

Table of Contents

Agenda	3
Election of Vice Mayor	
Election of Vice Mayor	6
Approval of the following City Commission minutes: February 2, 2016 Workshop; February 9, 2016 Regular Meeting; February 23, 2016 Introduction Meeting; February 23, 2016 Regular Meeting.	
02-02-2016 Workshop	7
02-09-2016 Regular Meeting	10
02-23-2016 Introduction Meeting	16
02-23-2016 Regular Meeting	18
Authorization for the City Manager to purchase work station furniture from Holmes & Brakel International for use in the renovated work area in the St. Pete Beach Public Library	
Agenda Memo	23
Furniture Quote	25
Authorize the City Manager to sign a project order agreement with Kimley-Horn and Associates, Inc. for \$18,820.00 to perform design engineering and consulting services for Lift Station #16 rehabilitation.	
Agenda Report	27
Project Order	28
Authorize the City Manager to enter into a Highway Landscape Reimbursement Memorandum of Agreement (HLRMOA) with Florida Department of Transportation (FDOT) in the amount of \$96,800 for the City's landscape installation within the right of way of State Road 699 (Blind Pass Road) from 82nd Avenue to Captive Circle.	
Agenda Report	34
FDOT Contract	35
Approval by the City Commission for the Interlocal Agreement with Pinellas County concerning the Community Redevelopment District Tax Increment Financing District and governance structure and authorization to send to Pinellas County for execution.	
Agenda Report	44
Interlocal Agreement	45
Authorization for the transmittal of CPA 01-16 to the Department of Economic Opportunity and required reviewing entities for review and comment.	
Agenda Report	49
CPA 01-16	50
Staff report	53
Attachment A	57
Multi-modal impact fee districts	60
County Data and Analysis	61
Proposed Schedule	89

Conditional Use 2016-0008, authorization for a take-out only restaurant on the Plaza Beach hotel property.

Agenda Report	90
staff report	91
Exhibit A - Code sections	94
Exhibit B - CU App.	96
Exhibit C - Site plan / survey	99
Exhibit D Photos	101

Conditional Use 2016-0013, authorization for a deck adjacent to a take-out only restaurant.

Agenda Report	103
staff report	105
Exhibit A - LDC sections	109
Exhibit B - CU App	112
Exhibit C - Site Plan / Survey	118
Exhibit D - Photos.	120

Appointments to the Barrier Islands Government Council (Big C), Florida League of Cities (FLC), Pinellas Mayors' Council (PMC), Pinellas County Flood Insurance Coalition (PCFIC), Suncoast League of Cities (SLC) and the Tampa Bay Regional Planning council (TBRPC).

Board Appointments Memo	124
-----------------------------------	-----

Appointments to Advisory Boards and Committees

Board & Committees Appointment Memo.	125
Membership Lists	126

Approval of the Employment Agreement for the Position of City Clerk

Employment Agreement - Staff Report	133
Employment Agreement	134

Ordinance 2016-04, Final Reading and Public Hearing amending the Code of Ordinances regarding traffic and vehicles.

Agenda Report	140
Exhibit A Ordinance 2016-04	142
Exhibit B - Staff Report	158
Exhibit C Table of "A" permits.	161
Exhibit D - Planning Board Minutes	163
Exhibit E Chapter 82	167

Resolution 2016-03, Re-adoption of a Defined Contribution Plan for the City Employees, adopting the ICMA 401 Governmental Money Purchase Plan and Trust, providing for execution of Trust Agreement and all other necessary documents incidental to administration of the defined contribution plan.

Resoltuion 2016-03 Agenda Report	195
Resolution 2016-03	196
ICMA-RC correspondence	198
ICMA-RC Governmental Money Purchase Plan & Trust	200



COMMISSION MEETING CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

Tuesday, April 12, 2016

6:00 PM

Call to Order
Pledge of Allegiance
Invocation
Roll Call

REGULAR MEETING

- 1. Presentations** - Presentations shall be limited to 5 minutes for non-city government related items.
 - a. Presentation on the upcoming sea turtle nesting season-Joe Widlansky and Bruno Falkenstein of Sea Turtle Trackers, Inc**
 - b. Presentation by Commissioner Cookie Kennedy, City of Indian Rocks Beach**
- 2. Changes to the Agenda** - Any agenda items to be added, moved, or deleted will be addressed at this time. Added items will be assigned agenda item numbers and moved items should remain with the same item numbers. Notation will be made that those items will be taken out of order. Consent items may be removed for discussion, changes, and/or anticipation of a non-unanimous vote and considered separately on the request of anyone on the Commission or by a majority vote of the City Commission upon request of an audience member.
- 3. Audience Comments** - Comments shall be limited to 3 minutes per person to issues not on the agenda, 21 minutes in total.
- 4. Election of Vice Mayor**

5. Consent

- a. Approval of the following City Commission minutes: February 2, 2016 Workshop; February 9, 2016 Regular Meeting; February 23, 2016 Introduction Meeting; February 23, 2016 Regular Meeting.**
- b. Authorization for the City Manager to purchase work station furniture from Holmes & Brakel International for use in the renovated work area in the St. Pete Beach Public Library**
- c. Authorize the City Manager to sign a project order agreement with Kimley-Horn and Associates, Inc. for \$18,820.00 to perform design engineering and consulting services for Lift Station #16 rehabilitation.**
- d. Authorize the City Manager to enter into a Highway Landscape Reimbursement Memorandum of Agreement (HLRMOA) with Florida Department of Transportation (FDOT) in the amount of \$96,800 for the City's landscape installation within the right of way of State Road 699 (Blind Pass Road) from 82nd Avenue to Captive Circle.**

6. Action Items

- a. Approval by the City Commission for the Interlocal Agreement with Pinellas County concerning the Community Redevelopment District Tax Increment Financing District and governance structure and authorization to send to Pinellas County for execution.**
- b. Authorization for the transmittal of CPA 01-16 to the Department of Economic Opportunity and required reviewing entities for review and comment.**
- c. Conditional Use 2016-0008, authorization for a take-out only restaurant on the Plaza Beach hotel property.**
- d. Conditional Use 2016-0013, authorization for a deck adjacent to a take-out only restaurant.**
- e. Appointments to the Barrier Islands Government Council (Big C), Florida League of Cities (FLC), Pinellas Mayors' Council (PMC), Pinellas County Flood Insurance Coalition (PCFIC), Suncoast League of Cities (SLC) and the Tampa Bay Regional Planning council (TBRPC).**
- f. Appointments to Advisory Boards and Committees**
- g. Approval of the Employment Agreement for the Position of City Clerk**

7. Ordinances

- a. Ordinance 2016-04, Final Reading and Public Hearing amending the Code of Ordinances regarding traffic and vehicles.**

8. Resolutions

- a. Resolution 2016-03, Re-adoption of a Defined Contribution Plan for the City Employees, adopting the ICMA 401 Governmental Money Purchase Plan and Trust, providing for execution of Trust Agreement and all other necessary documents incidental to administration of the defined contribution plan.**

9. Items for Discussion – No items submitted at this time.

10. Audience Comments 2 - Comments shall be limited to 3 minutes per person to issues not on the agenda, 21 minutes in total.

11. City Clerk, City Manager, City Attorney and City Commission Reports

12. Adjournment

APPEAL: If a person decides to appeal any decision made at this meeting, he/she will need a record of the proceeding and, for such purpose, will need to ensure that a verbatim recording of the meeting is made that includes the testimony and evidence on which to base the appeal. (Florida Statute 286.0105) The City does not furnish verbatim transcripts. Interested parties should make the necessary arrangements for verbatim transcripts.

AMERICANS WITH DISABILITIES ACT: In accordance with the Americans with Disabilities Act and Florida Statutes, Chapter 286.26, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than four (4) days prior to the meeting for assistance.

**The public is cordially invited to attend this meeting.
All agenda material is available for review at City Hall.**

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Election of Vice Mayor

Date: April 12, 2016

Prepared By: Rebecca C. Haynes, City Clerk

Prepared Through: Wayne Saunders, City Manager

Summary of Issue: In accordance with the City's Charter, Section 3.05, the commission is required to elect a vice-mayor, on an annual basis, by an affirmative vote of three or more members. The vice-mayor shall act as mayor during the absence or disability of the mayor-commissioner.

Funding: N/A

Requested Motion: "I move to elect Commissioner _____ to serve as vice mayor."

Attachments: None

**Reviewed by
City Manager:** _____ WS

CITY COMMISSION MEETING - WORKSHOP

MINUTES

FEBRUARY 2, 2016

9:00 A.M.

CALL TO ORDER

Mayor Lowe called the meeting to order at 9:10 a.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Maria Lowe, Mayor
Terri Finnerty, Vice Mayor
Rick Falkenstein, Commissioner
Gregory Premer, Commissioner
Melinda Pletcher, Commissioner (arrived at 9:35 a.m.)

ALSO PRESENT:

Wayne Saunders, City Manager
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director
Elaine Edmunds, Administrative Services Director
Jim Kilpatrick, Fire Chief
Jennifer McMahon, Recreation Director
Bruce Cooper, Building Official
John Kretzer, Interim Public Services Director
Dan O'Connor, Administrative Services Supervisor

1. Workshop to Review Fee Schedule

Wayne Saunders, City Manager, explained that all fees related to City services must be approved and adopted by the City Commission.

The following charges were deleted or incorporated in a subsequent section:

- Section 2-254(a)(2): Audio tape duplication, with and without tape
- Section 2-254(a)(2): Video tape duplication, with and without tape
- Section 2-254(a)(4): Reprinting microfilmed records
- Section 2-254(a)(4)a: Copy page, regular and legal

- Section 2-254(a)(4)b: Copy page, large and map
- Section 2-254(b)(3): ID and fingerprint services
- Section 2-254(b)(3)a: ID or fingerprint card only
- Section 2-254(b)(3)b: ID or fingerprint card w/FDLE record check
- Section 2-254(b)(7): Disaster re-entry pass
- Section 2-254(b)(8): Off-duty police officer, off-duty contact, police vehicle, and police vessel
- Section 58-3c: Returned check fee
- Section 58-5(a): Upham Room, contractual clean-up
- Section 58-5(e): Tables, folding chairs

The following charges were increased:

- Section 82-205: Parking meter rates, coin \$1.50 to \$1.75/hour
- Parking meter rates, pay station \$1.50 to \$1.75/hour
- \$12.00 per 12 hrs to \$15.00 per 12 hrs
- Parking meter rates, County \$1.50 to \$1.75/hour
- \$12.00 per 12 hrs to \$15.00 per 12 hrs
- Section 98-161(1): Plan review <15,000 sq ft and No higher than 3 stories hgt \$200 to \$350
- (Fire)
- Plan review >15,000 sq ft and greater than 3 stories hgt \$300 to \$350
- Section 98-161(2): Plan review <15,000 sq ft and no higher than 3 stories hgt \$200 to \$350
- (Building)
- Plan review >15,000 sq ft and greater than 3 stories hgt \$300 to \$350
- Section 106-52(b): Drainage plan filing fee See attachment
- Section 106-56 to Fee in lieu of improvements See attachment
- Section 122-73(b) (1) and site plan review in CRA
- Section 130-67: Tree removal permit \$25 to \$35

It was the consensus of the Commission to add a parking permit for Upham Beach, Don Cesar Place and Zamora neighborhoods.

