shall request that they consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies. If the manager creates a similar fund, the Plan shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, a private equity fund is deemed to be an actively managed investment fund. However, after sending the required correspondence, the Plan is not required to sell the pooled fund.

VI. COMPLIANCE

- A. It is the direction of the Board that the plan assets are held by a third party custodian, and that all securities purchased by, and all collateral obtained by the plan shall be properly designated as Plan assets. No withdrawal of assets, in whole or in part, shall be made from safekeeping except by an authorized member of the Board or their designee. Securities transactions between a broker-dealer and the custodian involving purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis to insure that the custodian will have the security or money in hand at conclusion of the transaction.
- B. The investment policy shall require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the Master Repurchase Agreement. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.
- C. At the direction of the Board operations of the Plan shall be reviewed by independent certified public accountants as part of any financial audit periodically required. Compliance with the Board's internal controls shall be verified. These controls have been designed to prevent losses of assets that might arise from fraud, error, or misrepresentation by third

parties or imprudent actions by the Board or employees of the plan sponsor, to the extent possible.

- D. Each member of the Board shall participate in a continuing education program relating to investments and the Board's responsibilities to the Plan. It is suggested that this education process begin during each Trustee's first term.
- E. With each actuarial valuation, the Board shall determine the total expected annual rate of return for the current year, for each of the next several years and for the long term thereafter. This determination shall be filed promptly with the Department of Management Services, the plan's sponsor and the consulting actuary.
- F. The proxy votes must be exercised for the exclusive benefit of the participants of the Plan. Each Investment Manager shall provide the Board with a copy of their proxy voting policy for approval. On a regular basis, at least annually, each manager shall report a record of their proxy vote.

VII. CRITERIA FOR INVESTMENT MANAGER REVIEW

The Board wishes to adopt standards by which judgments of the ongoing performance of a portfolio manager may be made. If, at any time, any three of the following is breached, the portfolio manager may be warned of the Board's serious concern for the Plan's continued safety and performance. If any five of these are violated the consultant may recommend a manager search for that mandate.

- Four (4) consecutive quarters of relative under-performance verses the benchmark.
- Three (3) year trailing return below the top 40th percentile within the appropriate peer group and under performance verses the benchmark.
- Five (5) year trailing return below the top 40th percentile and under performance verses the benchmark.
- Three (3) year downside volatility greater than the index (greater than 100), as measured by down market capture ratio.
- Five (5) year downside volatility greater than the index (greater than 100), as measured by down market capture ratio.
- Style consistency or purity drift from the mandate.
- Management turnover in portfolio team or senior management.
- Investment process change, including varying the index or benchmark.
- Failure to adhere to the IPS or other compliance issues.
- Investigation of the firm by the Securities and Exchange Commission (SEC).
- Significant asset flows into or out of the company.
- Merger or sale of firm.
- Fee increases outside of the competitive range.

- Servicing issues – key personnel stop servicing the account without proper notification.
- Failure to attain a 60% vote of confidence by the Board.

Nothing in this section shall limit or diminish the Board's right to terminate the manager at any time for any reason.

VIII. APPLICABLE CITY ORDINANCES

If at any time this document is found to be in conflict with the City Ordinances or applicable Florida Statutes, the Ordinances and Statutes shall prevail.

IX. REVIEW AND AMENDMENTS

It is the Board's intention to review this document at least annually subsequent to the actuarial report and to amend this statement to reflect any changes in philosophy, objectives, or guidelines. In this regard, the Investment Manager's interest in consistency in these matters is recognized and will be taken into account when changes are being considered. If, at any time, the Investment Manager feels that the specific objectives defined herein cannot be met, or the guidelines constrict performance, the Board should be notified in writing. By initialing and continuing acceptance of this Investment Policy Statement, the Investment Managers concur with the provisions of this document. By signing this document, the Chairman attests that this policy has been recommended by the Investment Consultant, reviewed by the plan's legal counsel for compliance with applicable law, and approved by the Board of Trustees.

X. FILING OF THE INVESTMENT POLICY

Upon adoption by the Board, the investment policy shall be promptly filed with the Florida Department of Management Services, the City, and the plan's actuary. The effective date of the Investment Policy shall be the 31 days following the filing date with the City.

CITY OF VERO BEACH FIREFIGHTERS' PENSION PLAN

Chairman, Board of Trustees

Date

RESOLUTION NO. 2010-___

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, CALLING FOR A REFERENDUM TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION OF NOVEMBER 2, 2010 ON THE QUESTION OF WHETHER THE CITY OF VERO BEACH MAY GRANT ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS PURSUANT TO THE STATE CONSTITUTION; AUTHORIZING THE CITY CLERK TO INCLUDE THE QUESTION ON THE BALLOT; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR THE REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR ADOPTION.

WHEREAS, pursuant to s. 3, Art. VII of the State Constitution, the City of Vero Beach is authorized to call a referendum to determine whether the City Council may grant economic development ad valorem tax exemptions; and

WHEREAS, at its March 16, 2010 meeting, the Vero Beach City Council unanimously voted to place such a question on the November 2, 2010 ballot.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF VERO BEACH, FLORIDA:

SECTION 1. Submission of Referendum Question.

The following question shall be submitted to the electors of the City of Vero Beach at the general election to be held November 2, 2010:

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Shall the City Council of the City of Vero Beach be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses that create jobs and for expansions of existing businesses that create new jobs?

- Yes – For authority to grant exemptions**
- No – Against authority to grant exemptions**

SECTION 2. Inclusion on Ballot.

The City Clerk is authorized and directed to include this question on the ballot at the general election to be conducted on November 2, 2010.

SECTION 3. Repeal of Conflicting Resolutions.

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 4. Effective Date.

This resolution shall take effect immediately upon its adoption.

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

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell, Jr.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Kenneth J. Daige	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

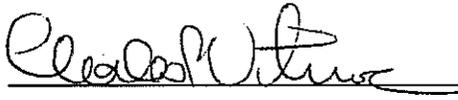
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

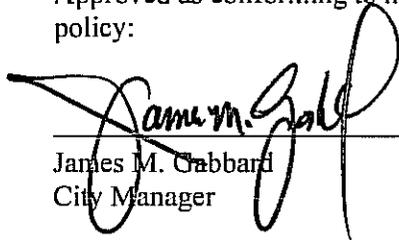
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:



Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

This document was prepared in
The Office of the City Attorney
Post Office Box 1389
Vero Beach, Florida 32961-1389

4-B)



DEPARTMENTAL CORRESPONDENCE

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

VIA: Monte K. Falls, PE, Director
DEPT: Public Works *MK FALLS 3/9*

FROM: Donald H. Dexter, Jr., Manager
DEPT: Public Works *MK for DD*

DATE: March 9, 2010

RE: **MacWilliam Park Boat Ramp Reconstruction
Resolution for FIND Grant Application
COVB Project #2010-05**

Recommendation:

- Place this item on the City Council's agenda for March 16, 2010;
- Approve the resolution for assistance under the Florida Inland Navigation District (FIND) Waterway Assistance Program for improvements to MacWilliam Park boat ramps and docks.

Funding:

No funding is required at this time.

Background:

In response to complaints regarding erosion at the end of the main (east) boat ramp at MacWilliam Park we placed a project in our 2010 – 2014 five-year capital improvement plan. That project was estimated at \$200,000 (\$100,000 sales tax revenues and \$100,000 grants) and was approved in the 2009/2010 annual budget.

In our discussions with the Florida Inland Navigation District (FIND) we learned that they would be supportive of this project or a larger project to improve all of the boat ramps and docks at MacWilliam Park. The larger project, estimated at \$400,000, could receive FIND grant funding of 50% of the project cost up to \$200,000.

Approval of this resolution will allow us to apply for the FIND grant for the larger project. If we are successful in receiving the FIND grant (\$200,000) we will seek additional funding sources for the \$100,000 shortfall. If we are unsuccessful in receiving additional funding we will revise the project scope back to the improvements at the main (east ramp).

A copy of the required resolution along with sketches of the boat ramps and docks are attached.

Cc: Steve Maillet, Finance Director

Attachments

DHD:MKF/ntn

V:\LAND_PROJECTS\2010\2010-05 MacWilliam Park Boat Ramps\DOCS\Agenda_ Resolution for FIND GRANT_JGabbard_Mar8 2010.docx

ATTACHMENT E-6
RESOLUTION FOR ASSISTANCE
UNDER THE FLORIDA INLAND NAVIGATION DISTRICT
WATERWAYS ASSISTANCE PROGRAM

WHEREAS, THE City of Vero Beach is interested in carrying out the
(Name of Agency)
following described project for the enjoyment of the citizenry of Vero Beach
and the State of Florida:

Project Title MacWilliam Park Boat Ramp Refurbishment

Total Estimated Cost \$ 400,000

Brief Description of Project:

Refurbish boat ramps at MacWilliam Park

AND, Florida Inland Navigation District financial assistance is required for the program
mentioned above,

NOW THEREFORE, be it resolved by the City of Vero Beach
(Name of Agency)
that the project described above be authorized,

AND, be it further resolved that said City of Vero Beach
(Name of Agency)

make application to the Florida Inland Navigation District in the amount of 50% of the
actual cost of the project in behalf of said City of Vero Beach
(Name of Agency)

AND, be it further resolved by the City of Vero Beach
(Name of Agency)
that it certifies to the following:

1. That it will accept the terms and conditions set forth in FIND Rule 66B-2
F.A.C. and which will be a part of the Project Agreement for any assistance awarded under
the attached proposal.
2. That it is in complete accord with the attached proposal and that it will carry out
the Program in the manner described in the proposal and any plans and specifications attached
thereto unless prior approval for any change has been received from the District.

3. That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of said _____
City of Vero Beach for public use.
(Name of Agency)

4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by handicapped persons as well as other federal, state and local laws, rules and requirements.

5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.

6. That it will make available to FIND if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

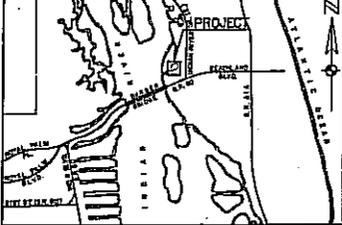
This is to certify that the foregoing is a true and correct copy of a resolution duly and legally adopted by the City of Vero Beach at a legal meeting held on this _____ day of _____ 2010.

Attest

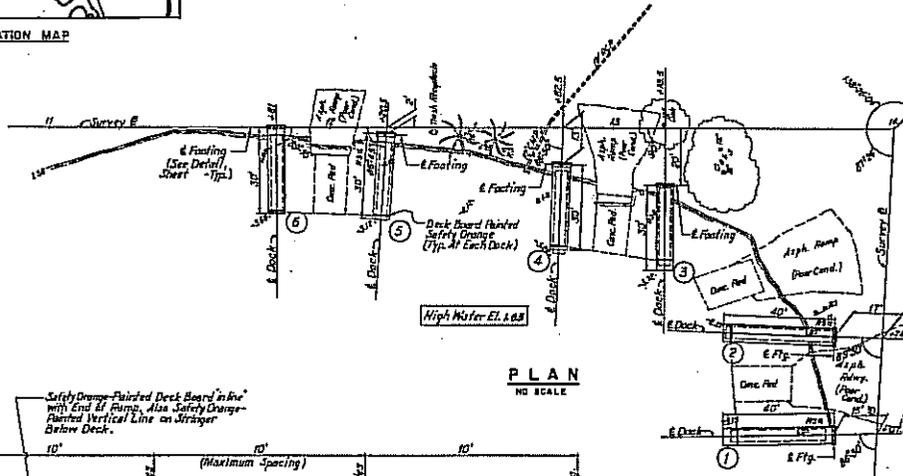
Signature

Title

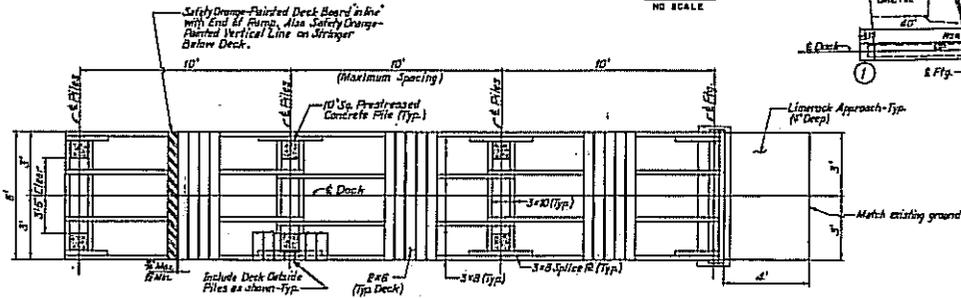
Title



LOCATION MAP



PLAN
NO SCALE



PLAN-TYPICAL 30' LONG BOAT DOCK
(40' LONG DOCK SIMILAR)

DOCK SHOWN UTILIZING PRESTRESSED CONCRETE PILES
SEE DETAILS FOR OTHER TYPE PILES

NOTE
All Decking to be installed
Bark Side Up.

-3.15 indicates existing ground elevations

BOAT DOCK IMPROVEMENTS
MAC WILLIAM PARK
PLAN AND LOCATION MAP

DATE	BY	NO.	8125
DESIGNED BY	APPROVED BY	SHEET	1 OF 1

4-c)

RESOLUTION NO. 2010 - _____

A JOINT RESOLUTION BY AND BETWEEN THE CITY OF FORT PIERCE, THE CITY OF PORT ST. LUCIE, THE CITY OF STUART, THE CITY OF FELLSMERE, THE CITY OF VERO BEACH, THE CITY OF SEBASTIAN, THE CITY OF OKEECHOBEE, THE TOWN OF SEWALL'S POINT, THE TOWN OF INDIAN RIVER SHORES, THE TOWN OF JUPITER ISLAND, THE TOWN OF ST. LUCIE VILLAGE, FLORIDA MUNICIPAL CORPORATIONS; INDIAN RIVER COUNTY, MARTIN COUNTY, OKEECHOBEE COUNTY AND ST. LUCIE COUNTY, POLITICAL SUBDIVISIONS OF THE STATE OF FLORIDA; THE SCHOOL BOARD OF INDIAN RIVER COUNTY, THE SCHOOL BOARD OF MARTIN COUNTY, THE SCHOOL BOARD OF OKEECHOBEE COUNTY AND THE SCHOOL BOARD OF ST. LUCIE COUNTY, AMENDING RESOLUTION 03-126; AMENDING THE ARTICLES OF INCORPORATION FOR THE TREASURE COAST COUNCIL OF LOCAL GOVERNMENTS, INC.

WHEREAS, the residents of the area surrounding and proximate to the Treasure Coast are served by separate governmental entitles (collectively "Governments"); and

WHEREAS, the Governments incorporated the Treasure Coast Council of Local Governments, inc. on May 13, 2003; and

WHEREAS, the Governments now desire to amend their articles of incorporation to include the School Boards of Indian River, martin, Okeechobee and St. Lucie Counties.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Indian River County, the Board of County Commissioners of Martin County, the Board of County Commissioners of St. Lucie County, and the Board of County Commissioners of Okeechobee County, the City Commission of Fort Pierce, the City Commission of Okeechobee, the City Commission of Port St. Lucie, the City Commission of Stuart, The City Council of Vero Beach, the City Council of Sebastian, the City Council of Fellsmere, the Town Council of the Town of St. Lucie Village, the Town Council of Sewall's Point, the Town Council of Indian River Shores, and the Town Council of Jupiter Island, the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County, and the School Board of St. Lucie County, that;

SECTION I. Amendment.

The Articles of Incorporation be amended as set forth in Exhibit "A," which is attached hereto.

SECTION II. Effective Date.

This Resolution shall become effective upon passage by each of the parties herein provided.

This Resolution was heard on the _____ day of _____, 2010, at which time it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Kenneth J. Daige	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA:

Sign: _____
Print: Tammy K. Vock
Title: City Clerk

Sign: _____
Print: Kevin Sawnick
Title: Mayor

**STATE OF FLORIDA
COUNTY OF INDIAN RIVER**

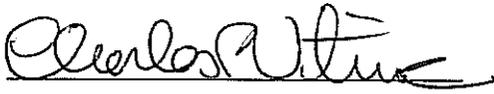
The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by Kevin Sawnick, as Mayor, and attested by Tammy K. Vock, as City Clerk of the City of Vero Beach, Florida. They are personally **known to me** and **did not** take an oath.

NOTARY PUBLIC

[NOTARY SEAL]

Sign: _____
Print: _____
State of Florida at Large
My Commission Number: _____
My Commission Expires: _____

Approved as to form and legal sufficiency:



Charles P. Vitunac
City Attorney

Approved as conforming to municipal
policy:

James M. Gabbard
City Manager

AMENDED
ARTICLES OF INCORPORATION
OF
THE TREASURE COAST COUNCIL OF LOCAL GOVERNMENTS, INC.
A FLORIDA NOT FOR PROFIT CORPORATION

The undersigned, acting as incorporators of a not for profit corporation pursuant to Chapter 617, Florida Statutes ("Florida Not for Profit Corporation Act"), adopts the following articles of incorporation and states as follows:

ARTICLE I

NAME

The name of the Corporation is The Treasure Coast Council of Local Governments, Inc. (hereinafter the "Corporation").

ARTICLE II

PRINCIPAL OFFICE

The principal office of the Corporation and the mailing address of the Corporation is St. Lucie County Administrative Center, 2300 Virginia Avenue, Fort Pierce, Florida 34982.

ARTICLE III

PURPOSE

The Corporation shall be formed for the purpose of undertaking and carrying on the following: studying and addressing area governmental problems as the Corporation deems appropriate, including but not limited to, matters affecting the health, safety, welfare, education, economic conditions and area development of the Treasure Coast; to promote cooperative arrangements and coordinate action among its members; to make recommendations for review and action to the members and other public agencies that perform local functions and services within the area; and such other lawful businesses as may from time to time be determined by the Board of Directors as appropriate.

ARTICLE IV

TERMS OF CORPORATE EXISTENCE

The Corporation shall exist perpetually unless sooner dissolved according to law.

ARTICLE V

NON-STOCK

The Corporation is organized on a non-stock basis.

ARTICLE VI

MANAGEMENT OF THE CORPORATION

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and further definitions, limitations and regulations of the powers of the Corporations and its directors:

A. **BOARD OF DIRECTORS.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors shall hereinafter be known as the Council.

B. **BY-LAWS.** In furtherance, and not in limitation, of the powers conferred upon it by the laws of the State of Florida, the Council shall have the power to make, alter, amend, change, add to or repeal the By-Laws of the Corporation.

C. **NUMBER OF DIRECTORS AND COMPOSITION OF THE BOARD.** The Council shall be made up of one appointed representative from each member of the General Assembly.

D. **ELECTIONS.** The manner by which the directors are elected or appointed shall be set for the in the By-Laws.

E. **DIRECTOR QUALIFICATIONS.** Any qualifications to be on the Council or an officer shall be set forth in the By-Laws.

ARTICLE VII VII

MEMBERS

The Corporation shall have two sets of members: the Council and the General Assembly. The Council shall constitute the Board of Directors and shall be made up of an appointed representative from each member of local government. Any qualifications to be a member of the Council shall be set forth in the By-Laws.

The second set of members shall be the General Assembly. The General Assembly shall be made up of the elected city, town, county, and school board officials from the local governments whom, now or in the future, are accepted as members of the Corporation. Any qualifications to be a member of the General Assembly shall be set forth in the By-Laws.

ARTICLE VIII

VACANCIES; REMOVAL

Any criteria established to fill any vacancy or to remove any member or director shall be set forth in the By-Laws.

ARTICLE IX

LOCATION OF MEETINGS AND RECORDS

Regular and special meetings of the Corporation shall be held within the State of Florida; provided, however, that this requirement shall in no way limit the Council's ability to hold regular and special meeting by means of conference telephone, as may be permitted by the By-Laws of the Corporation, which meetings shall be deemed held within the State of Florida. The books and records of the Corporation shall be kept within the State of Florida at such place or places as may be designated from time to time by the Council or in the By-Laws of the Corporation.

ARTICLE X

AMENDMENTS

The Corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation, in the manner now or hereafter prescribed by statute; provided, that all such amendments must be adopted by a joint resolution of the local governing body from each member of the Corporation.

ARTICLE XI

REGISTERED OFFICE AND AGENT

The street address of the registered office of the Corporation in the State of Florida is 2300 Virginia Avenue, Fort Pierce, Florida 34982. The name of the registered agent of the Corporation at such address is ~~Douglas Anderson~~ Faye Outlaw, MPA, County Administrator, St. Lucie County, Florida.

ARTICLE XII

INCORPORATORS

The name and address of the incorporators of the Corporation are:

Doug Smith, Commissioner
Martin County, Florida
2401 SE Monterey Road
Stuart, FL 34996

Frannie Hutchinson, Commissioner
St. Lucie County, Florida
2300 Virginia Avenue, Room 304
Ft. Pierce, FL 34982

Edward Enns, Mayor
City of Ft. Pierce, Florida
P.O. Box 1480
Ft. Pierce, FL 34954

Sandra L. Bowden, Vice Mayor
City of Vero Beach, Florida
P.O. Box 1389
Vero Beach, FL 32961

John Abney, Commissioner
Okeechobee County, Florida
304 NW 2nd Street
Okeechobee, FL 34972

Joe Barczyk, Councilman
City of Sebastian, Florida
609 Caravan Terrace
Sebastian, FL 32958

Charles Falcone, Commissioner
Town of Jupiter Island, Florida
P.O. Box 7
Hobe Sound, FL 33475

Gene Rifkin, Commissioner
City of Stuart, Florida

121 SW Flagler Avenue
Stuart, FL 34994

Robert Minsky, Mayor
City of Port St. Lucie, Florida
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Tom Cadden, Mayor
Town of Indian River Shores, Florida
906 Holoma Drive
Indian River Shores, FL 32963

Thomas P. Bausch, Mayor
Town of Sewall's Point, Florida
One South Sewall's Point Road
Sewall's Point, FL 34996

Thomas Lowther, Commissioner
Indian River County, Florida
1065 34th Avenue SW
Vero Beach, FL 32968

Dowling Watford, Councilman
City of Okeechobee, Florida
701 NE 5th Street
Okeechobee, FL 34972

WE, THE UNDERSIGNED, being the Incorporators hereinbefore named, for the purpose of form a corporation pursuant to the Florida Not for Profit Corporation Act, have executed these Articles of Amended Articles of Incorporation this _____ day of _____,

Doug Smith, Commissioner
Martin County, Florida
Incorporator

Frannie Hutchinson, Commissioner
St. Lucie County, Florida
Incorporator

Edward Enns, Mayor
City of Ft. Pierce, Florida
Incorporator

Sandra L. Bowden, Vice Mayor
City of Vero Beach, Florida
Incorporator

John Abney, Commissioner
Okeechobee County, Florida
Incorporator

Joe Barczyk, Councilman
City of Sebastian, Florida
Incorporator

Charles Falcone, Commissioner
Town of Jupiter Island, Florida
Incorporator

Gene Rifkin, Commissioner
City of Stuart, Florida
Incorporator

Robert Minsky, Mayor
City of Port St. Lucie, Florida
Incorporator

Tom Cadden, Mayor
Town of Indian River Shores, Florida
Incorporator

Thomas P. Bausch, Mayor
Town of Sewall's Point, Florida
Incorporator

Thomas Lowther, Commissioner
Indian River County, Florida
Incorporator

Dowling Watford, Councilman
City of Okeechobee, Florida
Incorporator

IN WITNESS WHEREOF, I, _____, having been named Registered Agent and to accept service of process for the Treasure Coast Council of Local Governments, Inc. at the place designated in these Articles of Incorporation, hereby accept the appointment as Registered Agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as Registered Agent this ____ day of _____.