Building fees were reviewed in comparison to local communities, and it was proposed to set the fee at \$50 per \$1,000 job cost and to include the permit base fee.

Beach wedding fees were recommended at \$50 for residents without commercial support (wedding planner), \$100 for residents with commercial support and \$150 for non-residents.

Mayor Lowe reported on the following:

- Essay candidates from Admiral Farragut Academy and St. John Vianney Catholic Schools
- Proclamation for next Commission meeting
- Introduction of Pinellas County Tax Assessor candidates for the next Commission meeting

City Manager Saunders reported on the following:

- The water line tie-in for the Pass-a-Grille Way reconstruction project was successful
- Introduced the new Public Services Director, Mike Clarke

2. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:35 a.m.

Attest:

Rebecca C. Haynes, City Clerk

Maria Lowe, Mayor

Minutes approved on: _____

CITY COMMISSION MEETING

MINUTES

FEBRUARY 9, 2016

6:00 P.M.

CALL TO ORDER

Mayor Lowe called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Maria Lowe, Mayor
Terri Finnerty, Vice Mayor
Rick Falkenstein, Commissioner
Gregory Premer, Commissioner
Melinda Pletcher, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director
Mike Clarke, Public Services Director
Elaine Edmunds, Administrative Services Director
Jennifer McMahon, Recreation Director

1. Presentations

- a. Introduction of Public Services Director – Mike Clarke

Wayne Saunders, City Manager, introduced Mike Clarke who recently began employment with the City as the Public Services Director.

- b. Proclamation – Future Cadet Patrick Prior

Mayor Lowe introduced Patrick Prior, future cadet in the United States Military Academy at West Point, Class of 2020. The military liaison from Congressman Jolly's Office was

present to extend congratulations and deliver a message on behalf of the Congressman.

Patrick introduced his family and Mayor Lowe read the proclamation.

2. Changes to the Agenda

There were no changes to the agenda.

3. Audience Comments

Harry Metz, Pass-a-Grille Way, reported on the electrical poles along 6th Avenue and requested an update on the water condition at 7217 Gulf Boulevard.

Deborah Schechner, Boca Ciega Isle Drive, commented on combining materials from recycle bins with regular trash bins.

Carol Swift, 55th Avenue, commented on Item 6(a) and was informed that the opportunity to speak will be later in the meeting when the item is addressed.

4. Consent

There were no consent items presented.

5. Action Items

- a. Consideration to Change a Commission Meeting Date to Reflect Official Election Results.

City Clerk Rebecca Haynes reported that the Commission meeting on March 22nd does not allow sufficient time to receive the March 15, 2016 official elections results from the Canvassing Board and, therefore, will need to be rescheduled.

Deborah Schechner, Boca Ciega Isle Drive, spoke in opposition to waiting until the April 12th meeting to install the newly elected commissioners.

Ward Friszolowski, Belle Vista Drive East, spoke in support of the compromise date of April 5th to install the newly elected commissioners.

Subsequent to discussion, it was the consensus of the City Commission to schedule meetings as follows:

- March 22, 2016 is rescheduled to March 10, 2016 at 6:00 p.m. at which time the Commission will provide a State of the City address
- A special meeting is scheduled for April 5, 2016 at 6:00 p.m. to install the newly elected commissioners and to honor advisory board members

- The regular April meetings will remain as April 12th and 26th, 2016

Commissioner Premier moved to approve Item 5(a), to reschedule the March 22, 2016 City Commission meeting to March 10, 2016; to set April 5, 2016 at 6:00 p.m. as an installation meeting; and to retain April 12, 2016 as a regular meeting date. The motion was seconded by Commissioner Falkenstein.

Mayor Lowe called for additional audience comments.

Hearing no further audience comments, Mayor Lowe called for the vote.

The motion was unanimously approved by an individual roll call vote.

- b. Authorization to approve a city co-sponsorship request for Sunset Festival at Upham Beach on the second Saturday of each month.

Following a discussion, the applicant, Mr. Tom DeYampert, withdrew the application for the co-sponsorship request.

6. Ordinances

- a. Ordinance 2016-01, Final Reading and Public Hearing amending the Code of Ordinances regarding dogs on the sand beach

Jennifer Bryla, Community Development Director, reviewed the recent events that lead to the prohibition of dogs on all sandy beach areas. Ms. Bryla explained that the proposed ordinance offers a compromise for a dog beach along the Intracoastal area adjacent to Pass-a-Grille Way between 1st Avenue and 3rd Avenue with restrictions.

Commissioner Pletcher moved to approve Item 6(a), Ordinance 2016-01, upon final reading, an ordinance of the City of St. Pete Beach, Pinellas County, Florida, providing for amendment of Chapter 14, Article II, Section 14-35, of the City of St. Pete Beach Code of Ordinances; Chapter 58, Article II, Section 58-25(c), pertaining to dogs on sand beaches; changing the Code of Ordinances to provide for dogs on sand beaches, or beach access; providing for the repeal of ordinances or parts of ordinances in conflict herewith, to the extent of such conflict; providing for severability; and providing for an effective date. The motion was seconded by Commissioner Falkenstein.

Mayor Lowe called for audience comments.

The following audience members spoke in opposition to the ordinance:

David Kramer, Pass-a-Grille Way
Penny Davis, Sunset Way

Bill Pyle, Sunset Way
Tom O'Connell, 55th Avenue

The following audience members spoke in support to the ordinance:

Lenore Callahan, Lido Drive
Lisa Sharez, 22nd Avenue
Danielle Micklitsch, West Vina Del Mar
Rich Lorenzo, 22nd Avenue
Deborah Schechner, Boca Ciega Isle Drive

Hearing no further audience comments, Mayor Lowe called for the vote.

The motion was unanimously approved by an individual roll call vote.

- b. Ordinance 2016-02, Final Reading and Public Hearing, an ordinance of the City of St. Pete Beach, Florida providing for a supplemental appropriation to the General, Wastewater, Reclaimed, Stormwater and Capital Improvement Funds for fiscal year ending September 30, 2016; providing for funding and providing for an effective date.

Administrative Services Director Elaine Edmunds reported that the ordinance brings forth the encumbrances from the previous fiscal year. Encumbrances include purchase orders that were opened but not paid and/or projects that were budgeted but not begun or completed, for a total amount of \$21,853,675.00.

Commissioner Premier moved to approve Item 6(b), Ordinance 2016-02, upon final reading, an ordinance of the City of St. Pete Beach, Florida providing for a supplemental appropriation to the General, Wastewater, Reclaimed, Stormwater and Capital Improvement Funds for Fiscal Year ending September 30, 2016; providing for funding; providing for an effective date. The motion was seconded by Vice Mayor Finnerty.

Mayor Lowe called for audience comments.

Hearing no audience comments, Mayor Lowe called for the vote.

The motion was unanimously approved by an individual roll call vote.

7. Resolutions

There were no resolutions submitted.

8. Items for Discussion

Commissioner Falkenstein requested information and a future discussion in regard to self-pruning palm trees throughout the City.

Commissioner Premier requested to schedule a future discussion in regard to improving the Christmas decorations and presented background information he researched.

Mayor Lowe requested a resolution in regard to an approval process for events outside of the budget cycle.

9. Audience Comments

Unidentified speaker invited the community to view an astronomy event on the south sidewalk near the Library on Monday, February 15, 2016, from 7:00 p.m. to 10:00 p.m.

Janet Paarlberg, no address provided, commented on assisting with funding for the Sunset Festival.

10. City Clerk, City Manager, City Attorney and City Commission Reports

City Clerk Haynes reported on the following items:

- Suncoast League of Cities will hold their monthly luncheon meeting at the Community Center on Friday, March 18, 2016
- Pinellas County Supervisor of Elections Office has mailed out over 206,000 absentee ballots for the March 15, 2016 Presidential Preference Primary – Municipal Election
- The Pinellas County Property Appraiser candidates will attend the 5:30 p.m. meeting on February 23, 2016 to speak about their candidacy and qualifications

City Manager Saunders reported on the following items:

- Requested to schedule a workshop on February 23rd at 4:00 p.m. to hear presentations by the top three firms selected in regard to the library proposals
- The Pinellas County Board of County Commissioners will meet in a workshop setting on February 16, 2016, at 1:00 p.m.; representatives from the City will be in attendance to speak on the City's proposed CRA plan
- The fiber network relocation at the former police station site will be conducted throughout the following week; the Fire Department will use the building for training prior to demolition

Commissioner Falkenstein reported on the following items:

- February 16th is the last day to register to vote in the March 15, 2016 election
- St. Pete Beach resident is a candidate on the county school board
- Response time by the Pinellas County Sheriff's Office
- Reminder to lock vehicles and garage doors

Commissioner Premier reported on the following items:

- Reminder to shop and dine local for Valentine's Day
- Tampa Bay Lighting Watch Celebration will be March 26th on the beach at the Tradewinds Hotel

- Reminder to lock vehicles and garage doors

Vice Mayor Finnerty reported on the following items:

- A ribbon cutting at Fidelity National Title
- The Mayors' Council monthly meeting
- The Sunday Market
- The American Legion bus stop shelter
- The passing of a former employee
- Correspondence from St. Pete Beach Support Our Troops recipient

Commissioner Pletcher reported on the following items:

- The BarkFest Saturday, February 13th, at the Hurricane Restaurant
- Buoys in Pass-a-Grille Channel

Mayor Lowe reported on the following items:

- A ribbon cutting at the re-opening of a real estate company
- Appropriation requests submitted to the State in regard to Blind Pass Road and Pass-a-Grille Way Reconstruction Projects
- Tourist Development Tax in regard to EMS funding

11. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:25 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Maria Lowe, Mayor

Minutes approved on: _____

CITY COMMISSION MEETING - INTRODUCTION

MINUTES

FEBRUARY 23, 2016

5:30 P.M.

CALL TO ORDER

Vice Mayor Finnerty called the meeting to order at 5:33 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Maria Lowe, Mayor (arrived at 5:45 p.m.)
Terri Finnerty, Vice Mayor
Rick Falkenstein, Commissioner
Gregory Premer, Commissioner
Melinda Pletcher, Commissioner (arrived at 5:35 p.m.)

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director

1. Presentations by Pinellas County Property Appraiser Candidates

a. Mr. Jim Frishe

Mr. Frishe reviewed his qualifications for the office of Property Appraiser and thanked the Commission for inviting him to speak.

b. Mr. Mike Twitty

Mr. Twitty reviewed his qualifications for the office of Property Appraiser and thanked the Commission for inviting him to speak.

2. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 5:53 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Maria Lowe, Mayor

Minutes approved on: _____

CITY COMMISSION MEETING

MINUTES

FEBRUARY 23, 2016

6:00 P.M.

CALL TO ORDER

Mayor Lowe called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENT:

Maria Lowe, Mayor
Terri Finnerty, Vice Mayor
Rick Falkenstein, Commissioner
Gregory Premer, Commissioner
Melinda Pletcher, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Jennifer Bryla, Community Development Director
Jim Kilpatrick, Fire Chief
Jennifer McMahon, Recreation Director

1. Presentations

- a. Introduction of Fire Marshal Kelly Intzes and a Yellow Helmet presentation for Firefighters Andrew Paglicco and Troy Loggins

Jim Kilpatrick, Fire Chief, introduced Kelly Intzes as the new Fire Marshal with the City of St. Pete Beach and oversaw the Yellow Helmet presentation.

- b. Proclamation – Andrew Paglicco

Mayor Lowe read and presented the proclamation to Firefighter Paglicco in celebration of his recent engagement.

2. Changes to the Agenda

Commissioner Premier requested to add a discussion for approval to host the Suncoast League of Cities luncheon at the Community Center on Friday, March 18, 2016.

3. Audience Comments

Penny Davis, Sunset Way, commented on the noise level at the Upham Beach location of Sunset Grille.

John Michael, Bay Street, commented on unfavorable remarks made by new residents.

Bill Pyle, Sunset Way, commented on the noise level at Upham Beach from amplified music.

Dave Stribeck, Belle Point Drive, commented on studies and future requirements in regard to the library.

Carol Mallum, Sunset Way, commented on young people in front of Silver Sands Condominium complex.

4. Consent

- a. Approval of minutes from the January 12, 2016 City Commission Meeting.
- b. Authorize the City Manager to enter into a one-year contract extension with Cribb Philbeck Weaver Group, Inc.
- c. Authorize the City Manager to enter into a one-year contract extension with Kimley-Horn, Inc., effective January 8, 2016 through January 8, 2017.
- d. Authorization to install a banner over 75th Avenue for Corey Avenue Business Association's Sidewalk Sale in March 2016.
- e. Authorization to approve street banner and street closures for the 26th annual Beach Goes Pop event scheduled for April 8-9, 2016.
- f. Authorization to approve special event application for Island Festival scheduled for March 5, 2016. The event would require street closures on March 5, 2016.

City Manager Saunders reviewed the agenda items and recommended approval.

Commissioner Pletcher moved to approve Items 4(a), (b), (c), (d), (e) and (f) as presented. The motion was seconded by Commissioner Premier.
Mayor Lowe called for audience comments.

Hearing no audience comments, Mayor Lowe called for the vote.

The motion was unanimously approved by an individual roll call vote.

5. Action Items

There were no actions items submitted.

6. Ordinances

There were no ordinances submitted.

7. Resolutions

- a. Resolution 2016-01, a resolution of the City of St. Pete Beach, Pinellas County, approving the Community Redevelopment Area (CRA) Plan

City Manager Saunders reviewed the concerns of the Pinellas County Board of Commissioners and members of the public. Mr. Saunders recommended tabling the item to date certain of March 8, 2016.

Commissioner Pletcher moved to table Item 7(a), Resolution 2016-01, to date certain of March 6, 2016. The motion was seconded by Commissioner Falkenstein.

Mayor Lowe called for audience comments.

Bill Pyle, Sunset Way, spoke in opposition to the proposed CRA plan.

Hearing no additional audience comments, Mayor Lowe called for the vote.

The motion was unanimously approved by an individual roll call vote.

8. Items for Discussion

- a. Suncoast League of Cities (SLC) Monthly Business Luncheon

Commissioner Premier noted that the SLC members rotate the responsibility of sponsoring the business luncheon throughout the year, which is estimated at \$600.00.

It was the consensus of the Commission to approve the expenditure for the business luncheon.

- b. Recognition of Advisory Board Members

It was the consensus of the Commission to schedule a presentation of recognition awards to the advisory board members during a special City Commission meeting scheduled for April 5, 2016.

9. Audience Comments

There were no additional audience comments.

10. City Clerk, City Manager, City Attorney and City Commission Reports

City Clerk Haynes reported on the following item:

- The Candidate Forum Night is scheduled for Thursday, February 25, 2016, for Districts 1 and 3 in the Presidential Preference Primary – Municipal Election. The League of Women Voters will sponsor the forum which begins at 7:00 p.m.

Mayor Lowe noted the City Clerk's FY 2015 performance evaluation needs completion and requested the City Manager and City Attorney to work with the City Clerk to draft an employment contract for Commission consideration.

City Manager Saunders reported on the following items:

- March 08, 2016 at 4:00 p.m. is the Library Workshop
- March 08, 2016 at 6:00 p.m. is the Regular Commission Meeting
- March 10, 2016 at 6:00 p.m. is the Regular Commission Meeting (rescheduled from March 22, 2016 due to election deadlines) and the State of the City will be provided
- Fire Rescue Truck #22 will be in service March 1, 2016

City Attorney reported on the following item:

- Expressed appreciation to the Commission for permitting him to participate in the February 8, 2016 Commission meeting via telephone

Vice Mayor Finnerty reported on the following items:

- Items from the transportation meeting held in Madeira Beach, sponsored by the Chamber of Commerce
- Kick-off opening day for the Southwest Little League Team at Egan Park
- "No Parking" signs at Egan Park along Captiva Circle
- American Legion Post 305 held their 56th Anniversary celebration

Commissioner Falkenstein reported on the following items:

- Update on T-groins at Upham Beach
- Installation of riptide and stingray signs at all beach access locations
- Traffic delays through the City of Pasadena
- Events at the Mahaffey Theatre in St. Petersburg
- Deep Water Horizon Spill video

Commissioner Premier reported on the following items:

- Suncoast League of Cities business luncheon is scheduled for Friday, March 18, 2016, in the Raymund Room of the Community Center; guest speaker is from Waste Management System
- News article in regard to the effects of the Clearwater Beach building boom
- Tampa Bay Lighting and Rays sports teams
- News article in regard to refugees

Commissioner Pletcher reported on the following items:

- Handicapped accessibility for beach walkovers
- Fire Rescue Truck #22
- Car detailing to remove tar from vehicles
- County Commissioner Janet Long will hold a fundraiser at the Tradewinds Hotel on Wednesday, February 24, 2016
- A wine-tasting event at the Warren Webster Community Center on Wednesday, February 24, 2016
- St. Patty's Day celebration on March 3, 2016 sponsored by the Vina del Mar Homeowners Association
- Flood Insurance private market

Mayor Lowe reported on the following items:

- Coyote sightings can be reported on www.pinellascounty.org
- Communication to elected representatives to support the Blind Pass Road Reconstruction Project funding allocation
- Grand Prix kick-off event at the Andersen Go-Kart Race Track in Bradenton
- Communication to Pinellas County Board of Commissioners in support of the CRA Plan
- The passing of two community residents
- "Flat Stanley" visited St. Pete Beach from Melbourne Beach

11. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:05 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Maria Lowe, Mayor

Minutes approved on: _____

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Authorization for the City Manager to purchase work station furniture from Holmes & Brakel International for use in the renovated work area in the St. Pete Beach Public Library

Date: April 12, 2016

Prepared By: Elaine Edmunds, Administrative Services Director

Summary of Issue: The City is currently negotiating an agreement with the architectural firm of Fleischman & Garcia for the construction of a new library at the former police building site. To help alleviate the overcrowded working conditions in the current library, the Pinellas Public Library Cooperative is allowing the City of St. Pete Beach to use up to \$60,000 of the \$200,000 grant monies awarded to the City toward renovations of the work area. The City Commission approved a contract with Jam 520, Inc. in the amount of \$14,788 for construction costs relating to the renovation at the March 8, 2016 meeting.

This request is to purchase modular furnishings for the renovated work area that will improve overall work flow for the library staff. The furnishings will then be moved to the new library once construction is complete. The furniture purchases are as follows:

\$16,501.56: 4 Cubicles and 6 collaborative work areas; including 3 height adjustable work tables, storage cabinets and open wall hung cabinets with extra shelves.

\$ 3,117.60 10 high back mesh task chairs

\$ 403.20 2 mid-back mesh task stools

\$ 3,225.00 Delivery/installation of furniture

\$23,247.36 Total Cost

Holmes & Brakel International is an approved dealer under state contract number 425-001-12-1. This purchase along with the construction costs previously approved totals \$38,035.36 and is \$21,964.64 less than the \$60,000 amount allowed by the Pinellas Public Library Cooperative.

Funding: The purchase will be funded from the grant monies awarded by the Pinellas Public Library Cooperative.

Requested Motion: “I move to authorize the City Manager to purchase work station furniture as identified on the attached quote from Holmes & Brakel International in the amount of \$23,247.36.”

Attachments: Quotation from Holmes & Brakel International

**Reviewed by
City Manager:** WS



HOLMES & BRAKEL INTERNATIONAL
3901 COCONUT PALM DR, STE 102
TAMPA, FL 33619
TEL 813-229-6869
FAX 813-229-2699

QUOTATION

PROPOSAL # 7129
PROJECT # 18-189
DATE 01/20/16

PROPOSAL FOR:

ST PETE BEACH PUBLIC LIBRARY
365 73RD STREET
ST PETE BEACH, FL 33706

INSTALLATION ADDRESS:

ST PETE BEACH PUBLIC LIBRARY
365 73RD STREET
ST PETE BEACH, FL 33706

SALESPERSON
DIANE WHITNEY

CUSTOMER PO

QUOTE VALID TO
02/29/16

#	QTY	PRODUCT #	DESCRIPTION	SELL	EXTENDED
ALL PRICING IS PER FLORIDA STATE CONTRACT					
1	1	LOT	TEKNION EXPANSION AND LEVERAGE COMPONENTS TO CREATE (4) CUBICLES AND (6) COLLABORATIVE WORK AREAS; ALSO INCLUDES (3) HEIGHT ADJUSTABLE TABLES; STORAGE CABINETS; AND OPEN WALL HUNG CABINETS WITH EXTRA SHELVES. SEE ATTACHED DRAWINGS AND BILL OF MATERIALS THAT ACCOMPANY THIS PROPOSAL. List Price: 59943.00	16,501.56	16,501.56
2	(10)	5623B1.LB1	YE3.A152.C31.FG3 SIT ON IT FOCUS SPORT HIGH BACK MESH TASK CHAIR WITH ENHANCED SYNCHRO MECHANISM AND SEAT DEPTH ADJUSTMENT; HEIGHT ADJUSTABLE SPORT ARM PADS AND CASTERS; GRADE 3 FABRIC List Price: 866.00	311.76	3,117.60
3	(2)	5622B1B.	A0.S1.C31 SIT ON IT FOCUS SPORT MIDBACK MESH TASK STOOL; NO ARMS; STOOL KIT WITH FOOTRING; SPORT CARPET CASTERS; GRADE 3 FABRIC List Price: 560.00	201.60	403.20
4	1	LABOR	RECEIVE, DELIVER, INSTALL FURNITURE DURING STANDARD BUSINESS HOURS MON-FRIDAY. INCLUDES ADDITIONAL INSTALLATION OF BRACING FOR WALL HUNG CABINETS.	3,225.00	3,225.00



HOLMES & BRAKEL INTERNATIONAL
3901 COCONUT PALM DR, STE 102
TAMPA, FL 33619
TEL 813-229-6869
FAX 813-229-2699

QUOTATION

PROPOSAL # 7129
PROJECT # 18-189
DATE 01/20/16

#	QTY	PRODUCT #	DESCRIPTION	SELL	EXTENDED
---	-----	-----------	-------------	------	----------

PRODUCT:	20,022.36
DELIVERY:	3,225.00

TOTAL:	23,247.36
--------	-----------

Terms Net 30 Days

ACCEPTED BY _____ DATE ACCEPTED _____

THANK YOU FOR THE OPPORTUNITY TO QUOTE ON YOUR REQUIREMENTS.
BY SIGNING THIS QUOTE, YOU AGREE TO THE ATTACHED TERMS & CONDITIONS.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Authorize the City Manager to sign a project order agreement with Kimley-Horn and Associates, Inc. for \$18,820.00 to perform design engineering and consulting services for Lift Station #16 rehabilitation.