Douglas Anderson, County Administrator
St. Lucie County, Florida
Registered Agent

STATE OF FLORIDA)
)
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by Douglas Anderson, who is personally known to me or showed me identification by means of a _____ and who did take an oath.

Notary Public
State of Florida

Printed Name: _____

Commission No.: _____

My Commission Expires: _____

5-A)

ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, PROVIDING AND ESTABLISHING REVISIONS TO THE BUDGET FOR THE CITY OF VERO BEACH, FLORIDA, FOR THE PERIOD BEGINNING OCTOBER 1, 2009 AND ENDING SEPTEMBER 30, 2010, BY DECREASING THE WATER & SEWER FUND BY \$571,000 FROM REVISED REVENUE AND TRANSFER ESTIMATES AND BY DECREASING THE WATER & SEWER R & R FUND BY \$4,071,000 FROM REVISED PROPOSED BORROWING, TRANSFER AND EXPENDITURE ESTIMATES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA,
THAT:

SECTION I

The proper officers of the City of Vero Beach are hereby authorized and directed to prepare revisions to the Budget of the City of Vero Beach for the twelve month period beginning October 1, 2009, and ending September 30, 2010. The Budget so revised will be adjusted to reflect changes in the line items affected with the indicated effect on the total Budget and on the source of such funds. These revisions and resulting revised Budgets are set forth in Attachment "A."

SECTION II

The revised Budget for the City of Vero Beach for the twelve month period beginning October 1, 2009, and ending September 30, 2010 as set forth in Attachment "A" of this Ordinance is hereby and herewith adopted.

SECTION III

Each established unexpended fund balance at the end of the Budget period is established as a contingency or emergency fund for the fiscal period. No contingency item shall be encumbered, expended, or any contract entered into to expend the same except in the manner provided by law.

SECTION IV

This Ordinance was read for the first time on the ____ day of _____, 2010, and was advertised in the Vero Beach Press Journal on the ____ day of _____, 2010, as being scheduled for a public hearing to be held on the ____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick

Yes No

Vice Mayor Sabin C. Abell, Jr.

Yes No

Councilmember Thomas P. White

Yes No

Councilmember Brian T. Heady

Yes No

Councilmember Kenneth L. Daige

Yes No

ATTEST:

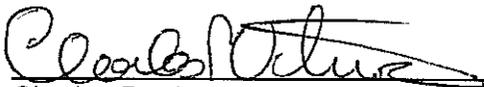
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

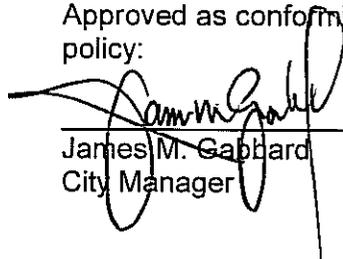
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

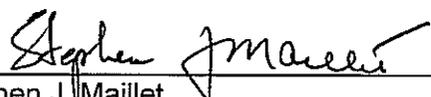


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Stephen J. Maillet
Finance Director

This instrument prepared in the
Office of the City Attorney
PO Box 1389
Vero Beach, FL 32961-1389

ATTACHMENT A
CITY OF VERO BEACH, FLORIDA
BUDGET REVISIONS FOR FISCAL YEAR 2009-2010
MARCH 2010

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
WATER AND SEWER FUND					
WATER AND SEWER FUND--REVENUES					
421. 0000. 389. 000200	CASH CARRY OVER	(571,000)	(49,421)	(620,421)	
N/A	ALL OTHERS	0	17,573,287	17,573,287	17,523,866
		0			
	TOTAL	<u>(571,000)</u>	<u>17,523,866</u>	<u>16,952,866</u>	
		1	1	1	
WATER AND SEWER FUND--EXPENDITURES					
WASTEWATER TREATMENT					
N/A	ALL OTHERS	0	1,796,385	1,796,385	1,796,385
		<u>0</u>	<u>1,796,385</u>	<u>1,796,385</u>	
GRAVITY SEWER					
N/A	ALL OTHERS	0	516,410	516,410	516,410
		<u>0</u>	<u>516,410</u>	<u>516,410</u>	
WATER TREATMENT PLANT					
N/A	ALL OTHERS	0	3,209,774	3,209,774	3,209,774
		<u>0</u>	<u>3,209,774</u>	<u>3,209,774</u>	
WATER DISTRIBUTION					
N/A	ALL OTHERS	0	958,904	958,904	958,904
		<u>0</u>	<u>958,904</u>	<u>958,904</u>	
WASTEWATER REUSE					
N/A	ALL OTHERS	0	618,000	618,000	618,000
		<u>0</u>	<u>618,000</u>	<u>618,000</u>	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
ADMINISTRATION N/A	ALL OTHERS	0	1,057,863	1,057,863	1,057,863
		<u>0</u>	<u>1,057,863</u>	<u>1,057,863</u>	
ENVIRONMENTAL LABORATORY N/A	ALL OTHERS	0	489,455	489,455	489,455
		<u>0</u>	<u>489,455</u>	<u>489,455</u>	
MAINTENANCE DIVISION N/A	ALL OTHERS	0	707,748	707,748	707,748
		<u>0</u>	<u>707,748</u>	<u>707,748</u>	
LIFT STATION DIVISION N/A	ALL OTHERS	0	565,924	565,924	565,924
		<u>0</u>	<u>565,924</u>	<u>565,924</u>	
METER SHOP DIVISION N/A	ALL OTHERS	0	550,184	550,184	550,184
		<u>0</u>	<u>550,184</u>	<u>550,184</u>	
NON DEPARTMENTAL					
421. 9900. 536. 991007	TRF TO W&S R&R FUND	(571,000)	3,085,400	2,514,400	
N/A	ALL OTHERS	0	3,967,819	3,967,819	7,053,219
		<u>(571,000)</u>	<u>7,053,219</u>	<u>6,482,219</u>	
	TOTAL	<u>(571,000)</u>	<u>17,523,866</u>	<u>16,952,866</u>	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
WATER & SEWER R&R FUND					
WATER & SEWER R&R FUND--REVENUES					
423. 0000. 382. 000300	W/S REV FUND CONT	(571,000)	3,085,400	2,514,400	
423. 0000. 384. 001000	PROPOSED BORROWING	(3,500,000)	3,500,000	0	
N/A	ALL OTHERS	0	225,500	225,500	6,810,900
TOTAL		(4,071,000)	6,810,900	2,739,900	
		1	1	1	
WATER & SEWER R&R FUND--EXPENDITURES					
WASTEWATER TREATMENT 9000					
423. 9000. 536. 663380	HEADWORKS REPAIR	(700,000)	700,000	0	
N/A	ALL OTHERS	0	132,000	132,000	832,000
		(700,000)	832,000	132,000	
GRAVITY SEWER 9001					
423. 9001. 536. 671360	AVIATION BLVD SEWER RELOCATION	(100,000)	250,000	150,000	
423. 9001. 536. 671361	GRAVITY SEWER REHABILITATION	(150,000)	150,000	0	
423. 9001. 536. 673360	26TH ST & 43RD AVE SEWER RELOCATION	(50,000)	50,000	0	
423. 9001. 536. 673361	43RD AVE SEWER RELOCATION	(100,000)	100,000	0	
N/A	ALL OTHERS	0	139,500	139,500	689,500
		(400,000)	689,500	289,500	
WATER TREATMENT 9002					
423. 9002. 536. 660320	RO MEMBRANE REPLACEMENT	(250,000)	250,000	0	
423. 9002. 536. 661307	RO WELLFIELD PIPING	(350,000)	350,000	0	
423. 9002. 536. 661320	RO TREATMENT PLANT EXPANSION	(850,000)	900,000	50,000	
423. 9002. 536. 662320	RO CONTROL SYSTEM UPGRADE	(100,000)	100,000	0	
423. 9002. 536. 663320	ODOR CONTROL EXPANSION	(500,000)	500,000	0	
N/A	ALL OTHERS	0	887,500	887,500	2,987,500
		(2,050,000)	2,987,500	937,500	
WATER DISTRIBUTION 9003					
423. 9003. 536. 611331	LINE & SERVICE REPLACEMENT	(250,000)	650,000	400,000	
423. 9003. 536. 621331	43RD AVE WATER MAIN REPLACEMENT	(250,000)	250,000	0	
423. 9003. 536. 626331	AVIATION BLVD WATER MAIN RELOCATION	(200,000)	500,000	300,000	
423. 9003. 536. 627331	26TH ST & 43RD AVE WATER MAIN	(50,000)	50,000	0	
N/A	ALL OTHERS	0	10,500	10,500	1,460,500
		(750,000)	1,460,500	710,500	
WASTEWATER REUSE 9004					
N/A	ALL OTHERS	0	250,000	250,000	250,000
		0	250,000	250,000	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
ADMINISTRATION 9005					
N/A	ALL OTHERS	0	1,000	1,000	1,000
		<u>0</u>	<u>1,000</u>	<u>1,000</u>	
ENVIRONMENTAL LABORATORY 9006					
N/A	ALL OTHERS	0	47,900	47,900	47,900
		<u>0</u>	<u>47,900</u>	<u>47,900</u>	
FACILITY MAINTENANCE DIVISION 9007					
N/A	ALL OTHERS	0	6,100	6,100	6,100
		<u>0</u>	<u>6,100</u>	<u>6,100</u>	
LIFT STATION DIVISION 9008					
423. 9008. 536. 608361	LIFT STATION PUMP REPLACEMENT	(40,000)	60,000	20,000	
423. 9008. 536. 614371	LIFT STATION #3 AVIATION BLVD	(75,000)	250,000	175,000	
423. 9008. 536. 668361	ELECTRIC PANEL REPLACEMENT	(56,000)	81,000	25,000	
N/A	ALL OTHERS	0	0	0	391,000
		<u>(171,000)</u>	<u>391,000</u>	<u>220,000</u>	
METER MAINT DIVISION 9009					
N/A	ALL OTHERS	0	145,400	145,400	145,400
		<u>0</u>	<u>145,400</u>	<u>145,400</u>	
	TOTAL	<u>(4,071,000)</u>	<u>6,810,900</u>	<u>2,739,900</u>	

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

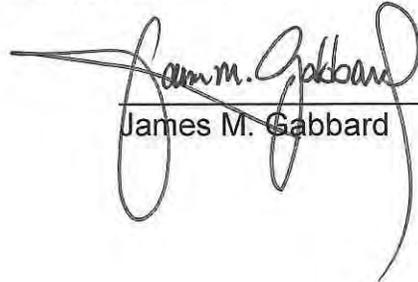
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 3, 2009

SUBJECT: PRESENTATION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT 2009

Please find attached a copy of the Comprehensive Annual Financial Report 2009. The auditors plan to make a presentation to the Council, and if you concur with their report, acceptance for the record would be appreciated.


James M. Gabbard

:jav
Attachment

xc: Stephen Maillet

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**Harris, Cotherman,
Jones, Price & Associates**

Certified Public Accountants - Chartered

5070 North Highway A1A, Suite 250
Vero Beach, FL 32963
Tel 772-234-8484
Fax 772-234-8488

March 8, 2010

The Honorable Mayor and Members of the City Council
City of Vero Beach, Florida
1053 20th Place
Vero Beach, Florida 32960

AU Section 380, *The Auditor's Communication with Those Charged with Governance*, requires us to provide this letter informing those charged with governance of certain matters required by professional standards to be communicated to you in your oversight responsibility for the City of Vero Beach, Florida's financial reporting process.

This letter is intended solely for the information and use of City Council and management of the City of Vero Beach, Florida and is not intended to be and should not be used by anyone other than these specified parties.

It will be our pleasure to respond to any questions you have regarding this report. We appreciate the opportunity to continue to be of service to the City of Vero Beach, Florida.

*Harris, Cotherman, Jones, Price & Associates
Certified Public Accountants - Chartered*

Harris, Cotherman, Jones, Price & Associates, Certified Public Accountants - Chartered
Vero Beach, Florida

cc: James M. Gabbard, City Manager
Stephen J. Maillet, Director of Finance

Statement on Auditing Standards No. 114 requires the auditor to communicate certain matters to keep those charged with governance adequately informed about matters related to the financial statement audit that are, in our professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process.

The following summarizes these communications:

Area	Comment
Auditor's Responsibility Under Professional Standards	Our responsibility under auditing standards generally accepted in the United States of America has been described to you in our arrangement letter dated September 2, 2008.
Accounting Practices	Adoption of or Change in Accounting Policies: Management has not adopted or changed any significant accounting policies in the current fiscal year.
	Significant or Unusual Transactions: We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.
	Alternative Treatments Discussed with Management: We did not discuss with management any alternative treatments within generally accepted accounting principles for accounting policies and practices related to material items during the current audit period.

Area	Comment
Management's Judgments and Accounting Estimates	Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. Management has informed us that they used all the relevant facts available to them at the time to make the best judgments about accounting estimates, and we considered this information in the scope of our audit. Estimates significant to the financial statements include the depreciation of capital assets, bad debt allowance and expense, pension obligations (including OPEB) and claims on self-insurance.
Financial Statement Disclosures	Management has the ultimate responsibility for the appropriateness of the financial statement disclosures in the City of Vero Beach's financial statements. The City of Vero Beach did not have any significant new accounting policies to disclose nor have there been any significant changes in existing financial statement disclosures from the previous fiscal year. We believe your financial statement disclosures to be adequate and complete.
Audit Adjustments	Audit adjustments recorded by the City of Vero Beach are shown on the attached "Summary of Audit Differences."
Uncorrected Misstatements	Uncorrected misstatements were included in the City of Vero Beach's management representation to us at the conclusion of the audit. Management believes, and we concur, that the uncorrected misstatements were immaterial, both individually and in the aggregate, to the financial statements. A schedule of those uncorrected misstatements is attached as the "Summary of Audit Differences."

Area	Comment
Disagreements with Management	We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit, or significant disclosures to be included in the financial statements.
Consultations with Other Accountants	We are not aware of any consultations management had with other accountants about accounting or auditing matters.
Significant Issues Discussed with Management	No significant issues arising from the audit were discussed or were the subject of correspondence with management.
Difficulties Encountered in Performing the Audit	We did not encounter any difficulties in dealing with management during the audit.
Letter Communicating Significant Deficiencies and Material Weaknesses	We did not identify any significant deficiencies or material weaknesses during our audit of the financial statements in our Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards that was included with the issued financial statements.

City of Vero Beach
Summary of Audit Differences
September 30, 2009

GOVERNMENTAL FUNDS:

Description (Nature) of Audit Difference	Cause	Financial Statements Effect—Amount of Over (Under) Statement of:					Change in Fund Balance Net Assets
		Total Assets	Total Liabilities	Fund Balance Net Assets	Revenues	Expen.	
understatement of expenditures	not accruing 2 days of payroll		-35,751	35,751		-35,751	35,751
overstatement of revenue sharing due	estimated receipt higher than actual	41,967		41,967	41,967		41,967
understatement of claims payable	increase in estimated claims for medical and liability		-134,580	134,580		-134,580	134,580
Total		41,967	-170,331	212,298	41,967	-170,331	212,298
Less audit adjustments subsequently booked		-41,967	134,580	-176,547	-41,967	134,580	-176,547
Net unadjusted audit differences - this year		0	-35,751	35,751	0	-35,751	35,751
Effect of audit differences - prior years					0	88,774	-88,774
Total audit differences		0	-35,751	35,751	0	53,023	-53,023
Financial statement caption totals		65,711,726	24,581,647	41,130,079	18,384,537	22,704,001	-610,552
Net audit differences as % of F/S captions		0.00%	-0.15%	0.09%	0.00%	0.23%	8.68%

ENTERPRISE FUNDS:

Description (Nature) of Audit Difference	Cause	Financial Statements Effect—Amount of Over (Under) Statement of:					Change in Fund Balance Net Assets
		Total Assets	Total Liabilities	Fund Balance Net Assets	Revenues	Expen.	
overstatement of receivables	not writing off aged receivables	43,509		43,509		-43,509	43,509
overstatement of accrued expenses	recalculation of sales taxes payable		11,830	-11,830		11,830	-11,830
understatement of bad debt allowance	increase in estimate of bad debt	250,146		250,146		-250,146	250,146
overstatement of other assets	decrease in market value of SO2 allowances	191,326		191,326		-191,326	191,326
understatement of Power Plant inventory	physical counts and value change in inventory	-746,019		-746,019		746,019	-746,019
Total		-261,038	11,830	-272,868	0	272,868	-272,868
Less audit adjustments subsequently booked		304,547	0	304,547	0	-304,547	304,547
Net unadjusted audit differences - this year		43,509	11,830	31,679	0	-31,679	31,679
Effect of audit differences - prior years					0	236,486	-236,486

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

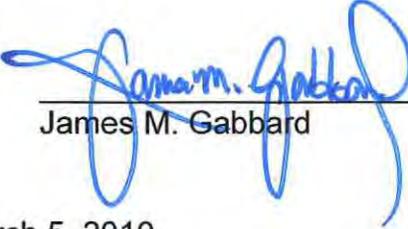
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

**SUBJECT: DISCUSSION OF INDIAN RIVER COUNTY, INDIAN RIVER SHORES
AND THE CITY OF VERO BEACH UTILITIES STUDY**

See attached memorandum dated March 5, 2010.


James M. Gabbard

JMG:jav
Attachment - Memorandum dated March 5, 2010

xc: Rob Bolton
Monte Falls
Stephen Maillet
Charles Vitunac

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DEPARTMENTAL CORRESPONDENCE

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

FROM: Robert J. Bolton, PE, Director *ryb*
DEPT: Water and Sewer

DATE: March 5, 2010

RE: **Request for Qualifications (RFQ)
Consultants Competitive Negotiation Act Committee
City of Vero Beach, Town of Indian River Shores and
Indian River County**

Background:

On October 15, 2009 a joint meeting was held with Indian River County (IRC), City of Vero Beach (COVB), Town of Indian River Shores (IRS) and the City of Fellsmere (COF) to discuss countywide water and sewer infrastructure. In a unanimous vote IRC, IRS and COVB agreed to participate in the process of obtaining an independent consultant to investigate the consolidation, cooperation or partnership, and that a Consultants Competitive Negotiation Act (CCNA) Committee be appointed consisting of two members each from IRC, IRS and COVB, and that the Committee bring back a recommendation for a consultant with a scope of work and a price.

An RFQ was prepared by the CCNA Committee, approved by City Council on November 17, 2009 and advertised by the County. Five consulting firms submitted proposals and all were interviewed on February 25, 2010. The Firms were ranked accordingly:

1. GAI, Orlando
2. PBS&J, Orlando
3. Carollo, Winter Park
4. Wade Trim, Tampa
5. Keith and Schnars, Port St. Lucie

Since the CCNA Committee was formed on October 15, 2009, the County has modified, or is in the process of modifying, its Comprehensive Plan to include

James M. Gabbard, City Manager
March 5, 2010

only two choices: consolidate the two systems or to terminate the service area agreement on its expiration date in 2017.

This modification has left out other options, including but not limited to, status quo and forming some sort of cooperative or partnership. At the least, uncertainty as to the scope of work to be negotiated with the selected Consultant needs to be resolved by the participating elected bodies.

Recommendation:

- Place this item on the March 16, 2010 City Council agenda;
- Recommend scheduling another joint meeting with the Board of County Commissioners, Town of Indian River Shores and City of Vero Beach to discuss where to go from here.

Funding:

Funding will be discussed at or after the joint meeting.

Attachment

Cc: Charles Vitunac, City Attorney
Steve Maillet, Finance Director
Monte Falls, Public Works Director

C:\My Documents\IDRAFT - CCNA Progress Letter_JGabbard_March 5 2010.docx



PLANNING AND ZONING COMMISSION (P&Z)

Donna A. Keys-District 1
Gregory W. Smith-District 4
David L. Cox-Member at Large

Jens Tripson-District 3
Pilar E. Turner-District 5
Sam Zimmerman-District 2

Carol Johnson – Non-voting liaison School Board

George Hamner, Jr., Chairman

The Planning and Zoning Commission will meet at **7:00 p.m. ON THURSDAY, January 14, 2010, in the County Commission Chambers** of the County Administration Building, 1801 27th Street, Vero Beach.

THE PLANNING AND ZONING COMMISSION SHALL ADJOURN NO LATER THAN 11:00 P.M. UNLESS THE MEETING IS EXTENDED OR CONTINUED TO A TIME CERTAIN BY A COMMISSION VOTE.

AGENDA

ITEM #1 **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

ITEM #2 **ELECTION OF CHAIRMAN and VICE CHAIRMAN**

ITEM #3 **APPROVAL OF MINUTES**

A. November 12, 2009

ITEM #4 **PUBLIC DISCUSSION**

A. Consideration of Draft EAR (Evaluation and Appraisal Report) based amendments to the Transportation Element, the Potable Water Sub-Element, the Sanitary Sewer Sub-Element, and the Solid Waste Sub-Element of the Comprehensive Plan.

ITEM #5 **COMMISSIONERS MATTERS**

POLICY 1.7: No development permit shall be issued by the county for projects to be served by the City of Vero Beach Utilities Department until the city notifies the county that adequate water supplies and potable water facility capacity are available to accommodate the project.

OBJECTIVE 2 Regional System Expansion/Correction of Deficiencies

By ~~2030~~ ~~2005~~, at least ~~75%~~ ~~60%~~ of all existing residential units in the county will be connected to a regional potable water system. ~~This will be an increase from 47% in 1995.~~

POLICY 2.1: The county shall continue to offer its utility line assessment program to areas with private wells within the County Utilities Department service area.

POLICY 2.2: The county shall continue to offer up to 10 year financing for all utility assessments.

POLICY 2.3: Within the County Utilities Department service area, the ~~list of~~ subdivisions having undersized lots and designated as requiring potable water service due to public health threats shall be ~~updated through an annual review process.~~ These subdivisions shall be given priority for the provision of public water service.

POLICY 2.4: The county shall provide potable water service to areas where the risk of private well contamination is determined by the Indian River County Environmental Health Department to be unacceptably high. The county shall recover costs through assessment of those landowners directly benefitting from the improvement.

POLICY 2.5: The County Utilities Department shall implement the potable water system programs and capital improvements identified in Appendix A of this element of the comprehensive plan.

POLICY 2.6: Prior to 2012, the county will coordinate with the City of Vero Beach and the Town of Indian River Shores to prepare a financial analysis of consolidating utility services or terminating the County/City of Vero Beach utility service agreement for the portion of the unincorporated area served by the City of Vero Beach utility system and providing service to residents of the unincorporated area and the Town who now receive utility service from the City of Vero Beach utility service. Based on the results of that analysis, the Board of County Commissioners will consider consolidating its utility system with the City of Vero Beach's system or terminating the County/City of Vero Beach utility service agreement on its expiration date in 2017.

OBJECTIVE 2 Regional System Expansion/Correction of Deficiencies

By ~~2015~~ 2002, at least 50 40% of all existing residential units in the county ~~that are~~ will be connected to a regional sanitary sewer system ~~will represent residential units in the county~~. This will be an increase from ~~44~~ 34% in 2006 1995.

POLICY 2.1: The county shall continue to offer the utility assessment program to areas with septic service within the County Utilities Department service area.

POLICY 2.2: The county shall continue to offer up to 10 year financing for all utility assessments.

POLICY 2.3: ~~The county shall give a priority for the provision of public sanitary sewer services to the subdivisions on the list of subdivisions designated as requiring sanitary sewer service due to public health threats, shall be updated through an annual review process. These subdivisions shall be~~

POLICY 2.4: The county shall provide sanitary sewer service to areas where the lack of such service is determined to be a public health threat. The county shall recover costs through those connecting to the system and directly benefitting from the improvement.

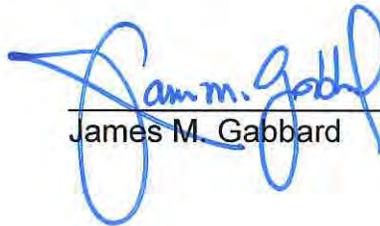
POLICY 2.5: Consistent with its interlocal agreements with the City of Sebastian and the Town of Orchid, ~~(Interlocal Agreement Providing for the Transfer of the City of Sebastian Water and Wastewater System By and Between The City of Sebastian, Florida and Indian River County, Florida September 20, 1995) (Interlocal Agreement Between Indian River County, Florida and the Town of Orchid Regarding Provision of Water and Wastewater Services September 12, 1989)~~, the county shall provide sanitary sewer services to those municipalities. ~~Consistent with the county's interlocal agreement with the City of Vero Beach (Agreement Between Indian River County and the City of Vero Beach Setting Service Areas for Water and Sewer Service; Memorializing Certain Water and Sewer Allocations; and Repealing Prior Agreements August 18, 1989), the County acknowledges that the City of Vero Beach will provide sanitary sewer service to portions of the unincorporated county.~~

POLICY 2.6: Prior to 2012, the county will coordinate with the City of Vero Beach and the Town of Indian River Shores to prepare a financial analysis of consolidating utility services or terminating the County/City of Vero Beach utility service agreement for the portion of the unincorporated area served by the City of Vero Beach utility system and providing service to residents of the unincorporated area and the Town who now receive utility service from the City of Vero Beach utility service. Based on the results of that analysis, the Board of County Commissioners will consider consolidating its utility

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: March 9, 2010
**SUBJECT: DISCUSSION AND UPDATE OF OPENING OF HUMISTON
PARK**

Monte Falls will make a short presentation on the status of Humiston Park.



James M. Gabbard

:jav

xc: Monte Falls

N:\AGENDA\PUBLICWORKS\2010\HUMISTON PARK UPDATE.DOC

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

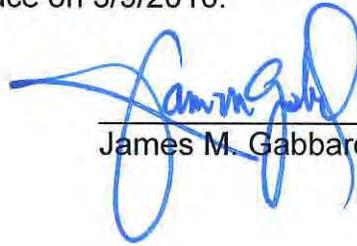
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

**SUBJECT: ELECTRIC UTILITY UPDATE – UTILITY COMMISSION
MEETING OF 3/9/2010**

John Lee, Acting Director of the Electric Utility, will briefly discuss the Utility Commission Meeting that took place on 3/9/2010.



James M. Gabbard

:jav

xc: John Lee

N:\AGENDA\ELECTRICUTILITY\ELECTRIC UTILITY UPDATE - UCM OF 3-09-10.DOC

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: March 9, 2010
SUBJECT: ELECTRIC RATE COMPARISON – JANUARY 2010

John Lee, Acting Electric Utilities Director, will be presenting an Electric Rate Comparison for January 2010, showing how the City of Vero Beach compares to the municipal utility average, the investor owned utility average, and Florida Power and Light.


James M. Gabbard

:jav
Attachment

xc: John Lee

N:\AGENDA\ELECTRICUTILITY\ELECTRIC RATE COMPARISON - JAN 2010.DOC

Residential Rate Comparison - January 2010

1,000 kilowatt hours

Municipal Utility Average	\$130.38
City of Vero Beach	\$125.95
Investor Owned Utility Average	\$119.27
Florida Power and Light	\$93.04

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

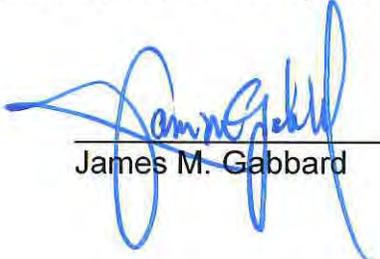
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

SUBJECT: DISCUSSION AND UPDATE OF VERO BEACH'S VERO MAN SITE

Due to recent events involving the Vero Man archeological site, located at the Vero Beach Airport, Tim McGarry will update the City Council on the City's response.


James M. Gabbard

:jav

xc: Tim McGarry

N:\AGENDA\PLANNING\2010\VERO MAN SITE UPDATE.DOC

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council

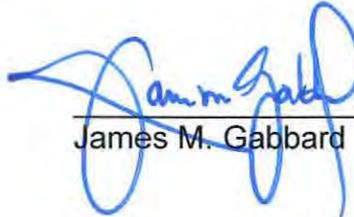
FROM: James M. Gabbard, City Manager

DATE: March 9, 2010

SUBJECT: TREE TRIMMING ANNUAL CONTRACT RENEWAL – UPDATED INFORMATION

Attached is a memorandum from John O'Brien, dated March 8, 2010, which provides additional information and a recommendation to the above-referenced item, which was tabled from the March 2, 2010 City Council Meeting. Randall McCamish, Director of Electrical T&D, concurs.

It is the recommendation of the City Manager's Office that Council approve a one-year renewal of the Annual Tree Trimming Contract with Asplundh Tree Experts Company, in the amount of \$327,981.00. Funding will be from Account No. 401.5400.531.352041.


James M. Gabbard

:jav
Attachments

xc: Randall McCamish
John Lee
John O'Brien
Stephen Maillet

DEPARTMENTAL CORRESPONDENCE

TO: James Gabbard, City Manager
FROM: John O'Brien, Manager of Purchasing and Warehouse Operations *JOB*
SUBJECT: RENEWAL OF TREE TRIMMING SERVICES CONTRACT
DATE: March 8, 2010

On March 2, 2010 the subject contract was pulled from the council agenda and tabled until March 16, 2010. Council members were interested to know if the hourly rates we have received since 2006 are above or below the current market prices. In addition, council was interested in using local contractors, as well.

Our office surveyed Fort Pierce Utility Authority (FPUA), Kissimmee Utility Authority (KUA), Gainesville Utility Authority (GRU) and the FMPA contract to compare current rates, see attached. The current contract the City of Vero Beach has with Asplundh is for \$69.91 per hour for a three man crew and equipment, which is \$6.82 per hour less than FPUA who has the next lowest rate. As a result, we are saving \$28,371.20 a year compared to FPUA and even more compared to the remaining three surveyed utilities.

I attempted to contact two local tree trimming companies and at this point only one returned my call. I asked the gentlemen for his hourly rate for a crew and it was \$188 per hour. However, he had a four man crew compared our three man crew. To make a fair comparison I added one more man to the Asplundh's crew (\$16.90/hr) and Asplundh's hourly rate for a four (4) man crew would be \$86.81, which is still \$100 per hour less than the local company.

Another important issue to consider is hurricane recovery response. During Hurricanes Francis and Jeanne Asplundh was able to send additional crews to clear debris so our utility lines could be reconstructed quickly. Another example of their depth, during Hurricanes Gustav and Ike more than 2,000 Asplundh and UtiliCon company (subsidiary of Asplundh) crews assisted utilities in restoring power to millions of customers. Typically, local tree trimming services cater to residential customers and do not have the depth to provide additional crews on a short notice.

Recommend we renew our contract with Asplundh for one more year. Should the council desire to re-bid the contract now, Asplundh has agreed to provide their services on a month-to-month basis until a new contract is in place.

Should you have any questions you may contact me at ext. #5471

Attachment

C:\OBRIEN\DEPT\CTY\MGR\TREE TRIMMING RENEWAL 3.8.10.DOC

I agree with the above recommendation.
John O'Brien

TREE TRIMMING PRICES

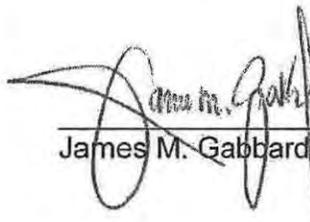
ITEM		CITY OF VERO BEACH	FORT PIERCE UTILITIES AUTHORITY	KISSIMMEE UTILITY AUTHORITY	FMPA CONTRACT	GAINESVILLE REGIONAL UTILITY
CONTRACTOR		ASPLUNDH	ASPLUNDH	DAVEY TREE	LEWIS	ASPLUNDH
CLIMBING/WORKING FOREMAN	HOURLY RATE	22.60	24.17	27.18	26.31	23.67
TREE CLIMBER	HOURLY RATE	16.90	18.38	20.81	22.68	21.21
GROUNDMAN/CLIMBER	HOURLY RTE	14.76	17.06	12.74	18.06	19.15
PORTABLE POWER SAWS	HOURLY RTE	0.50	0.62	Not Listed	0.85	0.49
12" BRUSH CHIPPER	HOURLY RTE	3.15	3.10	3.90	4.65	4.35
50' AERIAL LIFT WITH DUMP BODY	HOURLY RTE	12.00	13.40	13.50	15.65	11.58
HYDRAULIC CIRCULAR TOOLS	HOURLY RTE	NO CHARGE	NO CHARGE	Not Listed	0.45	Not Listed
TOTAL PER HOUR		<u>\$69.91</u>	\$76.73	\$78.13	\$88.65	\$80.45

COUNCIL AGENDA REPORT
MEETING OF MARCH 2, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: February 23, 2010
SUBJECT: TREE TRIMMING ANNUAL CONTRACT RENEWAL

Attached is a memorandum from Randall McCamish, dated February 23, 2010, providing a recommendation for the above-referenced item.

It is the recommendation of the City Manager's Office that Council approve a one-year renewal of the Annual Tree Trimming Contract with Asplundh Tree Experts Company, in the amount of \$327,981.00. Funding will be from Account No. 401.5400.531.352041.


James M. Gabbard

:jav
Attachments

xc: Randall McCamish
John Lee
Stephen Maillet



DEPARTMENTAL CORRESPONDENCE

TO: James Gabbard, City Manager

THROUGH: John Lee, Acting Electric Utility Director *322 2/23/2010*

FROM: Randall McCamish, Director Electric T & D *RJM*

DATE: February 23, 2010

SUBJECT: Request for Council Approval

We request that the following item be placed on the agenda for approval at the March 2, 2010 City Council meeting.

Tree Trimming Annual Contract – Bid # 010-06/PJW Contract # 1332. We recommend that the contract with Asplundh Tree Experts Company be renewed for one more year. The budget impact to the City will be approximately \$327,981.00.

Justification – The contract was first approved by the Council on March 7, 2006. The contract contains a clause allowing for two (2) additional one (1) year renewal terms. This would be the second renewal term. Asplundh Tree Experts Company has agreed to extend the existing contract for the final year with no price increase.

Kulp, Danielle

From: Stevens, Donna
Sent: Tuesday, February 23, 2010 9:54 AM
To: Kulp, Danielle
Subject: GL number

Danielle,

Per Randall's request the following is the GL number that we use for Asplundh Tree: 401.5400.531.352041. If you need anything else please let me know.

Thanks,

Donna J. Stevens,
Sr. Administrative Assistant
City of Vero Beach
T&D Department
3455 Airport West Drive
P.O. Box 1389
Vero Beach, FL 32961-1389

Office: 772.978.5419 7:30 AM until 4:00 PM
Faxes: 772.562.1330 or 772.770.2230

DEPARTMENTAL CORRESPONDENCE

TO: Randall McCamish, Director T&D

THROUGH: John O'Brien Manager of Purchasing & Warehouse Operations ~~408~~

FROM: Carol Shoaf, CPPB, FCCM, Contract Administrator 

SUBJECT: Renewal of Tree Trimming Annual Service Contract bid 010-06/PJW
Contract Number 1332

DATE: February 22, 2010

On March 7, 2006, the City Council approved the above referenced contract with Asplundh Tree Experts Company. The contract was executed on March 21, 2006, with an expiration date of March 31, 2009. The contract contains a clause allowing two (2) additional one (1) year renewal terms. The first of the two renewals were executed in March of 2009. The contract will be expiring on April 1, 2010 and has one more renewal that can be executed. If you wish to renew this contract for the final year, you will need to obtain Council approval.

Please find the confirmation letter from Asplundh Tree Experts Company who is presently serving the City with the above-mentioned service. Asplundh Tree Experts Company is in agreement to extend the existing contract for the final one (1) year with no price increase.

The budget impact for the City is estimated at \$327,981.00 for the designated term.

If you are satisfied with the service Asplundh Tree Experts Company has provided, you please have this renewal put on City Council agenda for approval. To have this renewal put on the March 2, 2010 Council agenda you must have your recommendation in to the City Manager office no later than noon on February 23, 2010

Thank you for your attention in this matter, and please contact me at 978-5474, if you have any questions or concerns.

Attachments

**CONTRACT RENEWAL FORM
CITY OF VERO BEACH**

RE: Renewal of Contract 1332 Tree Trimming Annual Service Contract

The undersigned has carefully examined the original Contract Documents, Contract Renewal form and Introductory Letter, and is familiar with the nature and extent of the conditions that may in any manner affect the materials or services required.

The Contractor shall agree to furnish all supplies, materials, manpower, tools, solutions, chemicals, and services called for in the manner prescribed in the original Contract Documents and at the unit prices stated in the original contract, for each of the items or combination of items stipulated. It shall be understood that the City has provided the quantities shown in the bid schedule as estimates and that the quantities could increase or decrease. It is further understood that payment shall be in accordance with actual quantities delivered, as more specifically described in the Contract Documents.

I agree to continue deliveries or services as specified, in accordance with the Contract Documents, in the time and to the places identified, and complete deliveries or services not later than the number of days specified in the Contract Documents or by a City Authorized Representative, with zero cost increase for this renewal term.

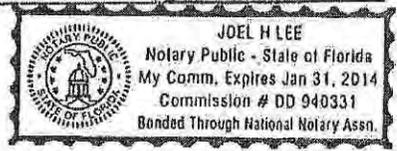
Renewal Contract period begins April 1, 2010 through May 31, 2011.

WITNESS FOR THE CONTRACTOR:

Asplundh Tree Experts Company

[Handwritten Signature]

PRINT: EUGENE WYATT
SIGNED: Eugene Wyatt
TITLE: VICE PRESIDENT



CORPORATE SEAL

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

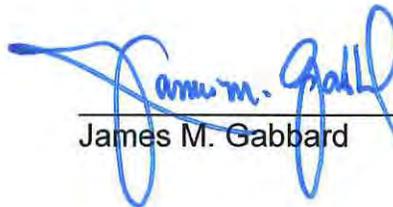
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 10, 2010

SUBJECT: ONE-CENT SALES TAX CONTRIBUTION TO INDIAN RIVER COUNTY

The City received the attached communication from the County's Budget Office in February. The Town of Orchid and the City of Fellsmere have declined to make the contribution. The City of Sebastian has this item on their agenda on March 10, 2010. I believe that this request should not be granted. City staff will be prepared to discuss this at the March 16th City Council Meeting.



James M. Gabbard

JMG:jav
Attachment

xc: Stephen Maillet

N:\AGENDA\FINANCE\ONE-CENT SALES TAX CONTRIBUTION TO IRC.DOC

Office of Management & Budget
Telephone: (772) 226-1214



February 10, 2010

City of Vero Beach
Mr. Jim Gabbard, City Manager
1053 20th Place
Vero Beach, FL 32960

Dear Mr. Gabbard:

On August 18, 2009, the Indian River County Board of County Commissioners voted to approve a request to notify the Cities of Vero Beach, Fellsmere, Sebastian and the Town of Orchid for a contribution from their share of the One-Cent Optional Sales Tax receipts for fiscal year 2009/2010. The Town of Indian River Shores is not included in this request, since the Town operates its own fire rescue services and is not part of the Emergency Services District.

In fiscal year 2008/2009, Indian River County has spent approximately \$3.8 million for new and improved fire stations in the County. The County has paid this amount from its share of the Optional Sales Tax revenues.

The current practice of funding construction or expansion of fire stations from Optional Sales Tax dollars results in the County (and unincorporated area taxpayers) subsidizing the municipalities within the Emergency Services District. From a taxation standpoint, it would be more equitable to charge these costs to the Emergency Services District directly, unless each of the four municipalities contributes a portion of Optional Sales Taxes.

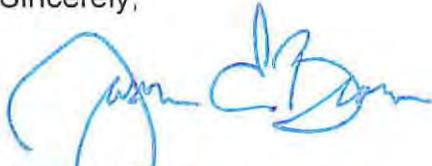
The Board of County Commissioners has approved a motion to not use One-Cent Optional Sales Tax funds to purchase equipment for the Emergency Services District unless all four municipalities (City of Vero Beach, City of Fellsmere, City of Sebastian and Town of Orchid) participate. In the event all municipalities do not participate, then these costs would be absorbed by the Emergency Services District.

Jim Gabbard, City Manager
February 10, 2010
Page 2 of 2

Please see the attached spreadsheet for a calculation of each municipality's "share" for the current fiscal year based upon the approved budget of \$1,500,000 pro-rated based upon taxable value. We are requesting that you provide a response regarding your municipality's decision to fund a contribution in the amount of \$280,472 for the current year as well as an indication of your willingness to make contributions in future years. We appreciate your consideration of this request during these challenging times of limited resources.

If you have any questions, please contact me at 226-1214.

Sincerely,



Jason E. Brown
Director, Management & Budget

cc: Joseph A. Baird, County Administrator

Taxable Values of Municipalities & Unincorporated Area

Amount by Municipality In Indian River County - 2009 Taxroll

Countywide Taxable Value	FY 2009/10 Final Taxroll	Percentage of Countywide
Unincorporated Area (BCC)	\$9,097,523,054	57.2%
Fellsmere	\$136,554,288	0.9%
Indian River Shores	\$2,516,784,423	15.8%
Orchid	\$511,916,471	3.2%
Sebastian	\$1,149,141,141	7.2%
Vero Beach	\$2,505,704,563	15.7%
Countywide Total	\$15,917,623,940	100.0%

Emergency Services Dist. (Excludes Indian River Shores)	FY 2009/10 ESD Taxroll	Percentage of ESD	Pro-rated Share - Fy 2009/10
Unincorporated Area (BCC)	\$9,097,523,054	67.9%	\$1,018,316
Fellsmere	\$136,554,288	1.0%	\$15,285
Indian River Shores	\$0	n/a	n/a
Orchid	\$511,916,471	3.8%	\$57,300
Sebastian	\$1,149,141,141	8.6%	\$128,627
Vero Beach	\$2,505,704,563	18.7%	\$280,472
Emergency Services District Total	\$13,400,839,517	100.0%	\$1,500,000



March 8, 2010

Indian River County, BOCC
Mr. Jason Brown, Director
Office of Management & Budget
1801 27th Street
Vero Beach, FL 32960-3388

Dear Mr. Brown:

At the March 3, 2010 Town Council meeting, Council discussed your request of Orchid to fund a contribution of \$57,300.00 for the current fiscal year 2009-2010.

While Council appreciates the County's current situation, it does not find itself in a position to make the requested contribution for this fiscal year. The request places an undue burden on already strapped budgets. Council feels the appropriate measure for the County to take is to fund future Emergency Services District needs directly through the Emergency Services District. As Emergency Services are funded through ad valorem taxes on each property owner within the County, this would seem the equitable method to pursue.

At this time it would seem unlikely that contributions in future fiscal years will be forthcoming. As the current Council cannot speak for future Council members, should the County revisit this issue again in the future; the Council at that time will have final determination.

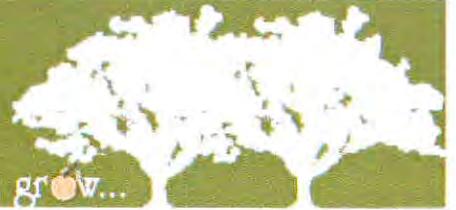
Best Regards,

Deb C. Branwell
Town Manager

CC: Town Council
Jason Nunemaker, City Manager, City of Fellsmere
Al Minner, City Manager, City of Sebastian
Jim Gabbard, City Manager, City of Vero Beach

Susan Adams, Mayor
Jason Nunemaker, City Manager

cultivate. nurture. grow...