Date: April 12, 2016

Prepared By: Mike Clarke, Public Services Director

Summary of Issue: Wastewater Lift Station #16 is located on 41st Avenue and services several streets in the Belle Vista Neighborhood. With failing rails, outdated electrical service and broken pump mounts it has been using an exceptional amount of hours in pure maintenance to keep it operational. Over the years the condition of the station has deteriorated to a point where rehabilitation is necessary.

Kimley-Horn and Associates, upon request has provided the City with the attached proposal for services that will include the redesign and upgrade of the aging lift station. The scope of service will include, Design/Permit Applications, Bidding Services and Construction Observation Services.

Funding: FY 2016 Public Services Department-Wastewater-Lift Station R&R 101.6107.535.5632

Requested Motion: "I move to authorize the City Manager to sign an Individual Project Order with Kimley-Horn and Associates, Inc. for \$18,820.00 to perform design, engineering and consulting services for Lift Station #8 rehabilitation."

Attachments: Individual Project Order

**Reviewed by
City Manager:** _____ WS



INDIVIDUAL PROJECT ORDER

March 21, 2016

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Engineer), and the City of St. Pete Beach (the City) in accordance with the terms of the Master Agreement for Continuing Professional Services dated January 8, 2013, which is incorporated herein by reference.

IDENTIFICATION OF PROJECT:

Rehabilitation of Lift Station No. 16

GENERAL CATEGORY OF SERVICES:

Under this IPO, the Engineer will provide general engineering services for the rehabilitation of Lift Station #16. The station will have two new pumps, a control panel, piping, valves and the wet well lined and/or repaired. The work to be included will be as follows:

1. Topographic Survey of the lift station listed above as located in St Pete Beach, Florida. Apparent right of way lines will be determined in accordance with existing monumentation and information supplied by the City or County. Visible aboveground site improvements, utilities and appurtenances will be located. Underground utilities will be graphically depicted on the survey drawing(s) in accordance with visible appurtenances. No Title Searches will be performed as part of this scope of services.
2. Preparation of plans providing for the replacement of the pumps, piping, valves, and controls and rehabilitation of the wet well and valve vault.
3. Construction observation to include limited site visits and start up.

SPECIFIC SCOPE OF SERVICES:

Task 1 –Design/Permit Applications

This task shall consist of the following:

- 1.1 The Engineer will provide the design of the proposed lift station rehabilitation on 11 x 17 plan sheets and review comments from the City. The Engineer will incorporate the plans within the Lift Station No. 8 project combining them into one project. Plan sheets with details will be provided for lift station equipment rehabilitation and connections to the existing system, the plan sheets will be provided to the the City in PDF format and not paper copies. Plan PDFs will be provided at the 60% level for the 60% review meeting.

- 1.2 The Engineer's Electrical sub-consultant will provide the following services:
 - a) Design of a new electrical system for the renovated station based on the City of St. Pete Beach's current standards.
 - b) Design for a new control system for the station based on the City of St Pete Beach's current standards.
 - c) Specifications for the electrical and control systems
- 1.3 The Engineer will provide technical specifications to detail the activities, materials, criteria, equipment, and measurement of payment to be incorporated into the project. Included with the specifications will be contract documents that will contain the City's Standard bid documents. The Engineer will incorporate the specifications within the Lift Station No. 8 project combining them into one project. Specifications will only be provided with the final design submittal.
- 1.4 The Engineer will prepare and submit documents and design data for the Collections System permit application required by the Florida Department of Environmental Protection (FDEP). The Engineer will address up to two requests for information from the permitting agency. All permit fees shall be paid by the City.
- 1.5 The Engineer will provide an opinion of probable construction cost (OPC) for the proposed project based on the final design. OPC will only be provided with the final design submittal. *Disclaimer: The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to the Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.*
- 1.6 The Engineer will attend one (1) meeting with the City during the design process to discuss and review the project. This meeting is anticipated to occur after submitting 60% plans.

Task 2 – Bidding Services

- 2.1 The Engineer will attend a pre-bid meeting at the City of St. Pete Beach offices to describe the project and answer questions from prospective bidders. The Engineer will prepare meeting minutes from this meeting and send out via email to those in attendance. It is anticipated that this will be a combined pre-bid meeting with the Lift Station No. 8 project.
- 2.2 The Engineer will assemble and transmit up to three (3) addendums to the City for distribution if required.

Task 3 – Construction Observation Services

- 3.1 Pre-Construction Conference. The Engineer will attend a Pre-Construction Conference prior to commencement of work at the City public works office that will be led by the City. It is anticipated that this will be a combined pre-con meeting with the Lift Station No. 8 project.
- 3.2 Visit to the Site and Observation of Construction. The Engineer will provide one (1) visit to make on-site construction observation services during the construction phase. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on our exercise of professional judgment. Based on information obtained during the visit and such observations, we will evaluate whether Contractor's work is proceeding in accordance with the Contract Documents, and we will keep the City informed of the progress of the Work.

The purpose of the Engineer's site visit will be to enable us to better carry out the duties and responsibilities specifically assigned in this Agreement to the Engineer, and to provide the City a greater degree of confidence that the completed Work will conform to the Contract Documents. The Engineer shall not, during the visit or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall the Engineer have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, the Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

- 3.3 Recommendations with Respect to Defective Work. The Engineer will recommend to the City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, the Engineer believes that such work will not produce a completed Project that conforms generally to Contract Documents.
- 3.4 Clarifications and Interpretations. The Engineer will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to the City as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by the City.
- 3.5 Shop Drawings and Samples. The Engineer will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- 3.6 Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- 3.7 Inspections and Tests. The Engineer may require special inspections or tests of Contractor's work as the Engineer deems appropriate, and may receive and review certificates of inspections within the Engineer's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. The Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. The Engineer shall be entitled to rely on the results of such tests and the facts being certified.
- 3.8 Disagreements between the City and Contractor. The Engineer will, if requested by the City, render written decision on all claims of the City and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, the Engineer shall be fair and not show partiality to the City or Contractor

and shall not be liable in connection with any decision rendered in good faith in such capacity.

- 3.9 Substantial Completion. The Engineer will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with the City and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of the City, the Engineer considers the Work substantially complete; the Engineer will notify the City and Contractor.
- 3.10 Final Notice of Acceptability of the Work. The Engineer will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that the Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, the Engineer shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of the Engineer's knowledge, information, and belief based on the extent of its services and based upon information provided to the Engineer upon which it is entitled to rely.
- 3.11 Record Drawings and Project Documentation. The Engineer will compile construction records provided by the contractor during construction, shop drawings, and the Engineer records.
- 3.12 Limitation of Responsibilities. The Engineer shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. The Engineer shall not have the authority or responsibility to stop the work of any Contractor.

FEE AND BILLING

Kimley-Horn will accomplish the services outlined in Task 1-3 for a Lump Sum fee. Invoicing and payment will be in accordance with the terms and conditions of the Design Services Contract between the City of St. Pete Beach and Kimley-Horn and Associates, Inc. (Kimley-Horn) dated, dated January 8, 2013.

The following task items represent a breakdown of the lump sum amount for reference:

Task 1 – Design/Permit Applications	\$13,720.00
Task 2 – Bidding Services	\$1,600.00
Task 3 – Construction Observation Services	\$3,500.00
Lump Sum Fee:	\$18,820.00

ADDITIONAL SERVICES (if required):

Services requested that are not specifically included will be provided under a new and separate IPO agreement.

METHOD OF COMPENSATION:

Services under this IPO will be provided as a lump sum basis. Invoices will be prepared based on a percentage completion of the design of the project.

OTHER SPECIAL TERMS OF IPO:

Services provided under this will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

THE CITY OF ST. PETE BEACH, FLORIDA

KIMLEY-HORN AND ASSOCIATES,
INC.

BY: _____

BY: _____

David Walthall, PE

TITLE: _____

TITLE: _____ Vice-President

DATE: _____

DATE: _____

M:\Common\MKTG\Public\City of St. Pete Beach\LS 16\IPO Lift Station No. 16.docx

**St. Pete Beach City Commission
Agenda Report**

Issue

Considered: Authorize the City Manager to enter into a Highway Landscape Reimbursement Memorandum of Agreement (HLRMOA) with Florida Department of Transportation (FDOT) in the amount of \$96,800 for the City's landscape installation within the right of way of State Road 699 (Blind Pass Road) from 82nd Avenue to Captive Circle.

Date: March 8, 2016

Prepared By: Mike Clarke, Public Services Director

**Summary
of Issue:**

In January, 2016, Public Services received notice from FDOT that out of cycle landscaping reimbursement funds were available to add additional landscaping to State Roads within the City. The above referenced scope was identified based on the facts that the project to be addressed with this allocation must be completed by September 30, 2016 and the City had already received conceptual plans from Genesis Group, Inc. (Landscape Architect) for SR699 (Blind Pass Road) between 82nd Avenue and Captiva Circle.

Based on a cost estimate by Genesis provided at the time of conceptual plan preparation, FDOT has earmarked \$96,800 for design and construction of landscaping in this area.

Funding: CIP – FDOT Landscaping

**Requested
Motion:**

"I move to authorize the City Manager to enter into a Highway Landscape Reimbursement Memorandum of Agreement (HLRMOA) with Florida Department of Transportation (FDOT) in the amount of \$96,800 for the City's landscape installation within the right of way of State Road 699 (Blind Pass Road) from 82nd Avenue to Captive Circle.

Attachments: FDOT HLRMOA

**Reviewed by
City Manager:** WS

**DISTRICT SEVEN HIGHWAY LANDSCAPE REIMBURSEMENT
AND MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into as of the _____ day of _____, 201_, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, a component agency of the State of Florida, (the "Department") and CITY OF ST. PETE BEACH, "City".