Fellsmere

March 9, 2010

Indian River County, BOCC
Mr. Jason Brown, Director
Management and Budget
1801 27th Street
Vero Beach, Florida 32960-3388

Dear Mr. Brown:

The City of Fellsmere is in receipt of your letter dated February 10, 2010 requesting our "share" of discretionary sales surtax (DST) for fiscal year 2009/2010 to fund a portion of county expenditures for new and improved fire stations in the county. I am surprised that in this fiscal environment that the County finds it appropriate to make such a request when:

1. The Emergency Services District (ESD) exists to meet these needs;
2. The City of Fellsmere has made numerous overtures to the County to donate a site for a fire station on the west side of Vero Lake Estates (VLE) adjacent to the future school site on the Ansin 300; and,
3. The City receives only 2.9% of the DST versus the County's 71.3 percent share.

According to your Comprehensive Annual Financial Report for fiscal year 2008 as posted on your web site, there is a fund balance of some 14.22 million dollars in your ESD Fund which appears to be undesignated and unreserved. Shouldn't fire stations and related capital equipment be funded with these dollars before asking any municipality for funds? Additionally your CAFR from table 4 indicates the ESD proposed millage rate of (1.7148) to be some 11.3% below the rolled back rate of (1.9326) which still allowed for a transfer from ESD of some \$522,000 to the County general fund. There was no calculation shown as to how this inter fund transfer was derived.

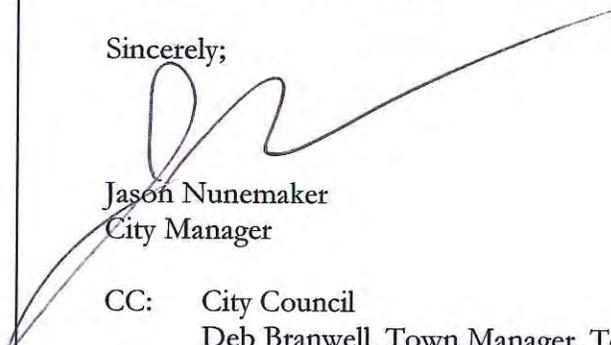
The City of Fellsmere has a history of intergovernmental cooperation that extends to cost sharing. Fellsmere was the first City to step up to the plate to assist the funding of the transit system. Similarly we have offered to co-locate a fire station site on donated land adjacent to the future school site on the Ansin 300 just west of VLE. This site offers security and interaction with the future school in addition to mitigating the fire concerns expressed by the VLE residents.

21 S. Cypress Street Fellsmere, FL 32948
(772) 571-1616 Fax: (772) 571-1901

Finally, whereas the County has a discrete funding source to operate Fire Rescue, this request would necessarily impact our current and future service delivery.

I discussed this matter with the City Council and we will not be accepting the County's invitation to subsidize Fire Rescue with DST funds and future requests would likely draw the same conclusion. We do, however, remain committed to working with the County and we stand by our offer to provide land to address the VLE deficiency.

Sincerely;



Jason Nunemaker
City Manager

CC: City Council
Deb Branwell, Town Manager, Town of Orchid
Jim Gabbard, City Manager, City of Vero Beach
Al Minner, City Manager, City of Sebastian

JN/dl

COUNCIL AGENDA REPORT
MEETING OF MARCH 16, 2010

TO: The Honorable Mayor and Members of the City Council

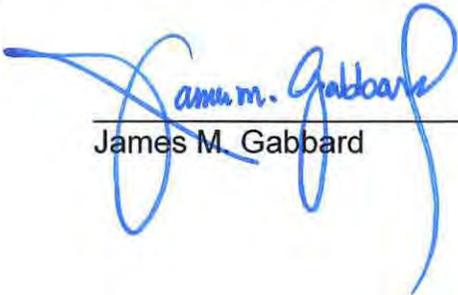
FROM: James M. Gabbard, City Manager

DATE: March 10, 2010

**SUBJECT: DISCUSSION OF TRANSMISSION AGREEMENT WITH
FLORIDA POWER AND LIGHT**

John Lee will discuss the Electric Transmission Agreement with Florida Power and Light. This agreement was signed in November 2009 to provide transmission services formally provided by the FMPA All Requirements Project.

Please find attachments of the agreement in your back-up material.



James M. Gabbard

JMG:jav
Attachments

xc: John Lee

N:\AGENDA\ELECTRICUTILITY\FPL TRANSMISSION AGREEMENT.DOC



RECEIPT

November 23, 2009

FILED
SECRETARY OF THE
COMMISSION
2009 NOV 23 P 4: 35
FEDERAL ENERGY
REGULATORY COMMISSION

Via Hand Delivery

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Florida Power & Light Company, Docket No. ER10-
Original Rate Schedule FERC No. 320**

Dear Ms. Bose and Mr. Davis:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000), and Part 35 of the Regulations of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. Part 35 (2009), Florida Power & Light Company ("FPL") hereby tenders for filing an original plus six (6) copies of the Interchange Services Agreement ("ISA") between FPL and City of Vero Beach, Florida ("Vero Beach"), dated November 16, 2009. Please date-stamp and return one copy of this filing to our messenger.

The ISA is being filed with the Commission thirty-eight (38) days prior to the requested effective date of January 1, 2010. As discussed below, the rates, terms and conditions contained in the interchange service schedules submitted for filing herein are prescribed by a settlement agreement accepted by the Commission. FPL and Vero Beach therefore respectfully request waiver of the 60 day notice requirement so that the ISA may be accepted by the Commission and become effective on the requested date.

I. Background

Vero Beach is a member of the Florida Municipal Power Agency ("FMPPA") and is currently a participant in the FMPPA All Requirements Power Supply Project Contract ("ARP Contract"). On January 1, 2010, Vero Beach will stop purchasing capacity and energy under the FMPPA ARP Contract and begin serving its load with its own generation resources and a power supply agreement with the Orlando Utilities Commission ("OUC"). To facilitate this change and establish a direct transmission service relationship with Vero Beach, FPL submitted Service Agreement No. 264 ("NITSA") to the Commission on October 29, 2009, requesting an effective date of January 1, 2010.¹ The NITSA will provide network service under the FPL OATT to Vero Beach for a term of 30 years. In addition, on November 10, 2009, FPL submitted Rate Schedule FERC No. 319, a Contract for Interconnected Operations ("CIO") between FPL and Vero Beach, dated November 9, 2009.² The CIO is an inter-utility transmission operations contract that includes terms and conditions governing interconnected operation issues that are

¹ The Commission assigned Docket No. ER10-143-000 to the NITSA filing and set a comment due date of November 19, 2009.

² The Commission assigned Docket No. ER10-250-000 to the CIO filing and set a comment due date of December 1, 2009.

beyond the scope of the NITSA. Like the NITSA, the CIO has a term of 30 years and the parties have requested that the Commission make the CIO effective on January 1, 2010, the date on which Vero Beach begins its new power supply arrangements with OUC.

II. Description of Interchange Services Agreement

A. The Service Schedules

The Interchange Services Agreement, or ISA, entered into between FPL's energy marketing division and Vero Beach, is a companion agreement to the Contract for Interconnected Operations, or CIO, filed with the Commission on November 10, 2009.³ In keeping with the NITSA and the CIO, the ISA has a term of 30 years (assuming an effective date of January 1, 2010), subject to several enumerated conditions. The purpose of the ISA is to facilitate the interchange of electric capacity and energy pursuant to three bi-lateral service schedules (collectively, the "Service Schedules"):

- Service Schedule AF (Emergency Interchange Service)—emergency interchange service is available in the event of a sudden and unexpected loss of equipment, facilities (including transmission facilities), or supplies that is beyond the customer's control and that renders the customer temporarily unable to serve its Native Load and/or to fulfill its FRCC Operating Reserve Obligation.
- Service Schedule BF (Scheduled Maintenance Interchange Service)—maintenance interchange service is available for planned removal from service of one or more of the parties generation units (including the scheduled removal of transmission facilities that results in the physical unavailability of all or a portion of a party's generation unit) that may render the party temporarily unable to maintain an adequate level of resources necessary to serve its Native Load and satisfy its FRCC Operating Reserve Obligation.
- Service Schedule DF (Outage Interchange Service)—outage interchange service is similar to scheduled maintenance service but for longer time periods in the event of sustained outages affecting one or more of the party's generation units that may render the party temporarily unable to maintain an adequate level of resources necessary to serve its Native Load and satisfy its FRCC Operating Reserve Obligation.

The Service Schedules are not stand-alone schedules, but are instead attachments to the ISA. The Service Schedules are also reciprocal in nature, in the sense that each party may find itself as a buyer of interchange services at certain times while the same party may be a seller of interchange at other times.

Under Article 2 of the ISA, the Service Schedules may be amended upon mutual agreement of the parties and the parties may choose to add additional schedules for additional types of interchange service in the future. For example, the ISA being filed with the Commission today does not contain a service schedule for "economy" interchange service, which has historically been included as Service Schedule C or CF in FPL interchange agreements that are currently on file with the Commission.⁴ Under

³ See November 10, 2009 CIO filing, Docket No. ER10-250-000, Transmittal Letter at 2, n.4.

⁴ See, e.g., Letter Order, Docket No. ER04-926, issued August 11, 2004 (accepting revised interchange services agreement between FPL and Seminole Electric Cooperative, Inc. that includes Schedule C for economy interchange

Article 2 of the ISA, FPL and Vero Beach may in the future add a Schedule CF to the ISA.⁵

B. Basis of Rates, Terms and Conditions

Pursuant to Section 35.12(b)(2)(i), FPL states that the rates, terms and conditions for the Service Schedules are the same as the rates, terms and conditions established by uncontested settlements approved by the Commission in Docket No. ER93-465, *et al.*⁶ As explained in more detail below, FPL is merely establishing a new set of Service Schedules with Vero Beach that are the same as the schedules that are now in place between FPL and FPMA. This is necessary due to the change in Vero Beach's power supply arrangements set to take place on January 1, 2010.

In the 2000 Settlement, between FPL, the Florida Municipal Power Agency ("FMPA"), Seminole Electric Cooperative, Inc. ("SEC"), JEA (formerly Jacksonville Electric Authority), and Tampa Electric Company ("TECO"), the parties agreed to, *inter alia*, stated, cost-based rates for the various interchange services provided under FPL's bilateral contracts for interchange service with the parties (the "Interchange Agreements"). The 2000 Settlement did not, however, include an agreement as to all of the terms and conditions for service under the service schedules attached to the Interchange Agreements.⁷ Later, following several years of settlement discussions, on February 13, 2006, FPL filed the 2006 Settlement between FPL and FMPA, SEC and TECO, which resolved all of the outstanding issues related to the Interchange Agreements. Specifically, the 2006 Settlement approved revised terms and conditions of Schedules AF (Emergency Interchange Service), BF (Maintenance Interchange Service) and DF (Outage Interchange Service).⁸

The rates, terms and conditions for the Service Schedules submitted today as part of the ISA were created by the using the FMPA service schedules included in the 2006 Settlement as templates and substituting Vero Beach's name for FMPA.⁹ As a result, the rates for service provided by FPL under Attachment A of the Service Schedules are the same as the rates provided to Vero Beach under the FMPA schedules, as approved by the settlements in Docket No. ER93-465, *et al.* With respect to Vero Beach, the only material difference between the Vero Beach schedules and the FMPA schedules is that the heat rates listed on Attachment B-1 of each of the Service Schedules have been updated to reflect accurate figures for Vero Beach's generation units (the Vero Beach unit listed as "Vero 2 (non CC)" has also been removed from

service)

⁵ Service Schedules C and/or CF are not necessary at this time, as FPL and Vero Beach already have a rate schedule on file with the Commission for the sale and purchase of power and energy. See Letter Order, issued November 30, 1992, Docket No. ER93-49-000 (accepting FPL Rate Schedule FERC No. 134).

⁶ See Settlement Agreement, Florida Power & Light Company, Docket Nos. ER93-465, *et al.*, submitted April 17, 2000 ("2000 Settlement"); approved by letter order issued September 18, 2000. *Florida Power & Light Co.*, 92 FERC ¶ 61,241 (2000). See also Settlement Agreement, Florida Power & Light Company, Docket Nos. ER93-465, *et al.*, submitted February 13, 2006 ("2006 Settlement"); approved by letter order issued April 6, 2006. *Florida Power & Light Company*, 115 FERC ¶61,020 (2006).

⁷ See 2000 Settlement, Transmittal Letter at 7, n.13, and 13.

⁸ See 2006 Settlement, Article II.A..

⁹ A redline version of the Service Schedules showing the differences between the Vero Beach schedules and the FMPA schedules approved as part of the 2006 Settlement is attached to this filing as Exhibit B.

the list). Other than the changes to Vero Beach's heat rates, all other rates, terms and conditions of the Service Schedules conform to the settlements approved in Docket No. ER93-465, *et al.*

In addition, consistent with the FMPA service schedules approved as part of the 2006 Settlement, the rates for Vero Beach included as Attachment B to each of the Service Schedules are being submitted to the Commission "for informational purposes only," in order to reflect the fact that Vero Beach, like FMPA, is a municipal entity not subject to the Commission's full public utility jurisdiction under Section 201 of the Federal Power Act.

III. Other Part 35 Requirements

A. Contents of the Filing

In this filing, FPL is submitting the following materials: (1) this transmittal letter; (2) Exhibit A: a copy of the Interchange Services Agreement, dated November 20, 2009, between FPL and Vero Beach; and (3) Exhibit B: a redline version of the Service Schedules marked against service schedules AF, BF and DF of the FMPA Interchange Agreement.

B. Effective Date

FPL requests that the Commission establish an effective date of January 1, 2010 for the ISA. Since the ISA is being submitted thirty-eight (38) days prior to the requested effective date, FPL hereby requests a waiver of the 60-day prior notice requirement pursuant to Section 35.11 of the Commission regulations. Good cause exists to grant such a waiver.¹⁰ If the notice requirement is not waived to permit a January 1, 2010 effective date, Vero Beach and FPL will not be in a position to provide each other with emergency, maintenance or outage interchange services until January 22, 2010 (60 days after November 23, 2009). Granting the waiver will permit the ISA to go into effect concurrently with the NITSA in keeping with the desires of the parties. Moreover, granting the requested waiver will have no impact upon purchasers under other rate schedules.

C. Designation

FPL respectfully requests that the ISA be designated as Rate Schedule FERC No. 320.

D. Estimate of Revenues

With respect to Section 35.12(b)(1) of the Commission's regulations, regarding statements of estimated transactions and revenues, it is difficult to estimate with any certainty how often FPL and Vero Beach will enter into transactions under the ISA Service Schedules. Accordingly, to the extent necessary, FPL requests waiver of this requirement.

E. Waiver of Filing Requirements

To the extent that any filing requirement in Part 35 of the Commission's regulations is not satisfied by this filing and the materials enclosed herewith, FPL respectfully requests waiver of

¹⁰ *Central Hudson Gas & Electric Corp., et al.*, 60 FERC ¶ 61106, 61,337 (1992) (waiver of prior notice requirement generally appropriate when rates are prescribed by settlement agreement accepted by the Commission).

such requirements.

IV. Related Filings

In addition to the NITSA and the CIO, referenced above, on November 18, 2009 FPL filed with the Commission pursuant to Section 205 of the Federal Power Act to revise the FMPA NSA (Service Agreement No. 80) and FPL's Contract for Interchange Service with FMPA (FPL Rate Schedule No. 110) in order to remove Vero Beach delivery points and/or interconnections under those contracts.¹¹

V. Communications

FPL respectfully requests that all communications concerning this filing be directed to the following persons and that their names be included on the Commission's official service list in this proceeding:

Sam Forrest
Vice President of Energy, Marketing and
Trading
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33418
(561) 694-3510
sam.forrest@fpl.com

R. Wade Litchfield
Vice President of Regulatory Affairs and
Chief Regulatory Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33418
(561) 691-7101
wade.litchfield@fpl.com

Thomas C. Orvald
Senior Attorney
Florida Power & Light Company
801 Pennsylvania Ave, Suite 220
Washington, DC 20004
(202) 349-3497
thomas.orvald@fpl.com

VI. Persons Served

Jim Stevens
Director of Power Plant Operations
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
jstevens@covb.org

¹¹ The Commission assigned Docket No. ER10-291-000 to the November 18, 2009 filing and set the comment due date for December 9, 2009.

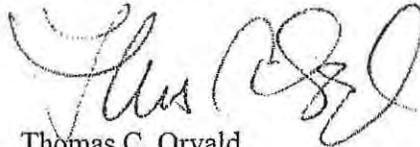
Kimberly D. Bose
Nathaniel J. Davis, Sr.
November 23, 2009
Page 6

Ms. Michele Jackson
Florida Municipal Power Agency
8553 Commodity Circle
Orlando, FL 32819
michele.jackson@fmpa.com

VII. Conclusion

For the reasons stated above, FPL respectfully requests that the Commission accept Original Rate Schedule No. 320 for filing effective January 1, 2010. Please contact the undersigned at 202-349-3497 or thomas.orvald@fpl.com if you have any questions regarding this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Orvald", written in a cursive style.

Thomas C. Orvald

Counsel for Florida Power & Light Company

Exhibits A & B

Exhibit A

Florida Power & Light Company
Original Rate Schedule FERC No. 320

INTERCHANGE SERVICES AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
CITY OF VERO BEACH, FLORIDA

Issued by: Sam Forrest, VP, Energy, Marketing and Trading
Issued on: November 23, 2009

Effective January 1, 2010

**INTERCHANGE SERVICES AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
CITY OF VERO BEACH, FLORIDA**

This Interchange Services Agreement ("Agreement") is made and entered into this 20th day of November, 2009, by and between FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, herein referred to as "FPL," and the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, herein referred to as "CITY" or "Vero Beach." FPL and CITY are collectively referred to as the "Parties" and individually as "Party."

RECITALS

WHEREAS, FPL is an investor-owned electric utility that owns and operates electric generation, transmission and distribution facilities in portions of the State of Florida;

WHEREAS, CITY is a legal entity that owns and operates electric generation, transmission and distribution facilities in portions of the State of Florida;

WHEREAS, pursuant to the Contract for Interconnected Operations ("Operations Contract") dated November 9, 2009, FPL and CITY have set forth their respective rights and responsibilities relating to design, engineering, construction, ownership, operation and maintenance of the equipment necessary for their interconnected transmission facilities;

WHEREAS, the Parties are entering into this Agreement for the purpose of facilitating the interchange of electric capacity and energy pursuant to the attached Service Schedule AF (Emergency Interchange Service), Service Schedule BF (Scheduled Maintenance Interchange Service) and Service Schedule DF (Outage Interchange Service) (collectively, the "Service Schedules");

WHEREAS, each Party recognizes that purchases of power and energy under the Service Schedules are not a substitute for prudent planning and construction or acquisition of generating capacity resources capable of providing for a Party's own load; and

WHEREAS, each Party recognizes that the Service Schedules are reciprocal in nature and that, consequently, each Party may find itself as a buyer of power and energy at certain times while the same Party may be a seller of power and energy at other times; and

WHEREAS, FPL and CITY are parties to that certain "Contract for Purchases and Sales of Scheduled Power and Energy," dated October 16, 1992, and to that certain Service Agreement under "FPL Tariff No. 1 for Sales of Power and Energy," dated January 10, 1997, and have therefore chosen not to include Service Schedule C and CF (Economy Energy) as attachments to this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein, the Parties hereto agree as follows:

ARTICLE 1
TERMOF AGREEMENT

- 1.1. Effective Date.** This Agreement shall become effective on January 1, 2010, subject to acceptance by the Federal Energy Regulatory Commission ("FERC").
- 1.2. Filing of Agreement with FERC.** The provisions of this Agreement, including the attached Service Schedules, are subject to the regulatory authority of the FERC or its successor and acceptance for filing by FERC or its successor shall be prerequisite to its validity. Following execution by the Parties' duly authorized representatives, FPL shall submit this Agreement for acceptance by the FERC. Upon filing by FPL, CITY shall support the filing and acceptance of this Agreement without modification or condition; CITY shall cooperate with FPL and provide any information reasonably required by FPL to comply with applicable filing requirements; and the Parties shall not lend support to any party who opposes the acceptance of this Agreement before the FERC. The Parties agree that all fees assessed by the FERC or its successor as they relate to the filing of this Agreement will be shared equally between the Parties.
- 1.3 Term.** This Agreement shall commence on the date of execution by both Parties and shall continue in effect until December 31, 2039; provided, however, that (1) this Agreement shall terminate concurrently with the Contract for Interconnected Operations dated November 9, 2009 between FPL and CITY ("Operations Contract"); (2) this Agreement may be terminated or extended at any time upon mutual written agreement of the Parties; (3) either Party may terminate this Agreement by giving at least two (2) years advance written notice to the other Party; and (4) in the event this Agreement is changed or modified by a FERC order and either Party believes its has been adversely affected to a material extent by such change or modification, following a reasonable period of negotiations, either Party shall have the right to terminate this Agreement on six (6) months written notice to the other Party.

ARTICLE 2
INTERCHANGE SERVICE

- 2.1. Service Schedules.** The sale and purchase of specific types of interchange service available under this Agreement and the rate schedules applicable thereto are set forth in the following Service Schedules, which are attached to this Agreement:

Service Schedule AF - Emergency Interchange Service

Service Schedule BF - Scheduled Maintenance Interchange Service

Service Schedule DF - Outage Interchange Service

Any and all Service Schedules, including those specifically listed above, and any mutually agreed upon subsequent schedules, may be amended as required from time to time by mutual agreement. If, within sixty (60) days of the commencement of negotiations to amend the Service Schedules, either in whole or in part, the Parties are unable to reach agreement on any such amendment, either Party shall have the unilateral right to make changes or substitutions in the Service Schedules, including but not limited to any rates contained therein, as they apply to such Party as Seller. FPL may accomplish such unilateral changes by making a legally effective filing with the regulatory authority having jurisdiction. CITY may accomplish such changes by written notice to FPL

sixty (60) days prior to the effective date thereof.

Nothing contained herein shall be construed as affecting in any way the right of FPL to unilaterally make application to FERC or its successor, for a change in rates under Section 205 of the Federal Power Act and pursuant to FERC's Rules and Regulations promulgated thereunder, or CITY to oppose such filing.

- 2.2. Scheduled Deliveries.** Scheduled deliveries shall mean all deliveries of power and energy by one Party to another. Receipts and deliveries of power and energy shall be respectively scheduled in whole MW and MWh quantities on a clock-hour basis. It is recognized that both FPL and CITY may maintain interconnections with other utilities in addition to those between the Parties of this Agreement. For this reason the actual flow of power on the interconnections between the Parties hereto will usually differ from scheduled values due to flow or displacement of power through other systems. Therefore, unless otherwise agreed or otherwise provided in the Service Schedules, all billings shall be in accordance with scheduled deliveries rather than actual metered net interchange of power between FPL and CITY during the period of such scheduled deliveries. Any difference between scheduled deliveries and actual flow of power and energy shall be classified as inadvertent interchange energy.

ARTICLE 3 BILLING AND PAYMENT

- 3.1 Presentation and Payment.** Each of the Parties shall submit to the other, as promptly as practicable after the first of each month, an interchange billing statement and invoice for the interchange transactions and the respective amounts due under the terms of this Agreement for the preceding calendar month ("delivery month"). All such invoices shall be due and payable within ten (10) days from the date of mailing (as determined by postmark) from the general office of the billing Party, or such other office as may be designated in writing by the billing Party. Invoices not paid within ten (10) days from the date of mailing shall be termed delinquent and shall then accrue interest at the rate specified by the FERC from time to time for refunds made under the Federal Power Act. The payment date shall be determined by the postmark of the remittance. To expedite billing the most recent available cost data will be used for the initial billing. An adjusted billing statement may be made in accordance with the Service Schedules.
- 3.2. Disputed Bills.** In case any portion of any bill is in bona fide dispute, the undisputed amount shall be payable when due. Upon determination of the correct amount, the remainder, if any, shall become due and payable in accordance with Section 3.1 together with interest accrued at the rate specified by the FERC from time to time for refunds under the Federal Power Act. Either Party may, at its option, pay the disputed amount in order to avoid interest charges without affecting any legal or equitable rights it may have to challenge the disputed portion of the bill.

ARTICLE 4
MISCELLANEOUS

- 4.1 Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective successors and assigns, and shall not be assignable by either Party without the written consent of the other Party except as to a successor in the operation of its properties by reason of a merger consolidation, sale or foreclosure where substantially all such properties are acquired by such a successor.
- 4.2 Notices.** Any notice, demand, or request required or authorized by this Agreement shall be deemed properly given if mailed postage prepaid, to FLORIDA POWER & LIGHT COMPANY, 700 Universe Boulevard, Juno Beach, FL 33418, Attention: Manager, Wholesale Operations, Energy Marketing and Trading, in the case of FPL; and to CITY OF VERO BEACH, 1053 20th Place, Vero Beach, Florida 32960; Attention: Director of Power Plant Operations, in the case of CITY, or to such other person as may be designated by FPL or CITY. The designation of the person to be notified or the address of such person may be changed by FPL or CITY at any time, or from time to time, by similar notice.
- 4.3 Tax Adjustment.** To the capacity charges (when applicable) and energy charges of all Service Schedules shall be added the applicable proportionate part of any new or increased taxes and assessments (except State or Federal Income Taxes), imposed by any governmental authority in addition to or in excess of those in effect as of the date of this Agreement. In the event a Party hereto becomes subject to a new or additional tax with respect to the interchange services provided hereunder, the selling Party shall be fully reimbursed by the Party purchasing the electric energy.
- 4.4 Governing Law and Venue.** The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State of Florida, without regard to its conflicts of law principles. Any disputes resulting in litigation between the parties shall be conducted in the state or federal courts of the State of Florida. The venue for all such proceedings shall be the Circuit Court for Miami-Dade County or Palm Beach County, Florida or the United States District Court for the Southern District of Florida.
- 4.5 Amendment.** The Parties may amend this Agreement only by a written instrument duly executed by both Parties.
- 4.6 Waiver.** The failure of a Party to insist, on any occasion, upon strict performance of any provision of this Agreement, shall not be considered a waiver of any obligation, right, or duty of, or imposed upon, either Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Any request for waiver of this Agreement or any provisions thereof shall be provided in writing.
- 4.7 Multiple Counterparts.** This Agreement may be executed in two counterparts, each of which is deemed an original but both constituting one and the same instrument.
- 4.8 Severability.** If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent

jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of the Agreement shall remain in full force and effect.

- 4.9 Headings; Interpretation.** The headings used herein are for convenience and reference purposes only. The term "including" when used herein shall be by the way of example only and shall not be considered in any way a limitation.
- 4.10 Construction.** This Agreement has been drafted by both Parties and shall not be construed against any Party as the sole drafter.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers, and copies delivered to each Party, as of the day and year first above stated.

FLORIDA POWER & LIGHT COMPANY

BY:



Sam A. Forrest
Vice President, Energy Marketing &
Trading

ATTEST:

CITY OF VERO BEACH, FLORIDA

BY: _____
City Clerk

BY: _____
James Gabbard
City Manager

jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of the Agreement shall remain in full force and effect.

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ATTEST:

FLORIDA POWER & LIGHT COMPANY

BY: _____
Secretary

BY: _____
Sam A. Forrest
Vice President, Energy Marketing &
Trading

ATTEST:

CITY OF VERO BEACH, FLORIDA

BY: James H. Uoel
City Clerk

BY: James Gabbard
James Gabbard
City Manager

CONTRACT FOR INTERCONNECTED OPERATIONS

BETWEEN

FLORIDA POWER & LIGHT COMPANY

AND

CITY OF VERO BEACH, FLORIDA

This Contract for Interconnected Operations between Florida Power & Light Company and City of Vero Beach, Florida ("CONTRACT") is made and entered into this 9th day of November, 2009, by and between FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, herein referred to as "FPL", and CITY OF VERO BEACH, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, herein referred to as "CITY". FPL and CITY are sometimes herein collectively referred to as the "Parties" and individually as "Party".

RECITALS

WHEREAS, FPL is an investor-owned electric utility that owns and operates electric generation, transmission and distribution facilities in portions of the State of Florida; and

WHEREAS, CITY is a legal entity that owns and operates electric generation, transmission and distribution facilities in portions of the State of Florida; and

WHEREAS, the Parties are entering into this CONTRACT to define their respective rights and responsibilities relating to design, engineering, construction, ownership, operation and maintenance of the equipment necessary for the interconnection facilities as described by the Exhibit A of this CONTRACT;

WHEREAS, pursuant to the February 16, 2009 Service Agreement for Network Integration Transmission Service ("NITS") between FPL and CITY, as amended from time to time, CITY takes network service under the FPL Open Access Transmission Tariff ("OATT") for delivery of the output of certain CITY generating resources to the interconnections between FPL and CITY;

WHEREAS, throughout the CONTRACT term, CITY's delivery points refers to the interconnections defined by the Exhibit A attached to the CONTRACT;

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein, the Parties hereto agree as follows:

ARTICLE I - DEFINITIONS

Section 1.1 - Control Area (also known as a Balancing Authority Area) shall mean a power system or combination of power systems to which a common generation control scheme is applied to: (1) match, at all times, (a) the power output of the generators within such Control Area and (b) capacity and energy purchased from utilities outside such Control Area, to the prevailing load within the Control Area, (2) maintain scheduled interchange with other Control Areas, (3) help maintain the system frequency within reasonable limits, (4) provide Regulation service in accordance with applicable reliability standards, and (5) provide sufficient generating capacity to maintain Operating Reserves.

Section 1.2 - Generating Capacity Resources: Generating Capacity Resources mean any owned or acquired (including purchased reserves) firm electric generating capacity available to a Party to meet its own native load requirements. Generating Capacity Resources may include capacity acquired from another utility only if (a) the necessary firm transmission arrangements have been made and (b) such purchased capacity is available on a basis and priority as if the Party owned the generating capacity on its own system. Without limitation to the foregoing, Generating Capacity Resources shall not include any electric generating capacity that another party has a priority to utilize that is superior to that of the Party.

Section 1.3 - Operating Reserves: shall mean Generating Capacity Resources which exceed a Party's instantaneous native system load and other firm power sale commitments, and which are available to provide for (1) Regulation Reserve to cover instantaneous demand variations caused by normal load and generation changes, (2) load forecasting errors, (3) sudden loss of the availability of equipment and/or facilities, and (4) local area protection. Operating Reserves may include Spinning Reserves (i.e. unused capacity connected to the bus and ready to pick up load instantaneously following a frequency disturbance) and non-Spinning Reserves (i.e. unused capacity not synchronized, but available to be synchronized within the time period for such reserves as specified by the applicable reliability standards).

Section 1.4 - Regulation Reserve shall mean the portion of a Party's Generating Capacity Resources responsive to automatic generation control actions with the objective of meeting the instantaneous demand variations caused by normal load and generation changes.

Section 1.5 - Data Acquisition Equipment includes, but is not limited to, communication equipment and remote terminal units ("RTUs") to obtain information from the FPL-CITY Points of Interconnection and leased telephone circuits necessary to transmit data to remote locations and any other equipment or service necessary to provide for the telemetry requirements of the Parties under this CONTRACT.

Section 1.6 - Emergency Condition shall mean a condition or situation: (1) that in the judgment of CITY or FPL is imminently likely to endanger life or property; or (2) that, in the case of FPL, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, Transmission System or the electric systems of others to which the FPL Transmission System is directly connected; or (3) that, in the case of CITY, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, CITY Interconnection Facilities or the CITY's Transmission System. CITY and FPL Transmission System restoration and black start shall be considered Emergency Conditions.

Section 1.7 -FERC shall mean the Federal Energy Regulatory Commission, or its successor.

Section 1.8 - CITY Transmission System shall mean all the facilities owned or controlled by City, or its successor, on City's side of the Points of Interconnection.

Section 1.9 - FPL Transmission System shall mean all the facilities owned or controlled by FPL, or its successor, on FPL's side of the Points of Interconnection.

Section 1.10 - FPL's Open Access Transmission Tariff ("OATT) shall mean the FPL OATT, on file with FERC, and any successor tariff thereto.

Section 1.11 -FRCC shall mean the Florida Reliability Coordinating Council, Inc. or its successor.

Section 1.12 - "Good Utility Practice" shall mean any of the practices, methods and acts engaged in or approved by a significant proportion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of

reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable reliability standards, good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the industry.

Section 1.13 - Governmental Authority or Governmental Authorities shall mean any federal, state, local or municipal body, or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over a Party, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police or taxing authority or power, provided, however, that such term does not include a Party or its affiliates .

Section 1.14 -Interconnection Facilities shall mean all equipment and facilities described in the Exhibit A that are necessary or desirable to physically or electrically interconnect the CITY to the FPL Transmission System economically, reliably and safely, including all connection, switching, transmission, distribution, safety, engineering, communication, and administrative facilities, System Protection Equipment, Metering Equipment and Data Acquisition Equipment.

Section 1.15 -kV shall mean kilovolt.

Section 1.16 -Metering Equipment includes, but is not limited to, high accuracy, solid state bi-directional MWh and MVarh primary and backup meters, metering cabinets, metering panels, conduits, cabling, transducers, high accuracy current transformers and high accuracy potential transformers that directly or indirectly provide input to meters or transducers, meter recording devices, telephone circuits, signal or pulse dividers, pulse accumulators and any other equipment necessary to implement the metering provisions of this CONTRACT.

Section 1.17 - Modifications shall mean any alteration, augmentation, change, modification, removal, or upgrade, including any changes in design, configuration operation or location.

Section 1.18 - MW shall mean megawatt.

Section 1.19 - MWh shall mean megawatt-hour.

Section 1.20 - MVAR shall mean megavar.

Section 1.21 - NERC shall mean the North American Electric Reliability Corporation, or its successor.

Section 1.22 - NESC shall mean the National Electric Safety Code.

Section 1.23 - Point of Change of Ownership shall mean the point or points, as described in the Exhibit A where the facilities owned by the CITY connect to the facilities owned by FPL.

Section 1.24 - Point of Interconnection shall mean the point or points, as described in the Exhibit A where the Interconnection Facilities connect to the FPL Transmission System.

Section 1.25 - System Protection Equipment includes, but is not limited to, protective relays, relaying panels, relaying cabinets, circuit breakers, motor operated switches, conduits, cabling, current transformers, potential transformers, fiber optic communication equipment, tuning units, coupling capacitor voltage transformers, line traps, transfer trip and fault recorders that, directly or indirectly, provide input to relays, relay carrier equipment and telephone circuits, and any other equipment necessary to implement the protection provisions of this CONTRACT.

Section 1.26 - Tie Metering shall mean the real time measurement and recording of bi-directional power and energy flows at each Point of Interconnection.

ARTICLE II - TERM OF CONTRACT

Section 2.1 - Effective Date: The Parties agree that an Effective Date of January 1, 2010 shall be requested. This CONTRACT shall become effective upon execution by the Parties subject to acceptance by FERC. FPL shall file this CONTRACT with FERC upon execution in accordance with Section 2.3.

Section 2.2- Term: The term of this CONTRACT shall commence on the date of execution by both Parties and shall continue in effect, subject to termination provisions set forth in Sections 3.1, 3.2, or 5.3 of this CONTRACT, for an initial period of thirty (30) years. This CONTRACT will remain in effect thereafter unless and until either Party, upon at least two (2) years advance written notice to the other Party, terminates this CONTRACT to be effective as of the end of the initial term or at any time after the initial term. In addition, either Party may terminate this

CONTRACT pursuant to the provisions of Section 2.5. This CONTRACT may also be terminated or extended at any time upon mutual written agreement of the Parties.

Section 2.3 - Filing of CONTRACT : FPL shall submit this CONTRACT for acceptance by the FERC. Upon filing by FPL, CITY shall support the filing and acceptance of this CONTRACT without modification or condition; CITY shall cooperate with FPL and provide any information reasonably required by FPL to comply with applicable filing requirements; and the Parties shall not lend support to any party who opposes this CONTRACT before the FERC. The Parties agree that all fees assessed by the FERC or its successor as they relate to the filing of this CONTRACT will be shared equally between the Parties.

Section 2.4 - Regulation and Approvals: In the event of a material change in law or regulation including a material change by FERC to this CONTRACT that adversely affects, or may reasonably be expected to have an adverse effect on, either Party's rights or obligations under this CONTRACT, the Parties will negotiate in good faith for a thirty (30) day period any amendment or amendments to this CONTRACT necessary to adapt the terms of this CONTRACT to such change in law or regulation, and FPL shall file such amendment or amendments with FERC. If the Parties are unable to reach agreement on any such amendments, FPL shall have the right to make a unilateral filing with FERC to modify this CONTRACT pursuant to Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Customer shall have the right to make a unilateral filing with FERC to modify this CONTRACT pursuant to Section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this CONTRACT shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder. For the purposes of this Section 2.4, the term "material" shall not include any change to this CONTRACT made by FERC in a proceeding initiated by the filing of an unexecuted CONTRACT with FERC.

Section 2.5 – Obligations upon Termination: In the event that this CONTRACT terminates or is terminated pursuant to any of its provisions, the Parties will support such termination before any regulatory authority having jurisdiction over such termination. In the event that this

CONTRACT is to be terminated under any of its provisions, the Parties agree to promptly enter into good faith negotiations to develop a successor agreement which recognizes the then-existing and anticipated service relationships between the Parties, such that a successor agreement can be put into effect as of the date of termination of this CONTRACT; provided further that, if such successor agreement is not reached in a timely fashion, either FPL or CITY may, prior to the termination date of this CONTRACT, unilaterally file with the FERC, or its successor, a successor agreement with a proposed effective date the same as the termination date of this CONTRACT. Such successor agreement will be subject to challenge before the FERC by the non-filing Party.

Section 2.6 – Survival: The applicable provisions of this CONTRACT shall continue in effect after expiration, cancellation, or termination hereof to the extent necessary to provide for the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this CONTRACT was in effect.

ARTICLE III – AVAILABLE INSTALLED RESERVES, OPERATING RESERVES, CONTROL AREA AND REGULATION SERVICE

Section 3.1 - Operating Reserves Responsibilities: It is the responsibility of each Party to have, and to plan for having, an adequate amount of Generating Capacity Resources and transmission facilities available at all times to provide for its own load. To this end, each Party shall have an amount of Operating Reserves considered prudent according to Good Utility Practice. If, at any time during the term of this CONTRACT, either Party fails to have sufficient Operating Reserves consistent with Good Utility Practice, NERC and/or FRCC requirements, such Party unable to comply with these provisions shall have thirty (30) days from the date of a written notice by the other Party to correct this deficiency. If this deficiency is not corrected by the end of such thirty (30) day period, the notifying Party may terminate, through appropriate regulatory filing, this CONTRACT sixty (60) days subsequent to such thirty (30) day period.

Section 3.2 - Control Area and Regulation Service Responsibilities: It is the responsibility of each Party to provide for a Control Area and Regulation service, and neither Party shall be obligated to provide such service to the other Party under this CONTRACT. A sufficient amount

of Generating Capacity Resources capable of responding to automatic generation control actions shall be available to the Control Area of each Party to comply with Good Utility Practice. If either Party fails to comply with these provisions, the Party unable to comply shall be given, by the other Party, thirty (30) days advance written notice to correct this deficiency. If this deficiency is not corrected by the end of thirty (30) day period, the notifying Party may terminate this CONTRACT, through appropriate regulatory filing, sixty (60) days subsequent to such thirty (30) day period. Initially, Vero Beach has contracted to have their load included as part of the FMPP Control Area, including the provision of balancing services. If, during the pendency of this CONTRACT, the CITY desires to change or modify its arrangements in providing for a Control Area or Regulation Service, then the CITY agrees to consult and coordinate with FPL for the appropriate arrangement prior to implementing such change or modification.

ARTICLE IV - OPERATING COMMITTEE

Section 4.1 Operating Committee: Each Party shall appoint a member and an alternate to an Operating Committee, and so notify in writing the other Party. Such appointments may be changed at any time by similar notice. The Operating Committee shall meet as necessary and review the duties set forth herein. This Committee shall hold other meetings at the request of either Party, at a time and place agreed upon by the members. Each representative and alternate shall be a responsible person working with the day-to-day operations of each respective power system. The Operating Committee shall represent the Parties in all matters arising under this CONTRACT which may be delegated to it by mutual agreement of the Parties.

Section 4.2 Duties of Operating Committee: The duties of the Operating Committee shall include those specifically referred to elsewhere in this CONTRACT, plus the following:

Coordinate operation and maintenance schedules.

Establish written control and operating procedures consistent with the provisions of this CONTRACT for each of the interconnections shown on Exhibit A.

Provide modified facility ratings to the other Party as required during the term of this CONTRACT for compliance with reliability standards.

Provide list of operating representatives of each Party; and

Such other duties as may be conferred upon it by mutual agreement of the Parties.

Each Party shall cooperate in providing to the Operating Committee all information required in the performance of its duties. In no event may the Operating Committee make a decision which conflicts with the terms of this CONTRACT. If the Operating Committee is unable to agree on any matter falling under its jurisdiction, such matter shall be resolved in accordance with Section 11.17 of this CONTRACT. All decisions and agreements made by the Operating Committee shall be evidenced in writing.

ARTICLE V - INTERCONNECTIONS

Section 5.1 - Interconnections: FPL and CITY agree to provide, maintain and continue in operable condition facilities to effectively use the interconnection(s) described in and in accordance with Exhibit A, which shall be a part of this CONTRACT. The Parties further agree to cooperate in studies and negotiations to determine the most desirable timing, location, voltage, size and associated equipment of any additional interconnections, or modifications to or abandonment of established interconnections. To the extent any modifications are made to facility ratings of either existing or new facilities, the Party owning such facility will provide updated facility rating information to the other party as required by reliability standards. Exhibit A shall clearly identify the respective ownerships and responsibilities relative to each interconnection, and shall be modified from time to time to reflect the addition or deletion of any interconnection.

Section 5.2 – Ownership of Facilities: CITY shall own all facilities, including all Interconnection Facilities, on its respective side of the Point of Change of Ownership (except for FPL's Data Acquisition Equipment located at CITY facilities). FPL shall own all facilities on its side of the Point of Change of Ownership (except for CITY's Data Acquisition Equipment located at FPL facilities).

Section 5.3 - Responsibilities of CITY with Respect to the Interconnection Facilities: CITY shall, in accordance with Good Utility Practice, design, engineer, construct, own, operate and maintain the Interconnection Facilities on CITY's side of the Point of Change of Ownership

(except for FPL's Data Acquisition Equipment located at CITY facilities) as described in Exhibit A in accordance and compliance with the then-existing (or amended) manuals, standards, and guidelines of NERC, FRCC, and any successor agency assuming or charged with similar responsibilities related to the operation and reliability of the North American electric interconnected transmission grid. CITY shall be solely responsible for the ownership, operation, maintenance, repair and replacement of CITY's Interconnection Facilities. CITY's Interconnection Facilities shall satisfy all requirements of applicable safety rules, engineering codes, reliability standards and all requirements of any Governmental Authority.

Section 5.4 - Responsibilities of FPL with Respect to the FPL Interconnection Facilities:

FPL shall, in accordance with Good Utility Practice, design, engineer, construct, own, operate and maintain the FPL facilities on its side of the Point of Change of Ownership (except for CITY's Data Acquisition Equipment located at FPL facilities) as described in Exhibit A in accordance and compliance with the then existing (or amended) manuals, standards, and guidelines of NERC, FRCC, and any successor agency assuming or charged with similar responsibilities related to the operation and reliability of the North American electric interconnected transmission grid. FPL shall be solely responsible for the ownership, operation, maintenance, repair and replacement of FPL's Interconnection Facilities. FPL's facilities shall satisfy all requirements of applicable safety rules, engineering codes, reliability standards and all requirements of any Governmental Authority.

Section 5.5 - Accessory Facilities: The Parties hereto will provide communication, telemetering, automatic generation control equipment and such other facilities for dispatching purposes and for control of power flow and flow of reactive kVA as is now or may hereafter reasonably be required in accordance with Good Utility Practice. The Party owning the metering and telemetering equipment for an interconnection shall provide MWh, MW and MVar telemetry signals for use by the other Party and shall also provide reasonable and suitable space for the other Party's remote terminal unit (RTU) for data acquisition, if required, and as agreed to by the Parties hereto. In order to assure the integrity of metering and telemetry data, the Parties agree to coordinate any additions, changes or modifications to such existing facilities or the installation of new facilities.