WITNESSETH

WHEREAS, the Department owns State Road 699 (Blind Pass Road) right-of-way between 82nd Avenue (Section 15100, M.P. 2.99) and Captiva Cove (Section 15100-000, M.P. 3.501) in Pinellas County, Florida and

WHEREAS, the City seeks to beautify the Project by the installation of landscape improvements which would enhance its aesthetic quality; and

WHEREAS, under F.P.I.D. 438704-1-58-01 (the "Project") the Department has allocated funds for such improvements and is authorized pursuant to Section 334.044(26), Florida Statutes, to reimburse the City for eligible expenditures; and

WHEREAS, upon installation of such improvements, the City has agreed to maintain those improvements in accordance with the provisions below; and

WHEREAS, the Department is authorized pursuant to Section 334.044(7), Florida Statutes to enter into contracts and agreements with counties/municipalities for maintenance of roadside landscape improvements on the State Highway System; and

WHEREAS, the City has authorized its officers to execute this Agreement on its behalf,

NOW THEREFORE, for and in consideration of the mutual benefits that flow each to the other, the parties covenant and agree as follows:

1. SUBMITTALS

a. The City shall produce plans for and install landscape improvements on those areas of the Project Highway as depicted in the Landscape Plans and Specifications to be attached and incorporated as Exhibit "A". All work conducted in connection with plans production and installation of improvements shall be referred to as the "Project".

b. Within one hundred twenty calendar days after execution of this Agreement, the City shall submit to the Department four copies of the landscape plans and specifications. This shall include:

1. A Project Maintenance Plan.
2. Maintenance of Traffic plan sheets.
3. In addition, to the landscape plans and specifications, two (2) copies of the following documents are required:
 - a. The Project schedule.
 - b. Letters of no conflict from all utilities within the Project limits.
 - c. Project cost estimate.

Within three weeks of the receipt of review comments by the Department, the City shall revise all documents required herein in accordance with the Department's comments and submit two copies of the revised documents for the Department's written approval. Within one week of receipt of Department approval, the City shall submit four copies of the approved Plans and Specifications to the Department. Failure to submit any of the required documents within the time periods specified may result in termination by the Department of this Agreement.

c. If any of the submittals of the City pursuant to Paragraph 1.b. are rejected by the Department and returned to the City for revisions, such documents must be approved and resubmitted to the Department not later than one hundred eighty calendar days following the execution of this Agreement. If such documents are not resubmitted as approved, the Department may terminate this Agreement, including its obligation to reimburse any monies expended for the Project except for those approved expenditures for design of the Project.

d. All notices, demands, requests or other instruments shall be given by depositing the same in the U.S. Mail, postage prepaid, registered or certified with return receipt requested.

(1) If to the Department, address to District Maintenance Engineer, at Florida Department of Transportation, MS 7-1200, 11201 N. McKinley Drive, Tampa, Florida 33612-6456 or at such other address as the Department may from time to time designate by written notice to the City; and

(2) If to the City address to _____ or at such other address as the City from time to time designates by written notice to the Department.

All time limits provided hereunder shall run from the date of receipt of all such notices, demands, requests and other instruments.

2. INSTALLATION

a. The City shall not commence Project installation until the Department has issued a Notice to Proceed with Construction. Said Notice shall contain the Project completion date. The City shall notify the District Landscape Architect (DLA) and the Operations Center Engineer (2) full working days forty-eight hours prior to commencing work on the Project site.

b. The City agrees to install or cause to be installed landscaping within the Project area as specified in the Landscape Plans and Specifications included as Exhibit "A". The City shall not change or deviate from the plan(s) without the Department's prior written approval.

c. If the City desires to position vehicles, equipment, or personnel, or to perform maintenance activities closer than fifteen feet to the edge of pavement, or to close a traffic lane, Maintenance of Traffic shall be in accordance with the Project plans and the Department's Maintenance of Traffic Regulations. The City shall have a Worksite Traffic Supervisor certified in Advanced Maintenance of Traffic supervise the set up and operation of Maintenance of Traffic devices at the site of the construction or maintenance activity. Prior to proceeding with construction, the City shall provide the Department with the Worksite Traffic Supervisor's certification.

d. In the event that any portion of the Project is at any time determined by the Department to not be in conformance with all applicable laws, rules, procedures and guidelines of the

Department, or is determined to be interfering with the safe and efficient operation of any transportation facility, or is otherwise determined to present a danger to public health, safety, or welfare, said portion shall be immediately brought into departmental compliance at the sole cost and expense of the City.

e. If the City fails to substantially complete Project installation by the completion date in the Notice to Proceed, the Department shall provide the City with written notice of its intent to terminate this Agreement. If the City fails to respond or take corrective action within the prescribed time period set forth in the notice, the Department may terminate the Agreement as provided for in Paragraph 6.b., including its obligation to reimburse any monies expended for the Project except for those portions of the Project already completed by the City and accepted by the Department.

f. Upon certification of completion by the City, inspection, and approval of the Project as substantially complete in writing by the DLA, the Project shall be subject to a ninety calendar-day establishment period. Work performed and costs incurred after final project approval are not eligible for reimbursement.

3. BILLING and PAYMENT

a. Upon completion of the ninety calendar-day establishment period and approval of the Project installation by the Department, the City shall, within one hundred eighty calendar days, furnish the Department with three signed originals of its final and complete billing of all eligible costs incurred in connection with the Project. The invoice shall show the description and site of the Project; the date on which the first work was performed or the date on which the earliest billed expense was incurred; the date on which the last work was performed or the last item of billed expense was incurred; and the location where records and accounts billed can be audited.

b. The Department shall reimburse the City in an amount not to exceed \$96,800 Dollars and No Cents for all eligible expenditures for the professional design, inspection, and enforcement of the material and installation standards; and the purchase, installation, and establishment of plant material as identified in Exhibit "A". Reimbursement for design fees shall not exceed ten percent (10%) of the total reimbursement amount.

c. Payment shall be made to the City by the Department under the following conditions.

1. This Agreement has not been terminated pursuant to Paragraph 6. b.
2. The City agrees to complete the project on or before two (2) years from the date of the Agreement. If the City does not complete the project within this time period, any reimbursement for payment shall not be processed by the Department unless an extension of the time period is requested by the City and granted in writing by the Department
3. Written certification of the completion of the installation and acceptance by the City is provided to the Department.
4. The DLA has inspected the work and has issued a letter of final completion to the City noting that it has fully met with the terms and conditions of this Agreement.
5. After Department issuance of the Substantial Completion letter, the City shall provide the Department with four (4) sets of 11" x 17" folded As-Built drawings.

4. STANDARD FINANCIAL PROVISIONS

a. The Department agrees to compensate the City for services described in Exhibit A - Landscape Plans and Specifications. The Method of Compensation is described in Section 3, "Billing and Payment".

b. The City shall provide quantifiable, measurable and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, and its quantifiable, measurable and verifiable units of deliverables are described more fully in Exhibit A - Landscape Plans and Specifications. *(Section 287.058(1)(d) and (e) F.S.)*

c. Invoice Summaries shall be submitted by the City in detail sufficient for a proper pre-audit and post audit based on the quantifiable, measurable and verifiable units of deliverables as established in Exhibit A - Landscape Plans and Specifications. Deliverables must be received and accepted in writing by the Department's DLA prior to payments. *(Section 287.058 (1) (a), F.S.)*

d. There shall be no reimbursement for travel expenses under this Agreement.

e. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under **Chapters 215 and 216, F.S.** If the Department determines that the performance of the City is unsatisfactory, the Department shall notify the City of the deficiency to be corrected, which correction shall be made within a time frame to be specified by the Department. The City shall, within five (5) days after notice from the Department, provide the Department with a corrective action plan describing how the City will address all issues of Agreement non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or Agreement non-compliance. Payment shall not be made to the City until the goods and services have been received and proof of payment or other backup documentation as requested is provided to the Department. The Project must be completed (goods and services received and approved by the City) no later than_____.

The City providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services should take no longer than five (5) working days. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the date the Invoice Summary is received. *(Section 215.422 (1), F.S.)*

If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03 (1), F.S., will be due and payable, in addition to the Invoice Summary amount, to the City. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the City requests payment. Invoice Summaries that have to be returned to a City because of City preparation errors will result in a delay of the payment. The Invoice Summary payment requirements do not start until a properly completed Invoice Summary is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for the City who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 413-5516. (*Section 215.422 (5) and (7), F.S.*)

f. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request by the Department at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the City's general accounting records and project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs. (*Section 287.058 (4), F.S.*)

g. In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than one (1) year, the provisions of *Section 339.135 (6) (a), F.S.*, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year."

h. The Department's obligation to pay is contingent upon an annual appropriation by the Florida Legislature. (*Section 216.311, F.S.*)

i. The City agrees to comply with *Section 20.055 (5), F.S.*, and to incorporate in all subcontracts the obligation to comply with *Section 20.055 (5), F.S.*

5. MAINTENANCE

a. At such time as the Department issues a Notice to Proceed with Project installation and until such time as the Project is removed pursuant to Paragraphs 5. f. and 6. a., the City shall maintain the Project in a reasonable manner and with due care in accordance with Project standards. Specifically, the City agrees to:

- (1) remove litter from all landscaped areas of the Project;
- (2) remove fallen palm fronds, fallen fruit and flower stalks and fallen twigs and limbs from all landscaped areas of the Project;
- (3) water and fertilize all plants;
- (4) mulch all plants beds;
- (5) keep plants as free as practicable from disease and harmful insects;

- (6) weed the Project premises routinely;
- (7) mow and/or cut grass within the areas delineated by the landscape plans;
- (8) prune all plants, specifically remove all dead or diseased parts of plants and prune of all parts of plants that present a visibility hazard to those using the roadway;
- (9) replace, or at the City's option, remove all dead or diseased plants or other parts of the Project that have fallen below Project standards. Replace with plants of substantially the same grade, size and specification as originally provided for in the plans and specifications, unless otherwise authorized by the Department; and
- (10) perform routine maintenance as prescribed by the manufacturer of any Project irrigation system; and
- (11) trim, alter, relocate or remove landscaping as needed for any future Intelligent Transportation System (ITS).

b. Maintenance of the Project shall be subject to periodic inspections by the Department. In the event that any of the aforementioned responsibilities are not carried out or are otherwise determined by the Department not to be in conformance with the applicable Project standards, the Department may terminate the agreement in accordance with Paragraph 6.b.

c. The Operations Center Engineer shall be notified forty-eight hours in advance of commencing any scheduled construction or maintenance activities. Emergency repairs shall be performed without delay and the Operations Center Engineer notified immediately. The Operations Center Engineer with responsibility for the roadway within this Project is located 5211 Ulmerton Road, Clearwater, FL. 33760: Telephone 727-575-8300.

d. Prior to any Project construction or reconstruction activity, the City shall submit plans to the Department for review and approval of the proposed work. Additionally, such plans shall be submitted to all utilities with facilities within the limits of work for their review and comment. The City shall resolve any conflicts and/or concerns raised by the utilities prior to commencement of such activities. Work shall not start until the Department has issued a Design Approval and Notice to Proceed with Construction letter to the City. Prior to commencing any field activity on this Project, the City shall notify all the utilities of their work schedule enabling facilities to be field located and marked to avoid damage.

e. The Department will require the City to cease operations and remove all personnel and equipment from the Department's right-of-way if any actions on the part of the City or representatives of the City violate the conditions or intent of this agreement as determined by the Department.

f. It is understood between the parties hereto that any or all of the Project may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the Department in order that the adjacent state road be widened, altered, or otherwise changed to meet with the future criteria or planning of the Department. The City shall be given notice regarding such removal, relocation, or adjustment and shall be allowed sixty (60) calendar days to remove all or part of the Project at its own cost. The City will own that part of the Project it removes. After the sixty (60) calendar days removal period, the Department may remove, relocate, or adjust the Project as it deems best. Wherever the City removes improvements pursuant to this agreement, the City shall restore the surface of the affected portion of the Project premises to the same safe and trafficable condition as it was before installation of such improvements.

g. The City covenants to appropriate in its annual budget, for each Fiscal Year, non ad valorem funds lawfully available to satisfy its maintenance responsibilities under this Agreement. This covenant does not create any lien upon, or pledge of, such non-ad valorem funds, nor does it preclude the City from pledging such funds in the future, or from levying and collecting any particular non-ad valorem funds.