Section 5.6 – Modifications: If, at any time, either Party desires to modify, replace, relocate or

remove the System Protection Equipment, the Metering Equipment, or the Data Acquisition Equipment associated with the interconnections specified in Exhibit A, or any equipment or facility that may impact the Interconnection Facilities of the other Party, then such Party proposing the modification will notify the other Party of its intention to modify such equipment or facility. Such notification will be in writing and will describe with particularity the equipment, facilities, and associated arrangements for such modifications. Such notification shall include, in writing, the resulting new normal and the short term ratings of the Transmission Interconnection Facilities (*i.e.* the seven (7) minute ratings), and such ratings shall not degrade the existing normal and short term ratings of facilities forming the Interconnection unless otherwise agreed in writing among the Parties. Each Party will cooperate with the other Party with respect to the modification, replacement, relocation or removal of the equipment or facility.

Section 5.7 - Exclusive Responsibilities of the Parties

5.7.1: FPL: In no event will any FPL statement, representation or lack thereof, either express or implied, relieve CITY of its responsibility for any equipment required for implementation of this CONTRACT. Specifically: (1) any inspection of any equipment and facilities by FPL; (2) any specification, purchase, installation, testing or approval of equipment by FPL; or (3) any review, verification or approval of any engineering design or of work associated with any facility or equipment, will not be construed as FPL's confirming or endorsing any engineering design or operation, maintenance or installation procedures, or as a warranty or guarantee as to the safety, reliability or durability of any equipment. FPL's inspection, specification, purchase, verification, testing, review, approval, acceptance, or its failure to inspect, install, specify, purchase, verify, test, review, approve or accept any engineering design, will not be deemed an endorsement by FPL of any equipment, design or procedure.

5.7.2: CITY: In no event will any CITY statement, representation or lack thereof, either express or implied, relieve FPL of its responsibility for any equipment required for implementation of this CONTRACT. Specifically: (1) any inspection of any equipment and facilities by CITY, (2) any specification, purchase, installation, testing or approval of equipment by CITY, or (3) any review, verification or approval of any engineering design or of work associated with any facility or equipment, will not be construed as CITY's confirming or endorsing any engineering design or operation, maintenance or installation procedures, or as a warranty or guarantee as to the

safety, reliability or durability of any equipment. CITY's inspection, specification, purchase, verification, testing, review, approval, acceptance, or its failure to inspect, install, specify, purchase, verify, test, review, approve or accept any engineering design, will not be deemed an endorsement by CITY of any equipment, design or procedure.

Section 5.8 - Parties Responsible: Unless otherwise specified in Exhibit A and related contracts between the Parties, each Party hereto shall provide, operate, and maintain at its own cost and expense, such of the equipment and facilities as may be required pursuant to the foregoing provisions of this Article V. However, the Party owning RTU's and related Data Acquisition Equipment located on the system of the other Party at space provided by the owning Party shall maintain such RTU's at its own expense.

Section 5.9 — Right to Inspect: Each Party shall have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any Interconnection Facilities; (ii) review the settings of the other Party's Protective Equipment; and (iii) review the other Party's maintenance records relative to the Interconnection facilities and the Protective Equipment. A Party may exercise these rights from time to time, as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition Interconnection facilities or the Protective Equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. In no event will any statement, representation or lack thereof, either express or implied by either Party, relieve the other Party of its responsibility for any equipment required for implementation of this CONTRACT.

ARTICLE VI - OPERATION AND MAINTENANCE OF INTERCONNECTION FACILITIES

Section 6.1 - Parallel Operation: The systems of FPL and CITY shall normally be operated in parallel and shall normally be interconnected as described in Exhibit A hereof, except as may be otherwise mutually arranged by the Operating Committee. However, if any operating conditions or circumstances create an undue burden on the system of either Party that threatens the continued reliable operation of its facilities, then the Party suffering undue burden shall have the

right to open the interconnection(s) to relieve its system of the burden imposed upon it to the extent consistent with Good Utility Practice; provided, however, prior notice shall be given to the other Party. The Operating Committee shall make every reasonable effort to resolve any problems which have caused, or threaten to cause, an undue burden to be imposed upon either Party and to avoid the exercise of the rights provided for in this Section 6.1.

Section 6.2 - Scheduled Deliveries: Scheduled deliveries shall mean all deliveries of power and energy by one Party to another, as adjusted for applicable transmission losses. Receipts and deliveries of power and energy shall be respectively scheduled in whole MW and MWh quantities on a clock-hour basis. It is recognized that both FPL and CITY may maintain interconnections with other utilities in addition to those between the Parties of this CONTRACT. For this reason the actual flow of power on the interconnections between the Parties hereto will usually differ from scheduled values due to flow or displacement of power through other systems. Therefore, energy accounting shall be in accordance with scheduled deliveries rather than actual metered net interchange of power between FPL and CITY during the period of such scheduled deliveries. Any difference between scheduled deliveries and actual flow of power and energy shall be classified as inadvertent interchange energy.

Section 6.3 - Inadvertent Interchange Energy: With respect to each Party, Inadvertent - Interchange Energy of each Party hereto is the time integral of that Party's actual net interchange minus the time integral of its scheduled net interchange. This Inadvertent Interchange Energy includes the intentional interchange energy resulting from the use of frequency bias, the unscheduled interchange energy resulting from human or equipment error, energy exchanges resulting from the use of operating reserves in accordance with FRCC rules, and the energy exchanged as a result of temporary arrangements for testing purposes. Inadvertent Interchange Energy shall be returned in kind at times mutually agreed upon. Each Party shall have the obligation to put forth its reasonable best efforts to keep Inadvertent Interchange Energy as low as practicable.

Section 6.4 - Reactive MVA: The Parties shall operate their systems consistent with Good Utility Practice, so as to maintain voltage levels within acceptable ranges and appropriate reactive electric energy reserves, and each Party shall endeavor to supply reactive electric energy consistent with such obligation. In order to implement these arrangements, the Parties' operating

representatives shall from time to time establish appropriate voltage schedules and reactive electric energy supply arrangements. It is recognized by each Party that there may be reactive electric energy flows through the systems of the other parties. However, neither Party shall be obligated to supply or absorb reactive electric energy for the other Party when to do so would interfere with service on its own system, would adversely affect any contractual relationships between the Party and other parties, would limit the use of interconnection facilities, or would require the operation of generation or reactive equipment not otherwise required. Nothing in this Section 6.4 shall be construed as overriding or amending any specific arrangements concerning the provisions of reactive power contained in any other existing agreements between FPL and CITY.

Section 6.5 – Disturbance: Each Party shall, insofar as practicable, so protect, operate and maintain its system and facilities as to avoid or minimize the likelihood of disturbances which might cause impairment of or jeopardy to service to the customers of the other Party, or in other interconnected systems

Section 6.5.1 - Disturbance Analysis: The Parties will cooperate with one another in the analysis of disturbances by gathering and providing access to information, if any, relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records. The Parties shall investigate and keep a log of all protective relay actions and misoperations as required by the FRCC and in compliance with NERC standards.

Section 6.6 – Control: Unless otherwise specified in Exhibit A, each Party shall operate and have exclusive control of all facilities that it owns. However, in the event of an Emergency Condition, either Party may operate such Interconnection Facilities of the other Party (under the direction or concurrence of the owner's appropriate system operator if the nature of the Emergency Condition so permits). In any event, the Party operating the other Party's Interconnection Facilities will advise the owner's appropriate system operator of any action taken as promptly as possible. In addition, the Party controlling the operation of specific Interconnection Facilities shall comply with reasonable requests by the other Party to operate such Interconnection Facilities.

In accordance with this Section 6.6, with prior notice each Party may remove Interconnection

Facilities from service that may affect the other Party as necessary to perform maintenance or testing or to install or replace equipment. Neither Party shall energize nor, except to the extent necessary to respond to an Emergency Condition, de-energize a transmission circuit or Interconnection Facilities of the other Party unless such other Party directs or approves such actions, which approval shall not be unreasonably withheld or delayed. Absent the existence or imminence of an Emergency Condition, the Party scheduling a removal of Interconnection Facilities from service will use reasonable efforts to schedule such removal on a date and time mutually acceptable to both Parties.

Section 6.7 - Unplanned Outage: In the event of an unplanned outage of equipment that affects the other Party, the Party that owns or controls the equipment out of service shall notify the other Party as soon as practicable including an estimated time to return the equipment to service and restore that equipment to service as soon as practicable.

Section 6.8 - Observation of Deficiencies: If a Party observes any deficiencies or defects in, or becomes aware of a lack of scheduled maintenance and testing with respect to, the other Party's facilities and equipment or that might reasonably be expected to have adverse effects on the observing Party's facilities and equipment, the observing Party shall provide written notice to the other Party that is prompt under the circumstance, and the other Party shall make any corrections required. Any Party's review and inspection related to the other Party's facilities and equipment will be limited to the purpose of ensuring the safety, reliability, protection and control of the Interconnection Facilities. Notwithstanding the foregoing, the inspecting Party shall have no liability whatsoever for failure to give a deficiency or defect notice, it being agreed that the Party owning the facilities and equipment is fully responsible for all such activities, tests and modifications in accordance with the provisions of Section 5.7, Exclusive Responsibilities of the Parties.

ARTICLE VII—TIE METERING AND DATA ACQUISITION PROVISIONS

Section 7.1 – Metering Equipment: Necessary metering equipment to permit determination of the amounts of real and reactive electric power and energy transmitted over the interconnections is installed as described in Exhibit A hereof. All required Metering Equipment will conform to

the description set forth in Section 1.16. The primary meter is to be used for the registration of record unless it is not available or found to be outside of the manufacturer's specification.

Section 7.2 - Meter Reading: Telemetered MWh readings shall be used to determine hourly, daily and monthly interconnection energy transfers. Such readings shall be confirmed, and if necessary, adjusted, no less than once each month by comparison with actual interconnection kWh meter readings. All meter readings related to billing and adjustment of inadvertent accounts shall be recorded at 2400 (12 midnight) on the last day of each month. Kilowatt-hour meter statements shall be assembled and summarized at the end of each month for record purposes. Should billing meters fail to register accurately at any time, deliveries during the period of failure shall be determined by mutually satisfactory means by the Operating Committee.

Section 7.3 – Meter Owner's Obligations: The owner of metering equipment will design, engineer, install, own, maintain and calibrate the Metering Equipment associated with the establishment of each of the interconnections, unless otherwise specified in Exhibit A. The owner will test and calibrate the Metering Equipment consistent with the manufacturer's specifications and Good Utility Practices for testing and calibrating similar installations. Only certified test equipment will be used with a valid certification traceable to the National Bureau of Standards. The owner will provide reasonable notice to the other Party prior to testing the Metering Equipment, and both Parties may witness the testing and calibration of the Metering Equipment. Upon request, the owner will provide the other Party a copy of any testing and calibration report. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced in order to provide accurate metering. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than one percent (1%) from the measurement made by the standard meter used in the test, the Parties shall adjust the inadvertent interchange energy account by mutually satisfactory means mutually agreed to by the Operating Committee formed in accordance with the Interchange Contract.

Section 7.4 - Sealed Meters: All electronic meters associated with the metering of the interconnections will be sealed by CITY and by FPL. Other than under an emergency, the seal(s) will only be opened by prior mutual coordination and approval of the Parties.

Section 7.5 - Notification Prior to Commencement of Work: Each Party will notify the other

Party prior to the commencement of any work performed by the Party or its contractors or agents which may directly or indirectly affect the Metering Equipment or meter readings.

Section 7.6 – Meter Compensation: The metering for each of the interconnections specified in Exhibit A shall be compensated to reflect quantities at the applicable Point of Interconnection.

Section 7.7 - Data Acquisition Equipment: Each Party will be responsible for the design, acquisition, installation, repair, maintenance, replacement, relocation or removal of its respective Data Acquisition Equipment associated with the Interconnection Facilities. The Data Acquisition Equipment will monitor analog and digital signals deemed desirable by the Parties to implement the provisions of this CONTRACT. Such Data Acquisition Equipment will be compatible at all times with the computer equipment, or other applicable electronic devices, receiving the telemetry signals, and will supply status information, MWh, MVarh, voltage, current, line and bus voltage, MW and Mvar analog information, as well as any other appropriate data as agreed by the Parties.

ARTICLE VIII-PROTECTIVE EQUIPMENT

Section 8.1 - Protective Equipment: Protective Equipment will be installed in accordance with this Article VIII necessary to: (1) maintain the overall safe and reliable operation of the FPL Transmission System and the CITY's system; (2) preserve the continuity of the FPL Transmission System and the CITY's system; and (3) protect the Parties' respective transmission, distribution and generation equipment. The Parties recognize and agree that certain calibration, design and maintenance of Protective Equipment requires coordination between the Parties and that they will make a reasonable efforts to coordinate such calibration, design and maintenance.

Section 8.2 - FPL's Obligations and Right of Review:

8.2.1: Design: FPL will, in accordance with Good Utility Practice, design, engineer, purchase and install any Protective Equipment required on the FPL System as a result of this CONTRACT. FPL will provide to CITY the documentation describing the engineering and design of such Protective Equipment in a timely manner to permit CITY's review of such design prior to FPL's finalization thereof. FPL will coordinate with CITY any reasonable

recommendation(s) of CITY to modify the engineering, design and/or installation plans so long as those recommendations conform to Good Utility Practice.

8.2.2: Maintenance: FPL will maintain its Protective Equipment. At intervals described in FPL's maintenance program as mandated by FRCC and NERC requirements, and following any apparent malfunction of the System Protection Facilities, FPL shall perform both calibration and functional trip tests of its System Protection Facilities. FPL will not, while this CONTRACT remains in effect, remove, relocate, replace or modify the Protective Equipment owned by FPL on the FPL Transmission System which may reasonably be expected to coordinate with the CITY's Protective Equipment, without prior written notice to CITY, to allow CITY reasonable time to review the effect of any such change(s) on the CITY's system. FPL will, at CITY's request, if reasonably necessary to accomplish the purposes for which the Protective Equipment was installed remove, relocate, repair, replace, maintain or modify any Protective Equipment, at no expense to CITY.

8.2.3: Review of the respective City's Protective Equipment: Consistent with Good Utility Practice, FPL will have the right to: (1) review the engineering, design and installation plans of any Protective Equipment required pursuant to this CONTRACT within the CITY's system for the purpose of ensuring that such engineering, design and/or installation plans will not adversely affect the reliability of the FPL System, and will result in the performance of all functions as intended; (2) review and verify the Protective Equipment's settings; and (3) monitor and verify any test, calibration, checkout and operation of any Protective Equipment required by this CONTRACT.

Section 8.3 - CITY's Obligations and Right of Review:

8.3.1: Design: CITY will, in accordance with Good Utility Practice, design, engineer, purchase and install, or cause to be designed, engineered, purchased and installed, any Protective Equipment required on the CITY's system as a result of this CONTRACT. CITY will provide to FPL the documentation describing the engineering and design of such Protective Equipment in a timely manner to permit FPL's review of such design prior to CITY's finalization thereof. CITY will coordinate with FPL any reasonable recommendation(s) of FPL to modify the engineering, design and/or installation plans so long as those recommendations conform to Good Utility Practice.

8.3.2: Maintenance: CITY will maintain, or cause to be maintained, the CITY's Protective Equipment. At intervals described in the CITY's maintenance program as mandated by FRCC and NERC requirements, and following any apparent malfunction of the System Protection Facilities, CITY shall perform, or cause to be performed, both calibration and functional trip tests of the respective City's System Protection Facilities. CITY will not, while this CONTRACT remains in effect, remove, relocate, replace or modify the Protective Equipment owned by the CITY which may reasonably be expected to coordinate with FPL's Protective Equipment, without prior written notice to FPL, to allow FPL reasonable time to review the effect of any such change(s) on FPL's system. CITY will, at FPL's request, if reasonably necessary to accomplish the purposes for which the Protective Equipment was installed, remove, relocate, repair, replace, maintain or modify any Protective Equipment at no expense to FPL.

8.3.3: Review of FPL's Protective Equipment: CITY will have the right to: (1) review the engineering, design and installation plans of any Protective Equipment required pursuant to this CONTRACT within the FPL System for the purpose of ensuring that such engineering, design and/or installation plans will not adversely affect the reliability of CITY's system, and will result in the performance of all functions as intended; (2) review and verify the Protective Equipment's settings; and (3) monitor and verify any test, calibration, checkout and operation of any Protective Equipment required by this CONTRACT.

ARTICLE IX - COST RESPONSIBILITY OF FPL AND CITY

Section 9.1 - CITY Interconnection Facilities: Unless otherwise specified in Exhibit A, CITY shall be responsible for all the costs incurred by CITY associated with designing, engineering, constructing, owning, operating and maintaining the Interconnection Facilities on the respective City's side of the Point of Change of Ownership. However, the Party owning a RTU and related Data Acquisition Equipment located on the system of the other Party at space provided by the owning Party shall maintain such RTU's at its own expense.

Section 9.2 - FPL Interconnection Facilities: Unless otherwise specified in Exhibit A, FPL shall be responsible for all costs incurred by FPL associated with designing, engineering, constructing, owning, operating and maintaining the Interconnection Facilities on FPL's side of

the Point of Change of Ownership. However, the Party owning a RTU and related Data Acquisition Equipment located on the system of the other Party at space provided by the owning Party shall maintain such RTU's at its own expense.

Section 9.3 - Data Acquisition Equipment: Each Party will be responsible for its respective costs associated with the installation of its respective telephone facilities or radio facilities and any and all operating expenses associated with leased telephone circuits or radio equipment from the RTUs to their respective computer equipment or other applicable electronic devices. Each Party will obtain and maintain its own telephone circuits and/or radio frequencies as appropriate.

ARTICLE X - FORCE MAJEURE, INDEMNIFICATION AND LIMITATION OF LIABILITY

Section 10.1 - Force Majeure: In the event that either Party should be delayed in, or prevented from, performing or carrying out any of the agreements, covenants and obligations made by, and imposed upon, said Party by this CONTRACT, by reason of or through any cause reasonably beyond its control and not attributable to its neglect, including strike, stoppage in labor, failure of contractors or suppliers of materials, riot, fire, flood, ice, invasion, civil war, commotion, insurrection, military or usurped power, order of any court granted in any bona fide adverse legal proceeding or action, order of any civil or military authority (either de facto or de jure), explosion, act of God or public enemies, failure or malfunction of system facilities, unscheduled outage of generating units or transmission facilities then, in each such case or cases, the affected Party shall be relieved of performance under this CONTRACT and shall not be liable to the other Party for or on account of any loss, damage, injury or expense (including consequential damages and cost of replacement power) resulting from or arising out of any such delay or prevention from performing; provided, however, the Party suffering any such delay or prevention shall use due and, in its judgment, practicable diligence to remove the cause(s) thereof; and provided, further, neither Party shall be required by the foregoing provisions to settle a strike affecting it except when, according to its own best judgment, such a settlement seems advisable; and provided, further, nothing in this Section 10.1 shall excuse any payment obligations incurred under this CONTRACT.

Section 10.2 - Responsibility and Indemnification: Each Party expressly agrees to (a) indemnify and save harmless and defend the other Party (including the latter's parent, subsidiaries, affiliates and their respective officers, directors and agents) against all claims, demands, costs or expense for loss, damage or injury to property or to any person(s) (including death) in any manner directly connected with or growing out of the performance of any provision under this CONTRACT, unless due to or caused by the gross negligence or willful misconduct of the other Party, and (b) waive all rights against and release the other Party for any liability it may incur for payment, if any, of benefits to its own employees under any statutory obligation.

Section 10.3 - Limitation of Liability: Neither Party (including its parent, subsidiaries, affiliates and their respective officers, directors, agents or employees) shall have any liability, including negligence and strict liability, in contract, tort or otherwise to the other Party for any incidental or consequential damages, including but not limited to interest or carrying charges, expenses arising from cost of capital, loss of profits or revenue, claims of customers related to electrical service, or cost of purchased or replacement power resulting from operation of the Interconnection Facilities.

ARTICLE XI - MISCELLANEOUS

Section 11.1 – Access: Subject to compliance with reliability and critical infrastructure standards imposed by FERC, NERC or other applicable Governmental Authorities, each Party shall provide to the other Party reasonable access to its premises as necessary to implement the provisions of this CONTRACT.

Section 11.2 - Amendment: The Parties may by mutual agreement amend this CONTRACT by a written instrument duly executed by the Parties.

Section 11.3 - Binding Effect: This CONTRACT and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

Section 11.4 – Conflicts: In the event of a conflict between the body of this CONTRACT and any Attachments hereto, the terms and provisions of the body of this CONTRACT shall prevail and be deemed the final intent of the Parties. In the event of a conflict between the Exhibit A to this CONTRACT and the underlying Interconnection Agreements identified for each of the

interconnections specified in Exhibit A, the specified Interconnection Agreements shall control. In the event of a conflict between the NITS dated February 16, 2009 between FPL and CITY under FPL's open-access transmission tariff and this CONTRACT, the terms of the NITS shall control.

Section 11.5 – Default: In the event of a Party's failure to perform a material obligation imposed upon it by this CONTRACT, the defaulting Party shall, within thirty days after its receipt of written notice of the existence and nature of such failure, take all steps necessary to cure such default as promptly and completely as possible. Should the defaulting Party fail to cure said default within a reasonable period of time, consistent with Good Utility Practice, the other Party shall have, in addition to any other legal or equitable rights or remedies that may be applicable, the right to cure. In such event, the defaulting Party shall pay to the other Party, promptly upon demand, the total expenses (including attorney's fees, if any) incurred by the other Party in curing such default.

Section 11.6 – Effect of Section Headings: Article and Section headings appearing in this CONTRACT are inserted for convenience of reference only and shall in no way be construed to modify or restrict any of the terms and provisions hereof.

Section 11.7 - Entire Agreement: This CONTRACT, including all Appendices, Attachments and Exhibits attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this CONTRACT. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this CONTRACT. Parol or extrinsic evidence shall not be used to vary or contradict the express terms of this CONTRACT.

Section 11.8 – Exhibit A: The Exhibit A to this CONTRACT is hereby incorporated by reference into and shall be deemed a part of this CONTRACT, subject to Section 11.4, Conflicts.

Section 11.9 - Governing Law and Venue: The validity, interpretation and performance of this CONTRACT and each of its provisions shall be governed by the laws of the State of Florida, without regard to its conflicts of law principles. Any disputes resulting in litigation between the

parties shall be conducted in the state or federal courts of the State of Florida. The venue for all such proceedings shall be the Circuit Court for Miami-Dade County or Palm Beach County, Florida or the United States District Court for the Southern District of Florida.