6. TERMINATION

a. The term of this Agreement shall be for a period of ten years commencing on the date of execution of the Agreement, with ten year renewal options. The Department shall send the City an expiration notice six months prior to each ten year expiration date. Any renewal must be agreed upon by both parties in writing ninety calendar days prior to the expiration of the existing agreement

In the event that the City elects to not renew the Agreement, then the City shall, at its sole expense, be responsible for the removal of the Project and shall restore the Project Highway to a safe and trafficable condition prior to expiration of the Agreement.

b. The Agreement may be terminated by the Department if the City, following fifteen calendar days' written notice, fails to perform its duties under this agreement.

c. The Department reserves the right to unilaterally cancel the Agreement for refusal by the contractor or City to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

d. Within sixty (60) calendar days following a notice to terminate pursuant to Paragraph 6.b., if the Department requests, the City shall remove the Project and restore the Project premises to the same safe condition existing prior to installation of the Project. If the Department does not request such restoration or terminates this Agreement pursuant to Paragraph 6.b., the Department may complete, remove, relocate or adjust the Project as it deems best.

7. CLAIMS

a. When the Department receives notice of a claim for damages that may have been caused by the City in the performance of services required under this Agreement, the Department will immediately forward the claim to the City.

8. GENERAL

a. The Department's District Secretary or his designee shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement the prosecution, or fulfillment of the service hereunder and the character, quality, amount, and value thereof; and his decision upon all claims, questions, and disputes shall be final and conclusive upon the parties hereto.

b. E-Verify:

1. The City shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the City during the term of this Agreement; and

2. shall expressly require any subcontractors performing work or providing services to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employee eligibility of all new employees hired by the subcontractor during this Agreement's term.
- c. This Agreement embodies the entire Agreement and understanding between the parties hereto and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. This Agreement may not be assigned or transferred by the City in whole or in part without written consent of the Department.
- d. If any provision of the Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- e. This Agreement, regardless of where executed, shall be governed by and construed according to the Laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF ST. PETE BEACH
a municipal corporation
of the State of Florida

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
Name: _____
Title: _____

By: _____
Brian McKishnie, P.E.
Director of Transportation Operations,
District Seven

Attest: _____
Title: _____ (SEAL)

Attest: _____
Executive Secretary (SEAL)

Legal Review:

Legal Review:

Title: _____

Office of the General Counsel, District 7

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Approval by the City Commission for the Interlocal Agreement with Pinellas County concerning the Community Redevelopment District Tax Increment Financing District and governance structure and authorization to send to Pinellas County for execution.

Date: April 12, 2016

Prepared By: Jennifer Bryla– Community Development Director

Through: Wayne Saunders – City Manager

Summary of Issue The City has been directed by Pinellas County to submit an interlocal agreement (ILA) that outlines the Tax Increment Financing structure as outlined in the March 2016 Plan. The ILA also outlines a Citizens Advisory Committee (CAC) on which three (3) County appointed member will sit. The CAC will advise the CRA on projects within the Plan. The ILA goes on to further identify County duties and responsibilities as they relate to the CRA and City duties and responsibilities. The Plan is anticipated to be placed on the April 26th BCC agenda for approval.

Requested Motion: “I move to approve the Interlocal Agreement with Pinellas County and authorize transmitting to the County for execution.”

Attachment: Interlocal Agreement

Reviewed by the City Manager WS

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF ST PETE BEACH, FLORIDA AND PINELLAS COUNTY, FLORIDA
FOR GOVERNANCE AND FUNDING OF THE
ST. PETE BEACH COMMUNITY REDEVELOPMENT AREA

THIS AGREEMENT made and entered into this _____ day of _____, 2016 by and between Pinellas County ("County"), a political subdivision of the State of Florida, and the City of St. Pete Beach ("City"), a municipal corporation of the State of Florida, hereinafter collectively referred to as "the Parties."

WITNESSETH:

WHEREAS, the City is a municipal corporation authorized to employ Florida's Community Redevelopment Act of 1969, Chapter 163, Part III, F.S. ("Act"); and

WHEREAS, on March 8, 2016, the City Commission adopted the revised Community Redevelopment Area Plan (CRA Plan) for the St. Pete Beach Community Redevelopment Area (CRA) dated March 2016 that includes a County contribution to a redevelopment trust fund of less than 95% of the tax increment as calculated by the formula described in Sec. 163.387(1) of the Florida Statutes; and

WHEREAS, Sec. 163.387(3)(b) of the Florida Statutes requires an interlocal agreement between the City and the County in order to allow the County to contribute a tax increment of less than 95% of the increment to a redevelopment trust fund; and

WHEREAS, it is in the mutual benefit of the City and County to eliminate blight in the City through a CRA and tax increment financing ("TIF").

NOW, THEREFORE, in consideration of the mutual promises provided herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section I. Purpose and Scope.

A. The purpose of this Agreement is to establish a governance structure for the St. Pete Beach CRA and the framework for funding the proposed St. Pete Beach redevelopment

trust fund.

Section 2. Duties of the City.

A. The City agrees to provide staff to support the Community Redevelopment Agency (CRA Agency), whose duties shall include but not be limited to:

1. Preparing a CRA Plan that conforms with Sec. 163.360 and 163.362, F.S., and any other relevant statutes.
2. Administer any trust fund(s) established pursuant to Sec. 163.387, F.S.
3. Ensure that tax increment funds are spent only on those purposes authorized in Sec. 163.387, F.S., and that the County portion will be spent in accordance with Pinellas County's policy guidelines on expenditure of TIF funds.
4. Support the Citizens Advisory Committee ("CAC") established in Section 3.A. herein.

Section 3. Governance Structure.

A. The City agrees to establish and maintain a CAC, comprised of a minimum of five (5) residents, business and/or property owners, or other stakeholders from within the St. Pete Beach CRA. The City Commission shall appoint the CAC members, subject to confirmation by the City Commission.

B. The purpose of the CAC will be to advise the CRA Agency for the St. Pete Beach CRA on the CRA Plan and any amendments thereto, and to advise the CRA Agency on issues and policies within the St. Pete Beach CRA.

Section 4. Funding.

A. The Parties agree that the TIF district and redevelopment trust fund will expire in 2046.

B. By April 15th of each year through the year 2046 expiration year of the TIF district and redevelopment trust fund, the City of St. Pete Beach agrees to annually deposit into the St. Pete Beach Redevelopment Trust Fund a sum no less than the tax revenue generated from ninety-five percent (95%) of the tax increment created each year in the CRA as calculated by the formula described in Sec. 163.387(1), F.S.

C. By April 15th of each year of years 1 to 15, of the TIF district and redevelopment trust fund, Pinellas County agrees to annually deposit into the St. Pete Beach Redevelopment Trust Fund a sum no less than the tax revenue generated from ninety-five percent (95%) of the tax increment created each year in the CRA as calculated by the formula described in Sec. 163.387(1), F.S.

D. By April 15th of each year of years 16 to 30, of the TIF district and redevelopment trust fund, Pinellas County agrees to annually deposit into the St. Pete Beach Redevelopment Trust Fund a sum no less than the tax revenue generated from seventy percent (70%) of the tax increment created each year in the CRA as calculated by the formula described in Sec. 163.387(1), F.S.

E. The Parties agree that the St. Pete Beach Redevelopment Trust Fund will consist of two accounts wherein City and County annual tax increment revenue will be separated to assist in verifying the expenditure of County funds.

F. The Parties agree to conduct a formal review of the St. Pete Beach CRA Plan and Redevelopment Trust Fund in year 2031 that will evaluate the effectiveness of redevelopment efforts and determine whether the County dedicates its portion of the tax increment revenues at the level indicated in 4.D. through 2046 provided that there shall be no reduction in the dedication of tax increment revenues for as long as there are unpaid loans, advances or indebtedness approved as provided herein and secured by the County's tax increment revenues.

G. The Parties agree that the City will allow the County to review and comment on TIF programs that involve the use of County increment before they are transmitted to the CAC for the St. Pete Beach CRA. The County's comment period will be fifteen (15) working days upon receipt of said programs.

H. The Parties agree to collaboratively seek funding from alternate funding sources.

IN WITNESS WHEREOF, the undersigned have hereto affixed their hands and seals the day and year first above-written.

PINELLAS COUNTY, FLORIDA,
by and through its Board of County
Commissioners.

CITY OF ST. PETE BEACH, FLORIDA,
by and through its City Commissioners.

By: _____
Chairman

By: _____
Mayor

ATTEST:
KEN BURKE, clerk

ATTEST:
REBECCA HAYNES, clerk

By: _____
Clerk

By: _____
Clerk

APPROVED AS TO FORM

By: _____
Office of the City Attorney

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Authorization for the transmittal of CPA 01-16 to the Department of Economic Opportunity and required reviewing entities for review and comment.

Date: April 12th, 2016

Prepared By: Jennifer Bryla– Community Development Director

Through: Wayne Saunders – City Manager

Summary of Issue Pinellas County, in an effort to plan for the mobility needs of pedestrians, bicyclists and transit users as well as motorists is removing from the County Comprehensive Plan any language that pertains to Transportation Concurrency and replacing it with Multi-modal transportation language.

As a municipality within Pinellas County it is incumbent on the City to incorporate strategies within its Comprehensive Plan that are compliant with the County's. One of the central components of the County's Mobility Management language is the integration of multi-modal impact fees; coordinated with the review and management of traffic impacts generated by new development. During the review process, transportation management plans must be incorporated into the review data. The fees could be imposed to mitigate the impacts of development on the mobility systems.

Requested Motion: "I move to authorize the transmittal of CPA 01-16 to the Department Economic Opportunity for interagency review."

Attachment: Agenda Report
CPA 01-16
Staff Report
Attachment A
Multimodal impact fee districts
County Data and Analysis
Proposed adoption schedule

**Reviewed by the
City Manager** WS

THE GOALS, OBJECTIVES AND POLICIES SECTION OF THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN IS AMENDED TO READ AS FOLLOWS:

III. Transportation Plan Element

GOAL 1:

Provide for a safe, convenient and energy efficient multimodal transportation system shall be available for all residents and visitors to the city, that serves to increase mobility, reduce the incidence of single-occupant vehicles and efficiently utilize roadway capacity.