Section 11.10 - Multiple Counterparts: This CONTRACT may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

Section 11.11 - No Dedication of the System: Any undertaking by either Party to the other Party under any provision(s) of this CONTRACT shall not constitute the dedication of the system, or any portion thereof, of either Party to the public or to the other Party, and it is understood and agreed that any such undertaking by either of the Parties shall cease upon termination of this CONTRACT.

Section 11.12 - No Partnership: This CONTRACT shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

Section 11.13 - No Strict Construction: The Parties have participated jointly in the negotiation and drafting of this CONTRACT. In the event an ambiguity or question of intent or interpretation arises with respect to this CONTRACT or any of the documents delivered pursuant hereto, this CONTRACT and such documents shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this CONTRACT or such documents.

Section 11.14 - No Third Party Beneficiaries: This CONTRACT is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

Section 11.15 - Notices: Any notice contemplated by this CONTRACT will be made in writing and will be delivered either in person, by prepaid telegram, by facsimile transmission, or by telephone contact confirmed by overnight delivery service to the address or number identified

below. Either Party may change the notice information by giving five (5) business days written notice prior to the effective date of the change.

In the case of FPL:

Florida Power & Light Company
Manager, Transmission Services
4200 West Flagler Street
Miami, Florida 33134

In the case of CITY:

CITY OF VERO BEACH
Attention: Director of Electric Utilities
1053 20th Place
Vero Beach, Florida 32960

Section 11.16 - Relationship of the Parties: This CONTRACT shall not be interpreted or construed to create an association, joint venture, agency relationship or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to bind, the other Party in any manner.

Section 11.17 – Reporting: Each Party shall notify the other Party, consistent with the provisions of Section 11.15, Notices, when it becomes aware of its inability to comply with any provision of this CONTRACT. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply.

Section 11.18 - Resolution of Disputes: Where a dispute arises concerning interpretation or application of this CONTRACT, the Parties will attempt to resolve the dispute by discussion between representatives of the Parties. If such representatives are unable to resolve the dispute, the dispute shall be referred to higher authorities within each of the Parties' respective organizations. In the event that such referral fails to resolve the dispute, either Party may invoke

such remedies at law or equity as may be available to it for resolution of a dispute concerning interpretation or application of this CONTRACT.

Section 11.19 - Rules of Interpretation: This CONTRACT, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this CONTRACT, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any gender includes each other gender; (4) reference to any agreement (including this CONTRACT), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (5) reference to any applicable laws and regulations means such applicable laws and regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (6) reference to any Article, Section Appendix, Attachment or Exhibit means such Article or Section of this CONTRACT or such Appendix, Attachment or Exhibit to this CONTRACT, as the case may be, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition; (7) "hereunder," "hereof," "herein," "hereto" and words of similar import shall be deemed references to this CONTRACT as a whole and not to any particular Section or other provision hereof or thereof; (8) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (9) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including."

Section 11.20 – Severability: In the event that any of the provisions of this CONTRACT or the application thereof to any person or circumstance are, to any extent, held to be unenforceable or invalid by any court or Governmental Authority of competent jurisdiction, the validity and enforceability of the remaining provisions of this CONTRACT or the application hereof to any persons or circumstances other than those as to which it is held to be invalid or unenforceable will not be affected thereby.

Section 11.21 - Successors and Assigns: This CONTRACT shall inure to the benefit of, and be

binding upon, the Parties and their respective successors and assigns, and will not be assignable by any Party without the prior written consent of the other Parties, except as to a successor in the operation of properties by reason of a merger, consolidation, reorganization, sale or foreclosure, where substantially all such properties are acquired by such successor. Consent hereunder shall not be unreasonably withheld or delayed.

Section 11.22 - Waiver: The failure of a Party to this CONTRACT to insist, on any occasion, upon strict performance of any provision of this CONTRACT will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this CONTRACT shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this CONTRACT. Termination or Default of this CONTRACT for any reason by CITY shall not constitute a waiver of any legal right of CITY to obtain an interconnection from FPL. Any waiver of this CONTRACT shall, if requested, be provided in writing.

IN WITNESS WHEREOF, the Parties hereto have caused this CONTRACT to be executed by their duly authorized officers, and copies delivered to each Party, as of the day and year first above stated.

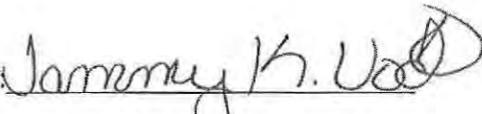
ATTEST: FLORIDA POWER & LIGHT COMPANY

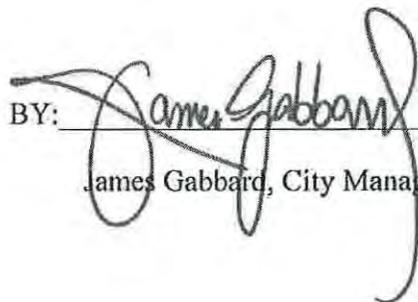
BY: _____
Secretary

BY: _____
Vice President

ATTEST:

CITY OF VERO BEACH, FLORIDA

BY: 
City Clerk

BY: 
James Gabbard, City Manager

IN WITNESS WHEREOF, the Parties hereto have caused this CONTRACT to be executed by their duly authorized officers, and copies delivered to each Party, as of the day and year first above stated.

ATTEST: FLORIDA POWER & LIGHT COMPANY

BY: Rosie Northey
Secretary

BY: James A. Keener
Vice President

ATTEST:

CITY OF VERO BEACH, FLORIDA

BY: _____
City Clerk

BY: _____
James Gabbard, City Manager

EXHIBIT A
TO CONTRACT FOR INTERCONNECTED OPERATIONS
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
CITY OF VERO BEACH, FLORIDA

The interconnection(s) between FPL and CITY shall be as follows:

1. **West Substation:** 138 kV interconnection connecting FPL's Emerson-West and West-Malabar 138 kV transmission lines with Vero's West Substation located on the east side of 58th Avenue approximately 1,700 feet south of State Road 60 in Southwest ¼ of Section 4, Township 33 south, Range 39 east, in Indian River County, Florida.

FPL owns and maintains the portions of the Emerson-West and West-Malabar 138 kV transmission lines up to and including the line insulators attached to the substation structure at West Substation (the two Points of Interconnection at West). Vero owns and maintains all the facilities at the West Substation. The metering and telemetering equipment for this interconnection will be located at Vero's West Substation and will be owned and maintained by Vero. However, the owning party shall maintain at its own cost and expense such RTUs for data acquisition as provided in this Contract for Interconnected Operations. FPL will have exclusive operational control of the 138 kV circuit breaker and supervisory control equipment associated with FPL's two transmission lines at West Substation and Vero will have normal operational control of all other 138 kV breakers in the 138 kV section. However, in the event of an Emergency Condition, either Party may operate any of the other breakers necessary to open the connection between the Parties. In any event, the Party operating the other Party's facilities will advise the owner's appropriate system operator of any action taken as promptly as possible.

2. **Emerson Substation:** 138 kV interconnection connecting FPL's Emerson Substation with the jointly-owned 138kV Transmission Facilities of the CITY and the Fort Pierce Utilities Authority ("FPUA"), as described and in accordance with the terms and conditions set forth in FERC Rate Schedule No. 136, the Emerson 138kV Interconnection Agreement among Florida

Exhibit A Continued

Power & Light, Fort Pierce Utilities Authority and City of Vero Beach, Florida, dated March 24, 1993 (“Emerson Agreement”).



9-A-1
OFFICE OF THE CITY CO

MEMORANDUM

To: Mayor Sawnick and Members of the City Council

From: Kenneth J. Daige, City Councilmember

Subject: Local Preference Ordinance

Date: March 9, 2010

Attached for review and discussion by the City Council at the March 16th City Council meeting is a copy of the Indian River County "Local Preference in Purchasing or Contracting" ordinance adopted by the County Commission in July of 2009. I have placed the County's local preference ordinance under my matters on the Agenda for discussion and possible Council direction of City staff to draft a similar ordinance for the City of Vero Beach.

Indian River County

Section 105.04.1. Local preference in purchasing or contracting.

(a) Definitions.

(1) *Local business* shall mean a business that meets all of the following criteria:

- a. Has had a staffed and fixed office or distribution point, with a verifiable street address, located within Brevard; Indian River; Martin; Okeechobee; Osceola; or St. Lucie County for at least one (1) full calendar year immediately prior to the issuance of the request for competitive bids or request for proposals by the county. Post office boxes shall not be used or considered for the purpose of establishing a physical address;
- b. Has had, for at least twelve (12) months prior to the date of the advertisement for the particular good or service being solicited, a current "local business tax receipt" issued by Brevard; Indian River; Martin; Okeechobee; Osceola; or St. Lucie County, if applicable;
- c. Holds any license or competency card required by Indian River County; if applicable; and
- d. If the contract is awarded, will be the person or entity in direct privity of contract with Indian River County and not as subcontractor, or any lower-tier subcontractor, materialman, or supplier.

(2) *Nonlocal business* means a bidder that is not a local business, as defined herein.

(b) *Certification*. Any person or entity claiming to be a local business, as defined herein, and desiring to receive local preference, shall complete and submit, together with all required attachments, a "local business certification form" in the form provided by the county and contained within the bid package accompanying a public notice/advertisement. Any bidder who fails to complete, and submit the "local business certification form" together with all required attachments with their bid shall not be granted local preference consideration for the purposes of that specific contract award. The purchasing division shall determine if a person or entity meets the definition of a "local business."

(c) *Local preference in purchases by means of competitive bid*. In connection with any solicitation to which this section applies, Indian River County will give preference to local businesses in the following manner:

(1) When a qualified and responsive, nonlocal business submits the lowest price bid (herein, "apparent low bidder"), and the bid submitted by one (1) or more qualified and responsive local businesses is equal to or within five (5) percent of the price submitted by the apparent low bidder, then the local business with the apparent next-lowest qualified and responsive bid offer (herein, the "lowest local bidder") shall have the opportunity to submit an offer to match the price(s) offered by the apparent low bidder as follows:

- a. The purchasing division shall invite, in writing, by email, fax, or certified mail, the lowest local bidder to submit a written matching offer to the purchasing division (herein "invitation");
- b. The lowest local bidder may, but shall not be obligated to, submit a written matching offer to the purchasing division within five (5) business days after receipt of the invitation;
- c. If the lowest local bidder submits a written offer that matches the bid from the apparent low bidder, such written offer shall be accepted and the lowest local bidder shall be awarded the contract;
- d. If the lowest local bidder submits a written offer that does not match the bid from the apparent low bidder, such written offer shall be rejected;
- e. Thereupon, the next successive lowest qualified and responsive local bidder, if and only if their bid is less than or within five (5) percent of the apparent low bidder will receive the invitation; and
- f. This cycle shall be repeated until there are no remaining local bidders less than or within five (5) percent, then award shall be made to the apparent low bidder.

(2) If the lowest local bidder and successive next lowest local bidders do not respond, decline, or are unable to match the apparent low bidder bid price(s), then award will be made to the apparent low bidder.

(d) *Board approval of change orders.* In the event a local bidder is awarded a contract pursuant to this section, all requests for change orders increasing the cost of the project must be approved by the board of county commissioners.

(e) *Notice.* All solicitations that are subject to this section shall include the substance of this local preference section and the "local business certification form."

(f) *Exclusions and limitations.*

(1) *Waiver of local preference.* The application of this section to a particular purchase or contract of the board of county commissioners may be waived only prior to bid solicitation/advertisement and with the approval of the board of county commissioners.

(2) The provisions of this section shall not apply where prohibited by federal law or Florida law, or under the conditions of any grant or other funding source.

(3) The provisions of this section shall not apply to contracts under the Consultants Competitive Negotiation Act (CCNA), F.S. § 287.055, as CCNA allows consideration of location in the evaluative process.

(4) The provisions of this section shall not apply to any procurement where the local nature of a business has been addressed through scoring criteria.

(5) The general services department shall be responsible for developing, implementing, and maintaining administrative procedures in support of this policy.

(g) *Subsequent review and sunset provision.* On or about six (6) months after the effective date of this section, the general services department will provide the board with the results to date of this local preference policy and the status of regional reciprocity for Indian River County businesses by Brevard; Martin; Okeechobee; Osceola; and St. Lucie Counties. Within one (1) year after the first bid awarded under this policy, the board shall receive a similar report from the general services department and shall determine whether to continue or modify this policy. Nothing in this section shall prevent the board from taking action sooner to revise or remove this local preference policy.

(Ord. No. 2009-010, § 1, 7-14-09)

Local Business Certification Form

(1) "Local business" shall mean a business that meets all of the following criteria:

(a) Has had a staffed and fixed office or distribution point, with a verifiable street address, located within Brevard; Indian River; Martin; Okeechobee; Osceola; or St. Lucie County for at least one (1) full calendar year immediately prior to the issuance of the request for competitive bids or request for proposals by the County. Post office boxes shall not be used or considered for the purpose of establishing a physical address; and

(b) Has had, for at least 12 months prior to the date of the advertisement for the particular good or service being solicited, a current "Local Business Tax Receipt" issued by Brevard; Indian River; Martin; Okeechobee; Osceola; or St. Lucie County, if applicable; and

(c) Holds any license or competency card required by Indian River County; if applicable; and

(d) If the contract is awarded, will be the person or entity in direct privity of contract with Indian River County and not as subcontractor, or any lower-tier subcontractor, materialman, or supplier.

1. Company Name: _____

2. Address: _____

3. If applicable, Contractor License or Competency Card #: _____

4. PLEASE ATTACH COPY OF CONTRACTOR LICENSE OR COMPETENCY CARD

5. If applicable, Business Tax Receipt #: _____

6. PLEASE ATTACH COPY OF BUSINESS TAX RECEIPT

7. Phone Number: _____ 8. Fax Number: _____

9. I hereby certify that, if the contract is awarded, the entity set forth in item 1 above will be the person or entity in direct privity of contract with Indian River County and not as subcontractor, or any lower-tier subcontractor, materialman, or supplier.

Signature: _____

Name and Title: _____

VENDOR PLEASE DO NOT COMPLETE BELOW
--

To be completed by an authorized representative from Indian River County Purchasing Division:

Meets definition of Local Business ___ YES ___ NO

If NO, provide reason: _____

(Authorized Signature) Date: _____

To receive Local Bid preference, this certification and copies of all required documents must be submitted with your Bid package.

INDIAN RIVER COUNTY



**DEPARTMENT OF UTILITY SERVICES
SCHEDULE OF WATER AND SEWER RATES,
FEES AND OTHER CHARGES
as adopted by RATE RESOLUTION 99 -- 58
EFFECTIVE OCTOBER 1, 1999
AMENDED BY RATE RESOLUTION 2008 -- 013
FEBRUARY 12, 2008 and AMENDED AUGUST 18,
2009 BY RATE RESOLUTION 2009 -- 129**

**SCHEDULE OF WATER AND SEWER RATES, FEES AND CHARGES
INDIAN RIVER COUNTY, FLORIDA**

<u>Water</u>		
Billing Charge – Per Account		\$ 1.29
<u>Service Availability Charge [formerly known as Base Facility Charge]:</u>		
Where lines are available -		
Single-Family (per ERU)		\$ 7.76
Manufactured Home 0.85 (per ERU)		\$ 6.60
Multi-Family 0.85 (per ERU)		\$ 6.60
Commercial (per ERU)		\$ 7.76
<u>Service Availability Charge [formerly known as Base Facility Charge]:</u>		
Capacity is Reserved But Where Lines Are Not Available -		
Single-Family (per ERU)		\$ 3.88
Manufactured Home 0.85 (per ERU)		\$ 3.30
Multi-Family 0.85 (per ERU)		\$ 3.30
Commercial (per ERU)		\$ 3.88
0 to 3,000 Gallons Per Month Per Connection - Per 1,000 Gallons		\$ 2.20
3,001 to 7,000 Gallons Per Month Per Connection – Per 1,000 Gallons		\$ 2.42
Over 7,000 Gallons Per Month Per Connection – Per 1,000 Gallons		\$ 3.85
Greater than 13,000 Gallons Per Month Per Connection Per ERU - Per 1,000 Gallons		\$ 7.70
<u>Sewer</u>		
Billing Charge – Per Account		\$ 1.29
<u>Service Availability Charge [formerly known as Base Facility Charge]:</u>		
Where lines are available -		
Single-Family (per ERU)		\$ 14.58
Manufactured Home 0.85 (per ERU)		\$ 12.40
Multi-Family 0.85 (per ERU)		\$ 12.40
Commercial (per ERU)		\$ 14.58
<u>Service Availability Charge [formerly known as Base Facility Charge]:</u>		
Capacity is Reserved But Where Lines Are Not Available -		
Single-Family (per ERU)		\$ 7.29
Manufactured Home 0.85 (per ERU)		\$ 6.20
Multi-Family 0.85 (per ERU)		\$ 6.20
Commercial (per ERU)		\$ 7.29
Volume Charge Per 1,000 Gallons – 12,000 Gallons Per Month Maximum for:		
Single-Family & Manufactured Homes (Individual meters),		
0 to 12,000 Gallons (Billed Water Flow) Per 1,000 Gallons		\$ 2.86

Volume Charge Multi-Family Master-Metered & Commercial:		
	0 to 13,000 Gallons (Billed Water Flow) Per 1,000 Gallons	\$ 2.86
	Above 13,000 Gallons (Billed Water Flow) Per 1,000 Gallons	\$ 4.29
<u>Bulk Water</u>		
Billing Charge – Per Account Per Month		\$ 1.29
Service Availability Charge [formerly known as Base Facility Charge] Where Lines Are Available – Per ERU		\$ 6.19
Service Availability Charge [formerly known as Base Facility Charge] Where Capacity is Reserved But Lines Are Not Available – Per ERU		\$ 3.10
Volume Charge – Per 1,000 Gallons Water Meter Basis		\$ 2.63
Excess Volume Surcharge – Greater than 7,600 Gallons Per Month – Per ERU*		\$ 4.45
<i>*Surcharge for Bulk users will apply to flow exceeding total capacity reserved by bulk user in all meters</i>		
<u>Bulk Sewer</u>		
Billing Charge – Per Account Per Month		\$ 1.29
Service Availability Charge [formerly known as Base Facility Charge] Where Lines Are Available – Per ERU		\$ 13.41
Service Availability Charge [formerly known as Base Facility Charge] Where Capacity is Reserved But Lines Are Not Available – Per ERU		\$ 6.71
Volume Charge – Per 1,000 Gallons Water Meter Basis		\$ 2.63
Volume Charge – Per 1,000 Gallons Sewer Meter Basis		\$ 2.98
Excess Volume Surcharge – Greater than 7,600 Gallons Per Month – Per ERU*		\$ 4.45
<i>*Surcharge for Bulk users will apply to flow exceeding total capacity Reserved by bulk user in all meters</i>		
Excess Sewage Strength Charge	Sewage Charge X Ratio of Total Dissolved Solids or Biochemical Oxygen Demand in Milligrams Per Liter / 250	
Excess Sewage Strength Charge applicable to customers required to use Grease Traps, but who have obtained a variance due to hardship or financial unfeasibility	Sewage Charge*	
<u>Reclaimed Water – Per 1,000 Gallons</u>		\$ 00.15
<u>Sludge and Septage Rates (b)</u>		
Charge Per 1,000 Gallons (a)		\$ 30.82
Charge Per Wet Ton (b)		\$ 7.51
Notes:		

(a) Recommended rates assume domestic sludge with solids concentration of between .5 and 2.0 percent.

(b) Costs incurred by County to sample, monitor and/or test wastes to verify solids concentrations, metals, content, etc., or additional costs incurred to handle or dispose of wastes with high metal concentrations or other non-domestic waste characteristics should be recovered from the users discharging the wastes in addition to the above charges based on formula's available in the Department of Utility Services.

IMPACT FEE [formerly known as CAPACITY CHARGE]		
Water – Per ERU		
	Water Treatment	\$ 320.00
	Water Transmission	\$ 980.00
	Total	\$1,300.00
Sewer – Per ERU		
	Wastewater Treatment	\$2,087.00
	Wastewater Transmission	\$ 709.00
	Total	\$2,796.00
Line Extension Charges		
	Main Extension – Water	
	Per foot measured along front of property served	\$ 11.25
	Main Extension – Sewer and Sewer Laterals	
	Per foot measured along front of property served	\$ 15.77
(Note: Charge doubles if service available on one side only, Minimum of 50 feet per ERU, maximum of 100 feet per ERU)		
OTHER CHARGES		
Deposits – Required Upon Opening, Transferring or Reconnecting Service		
	Residential and Commercial – Per ERU	\$ 50.00
	Hydrant Meter	\$ 345.00
	Charge for Returned Check	\$ 20.00
	Issuance of Duplicate Bill	\$ 1.50
	Sewer Tap	Cost Plus Overhead
Meter Replacement		
	5/8 Inch	\$ 100.00
	1 Inch	\$ 125.00
	1-1/2 Inch	\$ 300.00
	2 Inch or larger	Cost Plus Overhead
Meter Removal		
	5/8 Inch	\$ 30.00
	1 Inch	\$ 30.00

1-1/2 Inch and larger	\$ 40.00
<u>Water Service Connection</u>	
5/8 Inch Meter	\$ 400.00
1 Inch Meter	\$ 460.00
1-1/2 Inch Meter	\$ 810.00
Larger than 1-1/2 Inch Meter	Cost Plus Overhead
<u>Sewer Service Connection</u>	
Residential	\$ 500.00
Commercial and Other	Cost Plus Overhead
Paved Road Cuts	Cost Plus Overhead (\$200 minimum)
Road Jacking and Boring	Cost Plus Overhead (\$200 minimum)
Grass Restoration	Cost Plus Overhead
Unauthorized use of Fire Hydrants	\$ 115.00
Other and Extraordinary Services	Cost Plus Overhead
<u>Meter Installation</u>	
5/8 Inch	\$ 130.00
1 Inch Meter	\$ 250.00
1 1/2 Inch Meter	\$ 500.00
2 Inch Meter	Cost Plus Overhead
3 Inch Meter	Cost Plus Overhead
Fire Hydrant Meter	\$ 25.00
<u>Water Service Reconnection</u>	
During Working Hours	\$ 25.00
After Working Hours	\$ 35.00
Meter Rereads and Leak Inspection	\$ 20.00
Delinquency Charge	\$2.00 plus 1.5% per month
General Service Call	Cost Plus Overhead
<u>Meter Test</u>	
5/8 Inch Meter	\$ 25.00
1 Inch Meter	\$ 25.00
1-1/2 Inch Meter or Larger	Cost Plus Overhead

10-E-A)

MEMORANDUM

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Ken Daige *Ken Daige*
City Councilmember

DATE: March 10, 2010

SUBJECT: Water & Sewer Rate Increase

I would like to discuss the water and sewer rate increase that is scheduled to take effect on April 1, 2010. I have attached a copy of the Resolution where Council approved this rate increase and outlines what the new rates will be. One of the things that we need to keep in mind is that we do impose a tax on our water which amounts to 10%. However, as far as the sewer goes that is not taxed.

Thank you for allowing me to put this on the agenda for discussion at our March 16, 2010 City Council meeting.

/tv

Enclosures

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, CHANGING MONTHLY WATER AND WASTEWATER RATES; CHANGING WATER AND WASTEWATER IMPACT FEES; CHANGING MISCELLANEOUS CHARGES FOR CUSTOMERS INSIDE AND OUTSIDE THE CITY LIMITS; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach owns and operates a water and sewer system for all of the City and parts of the Town of Indian River Shores and unincorporated area of the County as an enterprise fund supported only by revenues of the system and not by property taxes; and

WHEREAS, the City of Vero Beach has performed a cost of service study to review its current rate structure; and

WHEREAS, the City of Vero Beach's current water and wastewater rate structure does not provide sufficient revenue to support its operation; and

WHEREAS, the Water and Sewer and Finance Directors, have recommended that there is an immediate need to change the current rate structure to keep the system financially sound; and

WHEREAS, to raise the required revenue for the upcoming budget year the City Manager is recommending certain rate structure changes for the fiscal year beginning October 1, 2009, and for subsequent years through October 1, 2013 as shown on attachments "A," "B," "C," and "D."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 – Definitions.

a. Base Facility Charge means a monthly charge to recover a portion of the fixed operating and customer related costs of the water and wastewater systems, including a portion of annual capital expenditures and debt service payments. The Base Facility Charge is payable by all active and inactive water, wastewater and irrigation accounts inside and outside the City limits.

b. Commodity Charge means a monthly charge per thousand gallons of metered water usage to recover the remaining fixed costs of the water and wastewater systems not recovered through the Base Facility Charge, and all variable charges of the systems.

c. Equivalent Residential Connection or ERC means water usage or sewer discharge for a user of the water and wastewater systems equivalent in quantity or strength to an average residential unit. For the wastewater system, 1.0 ERC is equal to fifteen (15) water and sewer fixtures. For the water system, 1.0 ERC is equivalent to the hydraulic capacity of a 5/8" water meter. The equivalent ERCs, for the City's larger meter sizes are as follows:

<u>Meter Size</u>	<u>ERCs</u>
3/4" Meter	1.50
1" Meter	2.50
1 1/2" Meter	5.00
2" Meter	8.00
3" Meter	15.00
4" Meter	25.00
6" Meter	50.00

Section 2 – Water and Wastewater Rates.

The City Council of the City of Vero Beach, Florida, hereby adopts new water rates as shown on attachment "A" and wastewater rates as shown on attachment "B."

Section 3 – Impact Fees.

The City Council of the City of Vero Beach, Florida, hereby adopts new impact fees as shown on attachment "C."

Section 4 – Miscellaneous Rates.

The City Council of the City of Vero Beach, Florida, hereby adopts new miscellaneous rates as shown on attachment "D."

This Resolution was read for the first time on the 1st day of September, 2009, and was advertised in the Vero Beach Press Journal on the 5th day of September, 2009, as being scheduled for a public hearing to be held on the 15th day of September 2009, at the conclusion of which hearing it was moved for adoption by Councilmember Fish seconded by Councilmember Sawnick, and adopted by the following vote:

Mayor Sabin C. Abell Jr.

Yes No

Vice Mayor Thomas P. White

Yes No *TH*

Councilmember Debra Fromang

Yes No

Councilmember William E. Fish

Yes No

Councilmember Kevin Sawnick

Yes No

ATTEST

CITY OF VERO BEACH, FLORIDA:

Sign: Tammy K. Vock
Print: Tammy K. Vock
Title: City Clerk

Sign: Thomas P. White
Print: Thomas P. White
Title: Vice Mayor

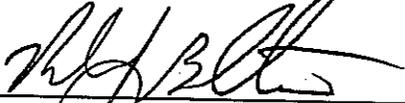
Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

Charles P. Vitunac
Charles P. Vitunac
City Attorney

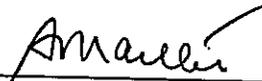
James M. Gabbard
James M. Gabbard
City Manager

Approved as to technical requirements:



Robert J. Bolton
Water & Sewer Director

Approved as to technical requirements:



Steve Maillet
Finance Director

This document was prepared in
The Office of the City Attorney
Post Office Box 1389
Vero Beach, Florida 32961-1389

Attachment "A"
City of Vero Beach

Water System Rates

Description	Rates Effective October 1st,				
	2009	2010	2011	2012	2013
WATER SYSTEM					
<u>Residential</u>					
Single Family - Inside City					
Base Facility					
5/8 " Meter	\$13.60	\$14.00	\$14.40	\$14.80	\$15.20
3/4 " Meter	16.50	18.34	20.30	22.20	22.80
1 " Meter	22.30	27.16	32.11	37.00	38.00
1.5 " Meter	36.78	49.14	61.63	74.00	76.00
2 " Meter	54.15	75.60	96.91	118.40	121.60
3 " Meter	100.49	140.98	181.44	222.00	228.00
4 " Meter	152.62	225.12	297.50	370.00	380.00
6 " Meter	297.43	444.92	592.42	740.00	760.00
Commodity					
0 - 5,000 gallons	\$0.83	\$1.02	\$1.23	\$1.47	\$1.66
5,001 - 15,000 gallons	2.78	2.92	3.08	3.26	3.32
15,001 - 30,000 gallons	5.56	5.84	6.16	6.52	6.64
Above 30,000 gallons	6.95	7.30	7.70	8.15	8.30
Single Family - Outside City					
Base Facility					
5/8 " Meter	\$14.96	\$15.40	\$15.84	\$16.28	\$16.72
3/4 " Meter	18.15	20.17	22.33	24.42	25.08
1 " Meter	24.53	29.88	35.32	40.70	41.80
1.5 " Meter	40.46	54.05	67.80	81.40	83.60
2 " Meter	59.57	83.16	106.60	130.24	133.76
3 " Meter	110.54	155.08	199.58	244.20	250.80
4 " Meter	167.88	247.63	327.25	407.00	418.00
6 " Meter	327.17	489.41	651.66	814.00	836.00
Commodity					
0 - 5,000 gallons	\$0.92	\$1.12	\$1.36	\$1.61	\$1.83
5,001 - 15,000 gallons	3.06	3.21	3.39	3.59	3.65
15,001 - 30,000 gallons	6.12	6.42	6.78	7.17	7.30
Above 30,000 gallons	7.65	8.03	8.47	8.97	9.13

Water System Rates

Description	Rates Effective October 1st,				
	2009	2010	2011	2012	2013
Multi-Family - Inside City					
Base Facility (Per Unit)	\$12.24	\$12.60	\$12.96	\$13.32	\$13.68
Commodity (Per Unit)					
0 - 5,000 gallons	\$0.83	\$1.02	\$1.23	\$1.47	\$1.66
5,001 - 15,000 gallons	2.78	2.92	3.08	3.26	3.32
15,001 - 30,000 gallons	5.56	5.84	6.16	6.52	6.64
Above 30,000 gallons	6.95	7.30	7.70	8.15	8.30
Multi-Family - Outside City					
Base Facility (Per Unit)	\$13.46	\$13.86	\$14.26	\$14.65	\$15.05
Commodity (Per Unit)					
0 - 5,000 gallons	\$0.92	\$1.12	\$1.36	\$1.61	\$1.83
5,001 - 15,000 gallons	3.06	3.21	3.39	3.59	3.65
15,001 - 30,000 gallons	6.12	6.42	6.78	7.17	7.30
Above 30,000 gallons	7.65	8.03	8.47	8.97	9.13

Water System Rates

Description	Rates Effective October 1st				
	2009	2010	2011	2012	2013
Single Family Irrigation - Inside City					
Base Facility					
5/8 " Meter	\$13.60	\$14.00	\$14.40	\$14.80	\$15.20
3/4 " Meter	16.50	18.34	20.30	22.20	22.80
1 " Meter	22.30	27.16	32.11	37.00	38.00
1.5 " Meter	36.78	49.14	61.63	74.00	76.00
2 " Meter	54.15	75.60	96.91	118.40	121.60
3 " Meter	100.49	140.98	181.44	222.00	228.00
4 " Meter	152.62	225.12	297.50	370.00	380.00
6 " Meter	297.43	444.92	592.42	740.00	760.00
Commodity					
0 - 10,000 gallons	\$2.78	\$2.92	\$3.08	\$3.26	\$3.32
10,001 - 25,000 gallons	5.56	5.84	6.16	6.52	6.64
Above 25,000 gallons	6.95	7.30	7.70	8.15	8.30
Single Family Irrigation - Outside City					
Base Facility					
5/8 " Meter	\$14.96	\$15.40	\$15.84	\$16.28	\$16.72
3/4 " Meter	18.15	20.17	22.33	24.42	25.08
1 " Meter	24.53	29.88	35.32	40.70	41.80
1.5 " Meter	40.46	54.05	67.80	81.40	83.60
2 " Meter	59.57	83.16	106.60	130.24	133.76
3 " Meter	110.54	155.08	199.58	244.20	250.80
4 " Meter	167.88	247.63	327.25	407.00	418.00
6 " Meter	327.17	489.41	651.66	814.00	836.00
Commodity					
0 - 10,000 gallons	\$3.06	\$3.21	\$3.39	\$3.59	\$3.65
10,001 - 25,000 gallons	6.12	6.42	6.78	7.17	7.30
Above 25,000 gallons	7.65	8.03	8.47	8.97	9.13

Water System Rates

Description	Rates Effective October 1st,				
	2009	2010	2011	2012	2013
Multi-Family Irrigation - Inside City					
Base Facility					
5/8 " Meter	\$13.60	\$14.00	\$14.40	\$14.80	\$15.20
3/4 " Meter	16.50	18.34	20.30	22.20	22.80
1 " Meter	22.30	27.16	32.11	37.00	38.00
1.5 " Meter	36.78	49.14	61.63	74.00	76.00
2 " Meter	54.15	75.60	96.91	118.40	121.60
3 " Meter	100.49	140.98	181.44	222.00	228.00
4 " Meter	152.62	225.12	297.50	370.00	380.00
6 " Meter	297.43	444.92	592.42	740.00	760.00
Commodity					
0 - 30,000 gallons	\$2.78	\$2.92	\$3.08	\$3.26	\$3.32
30,001 - 50,000 gallons	5.56	5.84	6.16	6.52	6.64
Above 50,000 gallons	6.95	7.30	7.70	8.15	8.30
Multi-Family Irrigation - Outside City					
Base Facility					
5/8 " Meter	\$14.96	\$15.40	\$15.84	\$16.28	\$16.72
3/4 " Meter	18.15	20.17	22.33	24.42	25.08
1 " Meter	24.53	29.88	35.32	40.70	41.80
1.5 " Meter	40.46	54.05	67.80	81.40	83.60
2 " Meter	59.57	83.16	106.60	130.24	133.76
3 " Meter	110.54	155.08	199.58	244.20	250.80
4 " Meter	167.88	247.63	327.25	407.00	418.00
6 " Meter	327.17	489.41	651.66	814.00	836.00
Commodity					
0 - 30,000 gallons	\$3.06	\$3.21	\$3.39	\$3.59	\$3.65
30,001 - 50,000 gallons	6.12	6.42	6.78	7.17	7.30
Above 50,000 gallons	7.65	8.03	8.47	8.97	9.13

Water System Rates

Description	Rates Effective October 1st,				
	2009	2010	2011	2012	2013
<u>Commercial</u>					
Commercial - Inside City					
Base Facility					
5/8 " Meter	\$13.60	\$14.00	\$14.40	\$14.80	\$15.20
3/4 " Meter	16.50	18.34	20.30	22.20	22.80
1 " Meter	22.30	27.16	32.11	37.00	38.00
1.5 " Meter	36.78	49.14	61.63	74.00	76.00
2 " Meter	54.15	75.60	96.91	118.40	121.60
3 " Meter	100.49	140.98	181.44	222.00	228.00
4 " Meter	152.62	225.12	297.50	370.00	380.00
6 " Meter	297.43	444.92	592.42	740.00	760.00
Commodity					
All Water Usage	\$2.60	\$2.60	\$2.83	\$3.09	\$3.24
Commercial - Outside City					
Base Facility					
5/8 " Meter	\$14.96	\$15.40	\$15.84	\$16.28	\$16.72
3/4 " Meter	18.15	20.17	22.33	24.42	25.08
1 " Meter	24.53	29.88	35.32	40.70	41.80
1.5 " Meter	40.46	54.05	67.80	81.40	83.60
2 " Meter	59.57	83.16	106.60	130.24	133.76
3 " Meter	110.54	155.08	199.58	244.20	250.80
4 " Meter	167.88	247.63	327.25	407.00	418.00
6 " Meter	327.17	489.41	651.66	814.00	836.00
Commodity					
All Water Usage	\$2.86	\$2.86	\$3.12	\$3.40	\$3.57

Water System Rates

Description	Rates Effective October 1st				
	2009	2010	2011	2012	2013
Commercial Irrigation - Inside City					
Base Facility					
5/8 " Meter	\$13.60	\$14.00	\$14.40	\$14.80	\$15.20
3/4 " Meter	16.50	18.34	20.30	22.20	22.80
1 " Meter	22.30	27.16	32.11	37.00	38.00
1.5 " Meter	36.78	49.14	61.63	74.00	76.00
2 " Meter	54.15	75.60	96.91	118.40	121.60
3 " Meter	100.49	140.98	181.44	222.00	228.00
4 " Meter	152.62	225.12	297.50	370.00	380.00
6 " Meter	297.43	444.92	592.42	740.00	760.00
Commodity					
0 - 30,000 gallons	\$2.78	\$2.92	\$3.08	\$3.26	\$3.32
30,001 - 50,000 gallons	5.56	5.84	6.16	6.52	6.64
Above 50,000 gallons	6.95	7.30	7.70	8.15	8.30
Commercial Irrigation - Outside City					
Base Facility					
5/8 " Meter	\$14.96	\$15.40	\$15.84	\$16.28	\$16.72
3/4 " Meter	18.15	20.17	22.33	24.42	25.08
1 " Meter	24.53	29.88	35.32	40.70	41.80
1.5 " Meter	40.46	54.05	67.80	81.40	83.60
2 " Meter	59.57	83.16	106.60	130.24	133.76
3 " Meter	110.54	155.08	199.58	244.20	250.80
4 " Meter	167.88	247.63	327.25	407.00	418.00
6 " Meter	327.17	489.41	651.66	814.00	836.00
Commodity					
0 - 30,000 gallons	\$3.06	\$3.21	\$3.39	\$3.59	\$3.65
30,001 - 50,000 gallons	6.12	6.42	6.78	7.17	7.30
Above 50,000 gallons	7.65	8.03	8.47	8.97	9.13

Wastewater System Rates

Description	Rates Effective as of					
	October 1st 2009	April 1st 2010	October 1st 2010	October 1st 2011	October 1st 2012	October 1st 2013
<u>Commercial</u>						
Commercial - Inside City						
Base Facility						
5/8 " Meter	\$19.89	\$19.89	\$20.49	\$21.09	\$21.69	\$22.29
3/4 " Meter	25.17	25.17	26.84	29.74	32.54	33.44
1 " Meter	35.76	35.76	39.75	47.03	54.23	55.73
1.5 " Meter	62.23	62.23	71.92	90.27	108.45	111.45
2 " Meter	93.98	93.98	110.65	141.94	173.52	178.32
3 " Meter	178.67	178.67	206.33	265.73	325.35	334.35
4 " Meter	273.93	273.93	329.48	435.72	542.25	557.25
6 " Meter	538.56	538.56	651.17	867.64	1,084.50	1,114.50
Commodity						
All Metered Water Usage	\$2.93	\$4.06	\$4.06	\$4.39	\$4.57	\$4.72
Commercial - Outside City						
Base Facility						
5/8 " Meter	\$21.88	\$21.88	\$22.54	\$23.20	\$23.86	\$24.52
3/4 " Meter	27.69	27.69	29.53	32.71	35.79	36.78
1 " Meter	39.34	39.34	43.73	51.73	59.65	61.30
1.5 " Meter	68.45	68.45	79.11	99.29	119.30	122.60
2 " Meter	103.38	103.38	121.71	156.13	190.87	196.15
3 " Meter	196.53	196.53	226.97	292.31	357.89	367.79
4 " Meter	301.31	301.31	362.43	479.29	596.48	612.98
6 " Meter	592.39	592.39	716.29	954.41	1,192.95	1,225.95
Commodity						
All Metered Water Usage	\$3.22	\$4.47	\$4.47	\$4.83	\$5.03	\$5.19

Attachment "C"
The City of Vero Beach

Impact Fees for Water and Wastewater Service
Effective January 1, 2010

<u>Meter Size</u>	<u>ERCs</u>	<u>Impact Fee</u>
Water System		
5/8" Meter	1.00	\$1,499
3/4" Meter	1.50	2,249
1" Meter	2.50	3,748
1 1/2" Meter	5.00	7,495
2" Meter	8.00	11,992
3" Meter	15.00	22,485
4" Meter	25.00	37,475
6" Meter	50.00	74,950
Wastewater System		
Residential	1.00	\$2,290
Multi-Family per Unit	1.00	\$2,290
Commercial	[*]	\$2,290

[*] For each fifteen (15) plumbing fixtures therein or any fraction thereof.

Attachment "D"
City of Vero Beach

Water and Wastewater Miscellaneous Charges

Description [*]	Meter Size	Proposed Fee
1 <u>Convenience Calls</u>		
a. Check Meter Reading		\$25.00
b. Check Meter for Leak		\$25.00
c. Turn Meter On/Off		\$25.00
d. Turn Backflow Assembly On/Off		\$25.00
2 <u>Install Water Meter on Existing Services</u>		
a. Install Water Meter on Existing Services		
5/8" Water Meter	5/8"	\$95.00
3/4" Water Meter	3/4"	\$125.00
1" Water Meter	1"	\$150.00
b. Install Water Meter on Existing Services		
	1 1/2"	\$340.00
	2"	\$435.00
c. Pull 5/8", 3/4", 1" Water Meter		\$50.00
d. Pull 1 1/2" or 2" Water Meter		\$95.00
3 <u>Late Payment Penalty</u>		\$5.00
4 <u>Administrative Charge (Non-Payment)</u>		\$10.00
5 <u>Non-Payment Disconnect (per Metered Service)</u>		\$25.00
6 <u>Non-Payment Reconnect (Same Day)</u>		\$50.00
7 <u>Non-Payment Reconnect (Next Day)</u>		\$25.00
8 <u>Transfer Fee</u>		\$15.00
9 <u>Hydrant Maintenance Fee (Annual)</u>		\$150.00

Attachment "D"
City of Vero Beach

Water and Wastewater Miscellaneous Charges

<u>Description [*]</u>	<u>Meter Size</u>	<u>Proposed Fee</u>
10 <u>Deposits</u>		
a. Residential		\$100.00
b. Commercial (minimum \$120)		3 times the average monthly bill
11 <u>Meter Set</u>		
	5/8"	\$95.00
	3/4"	\$125.00
	1"	\$150.00
	1 1/2"	\$340.00
	2"	\$435.00
Meter Box (In addition to Meter Set)		
Small Meter Box		\$115.00
Medium Meter Box		\$170.00
Large Meter Box		\$185.00
12 <u>Construction Meter Installation</u>		
Installed in existing meter box		
No backflow Assembly		
	5/8"	\$50.00
	3/4"	\$50.00
	1"	\$50.00
	1 1/2"	\$95.00
	2"	\$95.00
13 <u>Construction Meter Installation</u>		
Install water meter on Fire Hydrant		
(With Backflow Assembly)		
	5/8"	\$95.00
	3/4"	\$95.00
	1"	\$95.00
	2"	\$115.00

Attachment "D"
City of Vero Beach

Water and Wastewater Miscellaneous Charges

<u>Description [*]</u>	<u>Meter Size</u>	<u>Proposed Fee</u>
14 <u>Construction Meter Deposit</u>		
Installed in existing meter box		
No backflow Assembly		
	5/8"	\$75.00
	3/4"	\$75.00
	1'	\$75.00
	1 1/2"	\$250.00
	2"	\$340.00
15 <u>Construction Meter Deposit</u>		
Install water meter on Fire Hydrant		
(With Backflow Assembly)		
	5/8"	\$300.00
	3/4"	\$300.00
	1"	\$300.00
	2"	\$850.00
	3"	\$1,210.00
16 <u>1" Irrigation Meter Installation Charges</u>		
Add 1" water meter by splitting existing service line		
	1"	\$520.00
17 <u>Water/Sewer Main Tap Inspection Fee</u>		
a. Water Tap		
2" or less Meter Tap		\$100.00
3" or Larger Meter Tap		\$165.00
b. Sewer service lateral connection		\$100.00
c. Sewer main tap with service lateral		\$165.00

Attachment "D"
City of Vero Beach

Water and Wastewater Miscellaneous Charges

<u>Description [*]</u>	<u>Meter Size</u>	<u>Proposed Fee</u>
18 <u>Meter Test Charge</u>		
a. Meters less than 3 inches	5/8"	\$95.00
	3/4"	\$95.00
	1"	\$95.00
	1 1/2"	\$155.00
	2"	\$155.00
b. 3" 4" & 6" meters are field tested and billed at hourly rates.	3"	\$115.00
	4"	\$115.00
	6"	\$115.00
19 <u>Customer Requested Field Action Fee</u>		
a. Scheduled		\$25.00
b. Same Day		\$50.00
c. After Hour		\$50.00

Notes:

[*] For services requested by the customer which are not outlined herein shall be charged the actual costs incurred by the City for the performance of such request.