Objective 1.1

In accordance with this Comprehensive Plan, as amended, the operational Level of Service (LOS) D peak hour shall be the minimum standard for all arterial and collector roads within the City.

Policy 1.1.1.

The City shall review all proposed development or redevelopment for consistency with this element and any potential impacts upon the adopted LOS standards.

Policy 1.1.2

All new development and redevelopment proposals shall be reviewed under the City's Mobility Management System through the application of Transportation Element policies and site plan review processes. Such policies are listed below:

- a. All development projects generating new trips shall be subject to payment of a multimodal impact fee.
- b. Development projects that generate between 51 and 300 new peak hour trips are designated as Tier 1.
 - i. Developers of Tier 1 projects located within deficient road corridors are required to submit a transportation management plan designed to address their impacts while increasing mobility and reducing the demand for single occupant vehicle travel.
 - ii. The cost of transportation management strategies implemented for Tier 1 projects are creditable toward their multimodal impact fee assessment. If the cost of the improvement exceeds the assessment, the development project would not be subject to the payment of a multimodal impact fee.
- c. Development projects that generate more than 300 new peak hour trips are designated as Tier 2.
 - i. Developers of Tier 2 projects within deficient road corridors are required to conduct a traffic study and submit an accompanying report. The report shall include the results of the traffic study and a transportation management plan identifying improvements necessary to address the impacts of the project.
 - ii. The cost of transportation management strategies implemented for Tier 2 projects may be applied as credit toward the project's multimodal impact fee

assessment or payment of the fee could be included as part of a transportation management plan.

Policy 1.1.3

The City shall assess new development or redevelopment an equitable pro rata share of the costs to provide road-way improvements to serve the development or redevelopment, as established by the Pinellas County impact fee schedule.

Objective 1.2

Roadway rights-of-way shall be identified, reserved, or acquired.

Policy 1.2.1

The minimum setback requirements identified for all roadways shall be enforced through the land development regulations.

Policy 1.2.2

When acquisition of right-of-ways for all roadways is necessary, all attempts will be made to acquire such properties prior to exercising the power of eminent domain.

Objective 1.3

Through land development code regulations the City will strive to provide for safe, convenient and efficient multimodal parking and access ways.

Policy 1.3.1

The City shall enforce parking standards which provide for safe and convenient on-site traffic flow.

Policy 1.3.2

When feasible, the City shall require bicycle and pedestrian ways for connecting residential areas to recreation areas, schools, and shopping areas.

Policy 1.3.3

Bicycle parking areas at shopping and recreational areas shall be encouraged.

Policy 1.3.4

The City shall require crosswalks and sidewalks on roadways of high pedestrian usage.

Objective 1.4

The City's transportation system shall emphasize safety and aesthetics.

Policy 1.4.1

The City shall encourage the maintenance and landscaping of the existing roadway system.

Policy 1.4.2

The City shall enforce the requirements of the Sign Ordinance along roadways in order to reduce visual confusion and safety hazards .

Policy 1.4.3

The City, in cooperation with the County and State, shall control access points of driveways and roadways to the roadway system.

Objective 1.5

As an ongoing objective, the City shall encourage the utilization of a multi-modal transportation system as needed.

Policy 1.5.1

The City shall re-evaluate the need for public transportation from time to time.

Policy 1.5.2

The City shall continue to identify and encourage the use of bicycle and pedestrian modes of transportation.

Policy 1.5.3

The City shall review all proposed development and redevelopment site plans for the accommodation of bicycle and pedestrian traffic needs, when appropriate.

Objective 1.6

In accordance with this Comprehensive Plan, as amended, transportation planning shall be coordinated with the City's Future Land Use Plan, the FDOT 5-Year Transportation Plan, the County's Transportation policies, the Pinellas Area Transportation Study (PATs) Metropolitan Planning Organization (MPO) 5-Year Transportation Improvement Program (TIP), and the plans of the neighboring jurisdictions.

Policy 1.6.1

The City shall periodically review the FDOT and the PATs MPO 5-Year Transportation Plans in order to update or modify this Element, as necessary.

Policy 1.6.2

The City shall review for compatibility with this Element, the transportation plans and programs of the neighboring municipalities and Pinellas County as they may be amended.

Policy 1.6.3

Amendments to this Transportation Element shall be supported by an appropriate transportation analysis.

Policy 1.6.4

The City shall continue efforts to work with FDOT and all appropriate agencies to alleviate traffic circulation problems.

Policy 1.6.5

City officials shall review the Future Land Use Map when planning roadway construction and improvements to ensure that roadways are designed to serve the needs of the appropriate future land uses.

	St. Pete Beach City Commission 155 Corey Avenue St. Pete Beach, FL 33706 727-367-2735
4/12/2016	
Item Number CPA #01-16 Type of Application Comprehensive Plan Amendment to the City's Transportation Element Applicant City of St. Pete Beach Location City wide Project Planner Jennifer Bryla, AICP, Requested Action Approval to transmit CPA01-16 to the Department of Economic Opportunity and reviewing bodies Staff Recommendation Approval Planning Board Heard CPA 01-16 March 15, 2016. Recommended approval (3-0)	ITEM SUMMARY: Pinellas County, in an effort to plan for the mobility needs of pedestrians, bicyclists and transit users as well as motorists is removing from the County Comprehensive Plan any language that pertains to Transportation Concurrency and replacing it with Multi-modal transportation language. Concurrency language was enacted by the state through Rule 9J-5 F.A.C. as a component of the Growth Management Act of 1985. During the Legislative sessions between 2009 and 2011 the Rule was essentially replaced with the Community Planning Act. The Act amended Chapter 163, Florida Statutes. One of the components of the Act was the designation of dense urban land areas (DULAs), which Pinellas County is one. These changes effectively removed State-mandated transportation concurrency management requirements and provided local governments the option of establishing mobility plans and fees as a growth management tool to be utilized in place of traditional concurrency regulations. Concurrency ultimately created a negative effect, encouraging “leap frog” development. The Community Planning Act encourages creative solutions to managing growth and emphasizes increasing mobility in various forms; pedestrian, transit, rideshare bicyclist and vehicular. The Act also allows for the establishment of mobility fees. As a municipality within Pinellas County it is incumbent on the City to incorporate strategies within its Comprehensive 

City Commission Transmittal Hearing (4/12/2016) First Reading (6/14/2016) Second Reading (6/28/2016) Findings In its review of the proposed application, staff has determined: 1. The proposed application is consistent with Florida Statutes. 2. The proposed application is consistent with the Pinellas County Regional Policy Plan. 3. The proposed application is consistent with the intent of the St. Pete Beach Comprehensive Plan. 4. The proposed application is consistent with the intent of the LDC.	Plan that are compliant with the County's. One of the central components of the County's Mobility Management language is the integration of multi-modal impact fees; coordinated with the review and management of traffic impacts generated by new development. During the review process, transportation management plans must be incorporated into the review data. The fees could be imposed to mitigate the impacts of development on the mobility systems. The City would not be permitted to collect any impact related fees if the language in the City's Comprehensive Plan were inconsistent with the County's language. The County expects final adoption of their multi-modal changes in May of 2016. If the City Commission chooses to transmit the attached language to the Department of Economic Opportunity and appropriate reviewing agencies, the language would be scheduled for adoption via Ordinance sometime in June of 2016. The Mobility Management System is intended to allow for the management of development and redevelopment of properties through the application of site plan requirements. Many of those County outlined requirements are strategies already included within the Community Redevelopment Division of our Land Development Code. The City makes a practice of allowing developers the option of selecting the most appropriate component for their project to help mitigate the impacts imposed. The costs of these improvements, with this new language, would be creditable toward the multi-modal impact fee; for any development above what may exist on the ground prior to redevelopment. Some of the management strategies are, but not limited to: • Access Management improvements • Provision of transit accommodations • Provision of pedestrian accommodations • Provision of bicycle accommodations • Implementation of transportation demand strategies • Provision of traditional neighborhood site design features. The County has requested all municipalities within its jurisdiction to make these changes to the Concurrency portion of their Plans in order to be consistent. As the City is regulating the impacts of Redevelopment currently these identified changes should not impact the strategies that are presently in place and should only further enhance the goals of the City, especially in the Community Redevelopment District. The City has been pursuing the concept of "Complete Streets", which is one tool in the Multi-modal transportation tool box since the inception of the Community Redevelopment District, roughly 2008. One benefit of the enhanced standards for multimodal design is often an increased level of safety. When activity is increased within the pedestrian realm a misinterpreted point of view is that conflict points increase, when in actuality the safety of the system usually increased with the heightened awareness on the movements on the street.
---	--

PUBLIC NOTICE:

Notice of public hearing has been advertised as required by State Statutes. As of the date of this report, no oral or written comments have been received. Oral and written comments may be presented at the public hearing.

COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The proposed Comprehensive Plan Amendment is consistent with the intent strategies of the City's Comprehensive Plan. Objectives and Policies that support the amendment are as follows, but not limited to:

FLU Objective 1.3

The City's Land Development Code shall be amended to encourage implementation of transportation and alternative mobility and management strategies, including mixed use projects, that reduce dependence on automobiles, reduce greenhouse gas emissions and consumption of non-renewable energy surces.

FLU Policy 1.3.3

Encourage alternative mobility options through safe, comfortable and continuous pedestrian and bicycle pathways linked to the downtown area, recreational facilities, activity and entertainment centers and public beach access points to reduce reliance on the auto.

FLU Goal 2

To meet the needs of residents and further the ideal of quality communities as a function of living, working, and recreation opportunities, the design and functionality of the Community Redevelopment District will have a renewed focus on livable community strategies that focus more on people and less on the auto with community improvements and site design that values connectivity, safe and attractive gathering places, functional and attractive design, and alternative safe mobility options.

The proposed Amendment is generally consistent with the City's Land Development Code. As stated previously, there are several criteria within the Code that speaks to various mobility mitigation strategies to alleviate the impacts of development.

There are portions of Division 29 – Concurrency Management which will need to be revised should the Mobility Management language be adopted, for consistency with the Comp Plan. Language may also be revised as part of Division 39 – Community Redevelopment District that provides further specificity to the mitigation strategies that are discussed in the Transportation Element.

PLANNING BOARD:

The Planning Board heard CPA 01-16 on March 15, 2016 and provided a recommendation of approval to the City Commission (3-0). The motion was made by Member Lehman, Member Ohlhaber confirmed the motion and unanimously approved by a roll call vote (3 yes – 0 no).

STAFF RECOMMENDATION:

Upon review of the City's guiding documents and those of the County, staff recommends approval of CPA 01-16 as presented.

Attachments

- (1) Exhibit A** – CPA 01-16
- (2) Exhibit B** – Staff Report
- (3) Exhibit C** – Attachment “A”- Transportation specific cause and effect table.
- (4) Exhibit D** – Multimodal Impact Fee Districts.
- (5) Exhibit E** – County Data and Analysis for Multimodal changes.
- (6) Exhibit F** – Proposed adoption schedule.

Exhibit C

ATTACHMENT A

Detailed summary of the proposed modifications to the Goals, Objectives and Policies of the Transportation Element (TRAN). The TRAN remains otherwise unchanged, except as explained below.

Transportation Element – Summary of Modifications

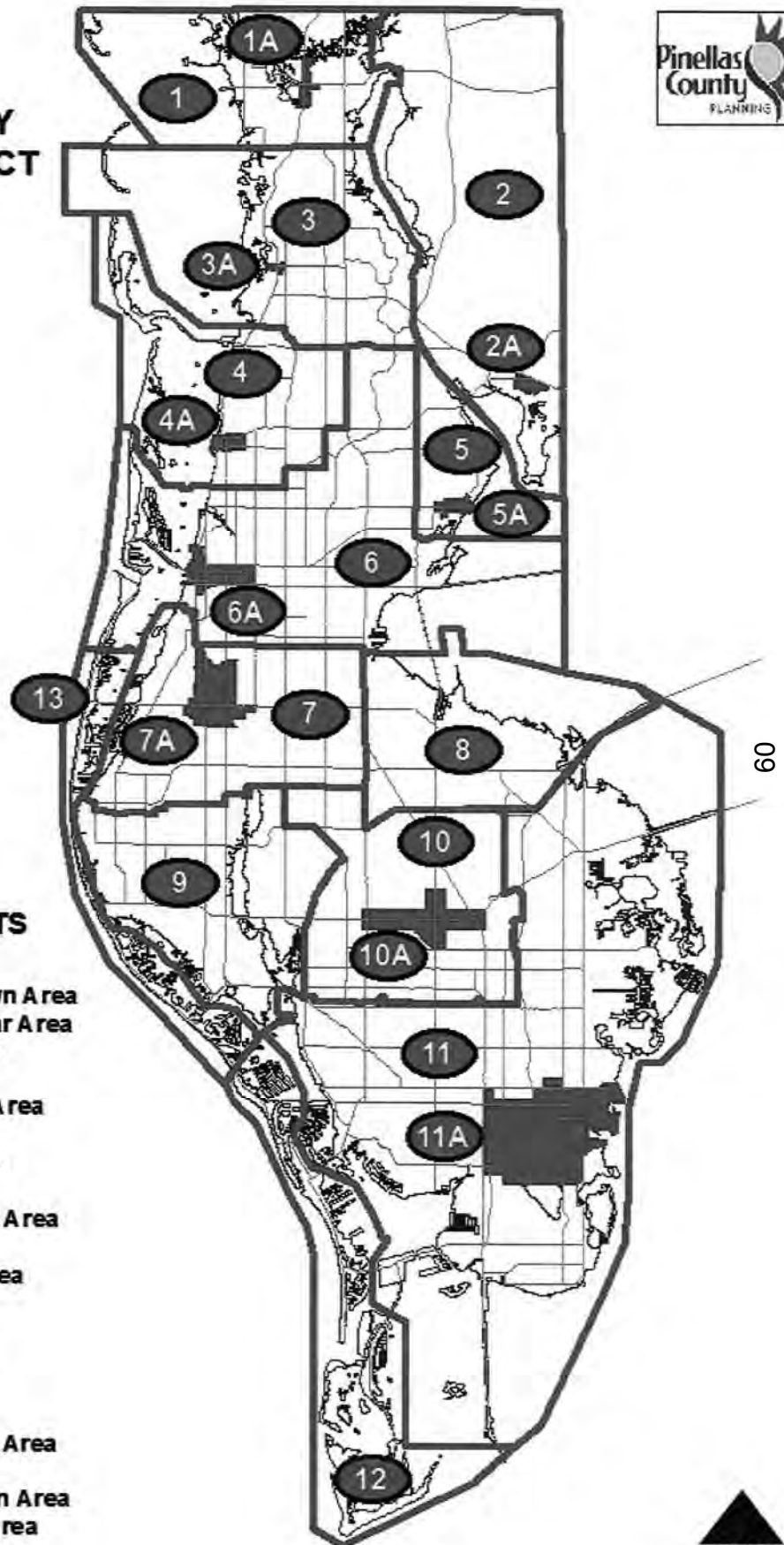
Proposed Policy Changes to TRAN	Explanation
GOAL 1: Provide for a A safe, convenient and <u>energy</u> efficient multimodal motorized and non-motorized transportation system shall be available for all residents and visitors to the city <u>that serves to increase mobility, reduce the incidence of single-occupant vehicles and efficiently utilize roadway capacity.</u>	Language addition to match County efforts.
Policy 1.1.1. The City shall review all proposed <u>new</u> development or redevelopment for consistency with this element and <u>any potential</u> impacts upon the adopted LOS standards. All development permits shall be issued only when it is documented that such development does not result a reduction in the level of service below the adopted level of service standards for the affected facility.	Adds reasonable assumptions.
Policy 1.1.2 All new development and redevelopment proposals shall be reviewed under the City's <u>Mobility Concurrency</u> Management System <u>through the application of Transportation Element policies and site plan review processes. Such policies are listed below:</u> a. <u>All development projects generating new trips shall be subject to payment of a multimodal impact fee.</u> b. <u>Development projects that generate between 51 and 300 new peak hour trips are designated as Tier 1.</u> c. <u>Developers of Tier 1 projects located within deficient road corridors are required to submit a transportation management plan designed to address their impacts while increasing mobility and reducing the demand for single occupant vehicle travel.</u> d. <u>The cost of transportation management strategies implemented for Tier 1 projects are creditable toward their multimodal</u>	Matches County Transportation Element changes.

<u>impact fee assessment. If the cost of the improvement exceeds the assessment, the development project would not be subject to the payment of a multimodal impact fee.</u> e. <u>Development projects that generate more than 300 new peak hour trips are designated as Tier 2.</u> i. <u>Developers of Tier 2 projects within deficient road corridors are required to conduct a traffic study and submit an accompanying report. The report shall include the results of the traffic study and a transportation management plan identifying improvements necessary to address the impacts of the project.</u> ii. <u>The cost of transportation management strategies implemented for Tier 2 projects may be applied as credit toward the project's multimodal impact fee assessment or payment of the fee could be included as part of a transportation management plan.</u>	
Objective 1.3 Through land development regulations the City will <u>strive to provide for safe, convenient and efficient multimodal parking and access ways. Motorized and non-motorized vehicle parking and bicycle and pedestrian ways.</u>	Change made to reflect County Transportation Element
Policy 1.4.2 The City shall enforce the requirements of the Sign Ordinance along roadways <u>in order to reduce visual confusion and safety hazards.</u>	Provide further clarity to the policy
Policy 1.4.3 The City shall prepare annual accident frequency reports for all collector and arterial roads, which will be made available to appropriate County and State agencies.	Policy was deleted as the Police Department was replaced by the County Sherriff's department and the City no longer has this data.
Policy 1.5.2 The City shall continue to identify and encourage the use of bicycle and pedestrian <u>modes of transportation ways.</u>	Change was made to reflect the direction of the amendment.
Objective 1.6 In accordance with this Comprehensive Plan, as amended, transportation planning shall be coordinated with the City's Future Land Use Plan, the FDOT 5-year Transportation Plan, <u>the County's Transportation policies,</u> the Pinellas Area Transportation Study (PATs) Metropolitan Planning Organization (MPO) 5-Year Transportation Improvement Program (TIP), and the plans of the	Objective was updated to include Pinellas County specifically.

neighboring jurisdictions.	
----------------------------	--

EXHIBIT A

PINELLAS COUNTY MULTIMODAL IMPACT FEE DISTRICTS



IMPACT FEE DISTRICTS

1. Tarpon Springs Area
- A. Tarpon Springs Downtown Area
2. East Lake Tarpon/Oldsmar Area
- A. Oldsmar Downtown Area
3. Palm Harbor Area
- A. Palm Harbor Downtown Area
4. Dunedin Area
- A. Dunedin Downtown Area
5. Safety Harbor Area
- A. Safety Harbor Downtown Area
6. Clearwater Area
- A. Clearwater Downtown Area
7. Largo Area
- A. Largo Downtown Area
8. Highpoint Area
9. Seminole Area
10. Pinellas Park Area
- 10A. Pinellas Park Downtown Area
11. St. Petersburg Area
- A. St. Petersburg Downtown Area
12. South County Beaches Area
13. Mid County Beaches Area



DATA and ANALYSIS

Transportation Element – Table of Contents Update

TRANSPORTATION ELEMENT

of the

PINELLAS COUNTY COMPREHENSIVE PLAN



Prepared By:

The Pinellas County Planning Department

as staff to the

LOCAL PLANNING AGENCY

for

**THE BOARD OF COUNTY COMMISSIONERS
OF PINELLAS COUNTY, FLORIDA**

Adopted March 18, 2008 (Ordinance 08-19)
Amended October 21, 2008 (Ordinance 08-67)
Amended March 17, 2009 (Ordinance 09-16)

Preface

In the late 1970s and early 1980s, Pinellas County adopted its first Comprehensive Plan for managing growth in the County. In 1985, the Florida Legislature strengthened the growth management provisions of Chapter 163, Florida Statutes, and Pinellas County began to develop its new Plan, with a greater emphasis on integrated planning and consistency with other State and Regional planning efforts. In 1989, the Pinellas County Board of County Commissioners was one of the first governments to meet the new growth management requirements with the adoption of its new Comprehensive Plan. This Plan placed new emphasis on financial feasibility, and the assurance that public services and facilities would be available concurrent with the impacts of development. Chapter 163, Florida Statutes, also includes specific requirements for regularly evaluating the continued effectiveness of the Comprehensive Plan, and requires that local governments update their Plans to address significant issues identified through this evaluation and appraisal process. The first major update to the Comprehensive Plan was adopted by the Board of County Commissioners in 1998. In 2008, the Board of County Commissioners adopted the next significant update to the Plan, following a multi-year evaluation process, which included extensive public and agency involvement to ensure that the Plan remained relevant, providing appropriate direction to decision-making and sound guidance for future planning.

Today, the Pinellas County Board of County Commissioners has a mature Comprehensive Plan and growth management program, based on over 30 years of comprehensive planning experience. The emphasis and theme of the Plan is the need to plan appropriately today in order to achieve a sustainable future, and a quality community where people will *Plan to Stay*.

The individual Elements and related components of the Plan provide an integrated long range planning program designed to address both existing and future needs. Where multi-jurisdictional responsibilities exist, the Elements may address the entire County; other Elements address just the unincorporated County. Following are the Elements and related components of the Pinellas County Comprehensive Plan:

Planning to Stay, Future Land Use and Quality Communities; Transportation; Natural Resource Conservation and Management; Coastal Management; Housing; Intergovernmental Coordination; Recreation, Open Space and Culture; Potable Water, Wastewater and Reuse; Solid Waste and Resource Recovery; Surface Water Management; Capital Improvements; Public School Facilities, The Concurrency Management System; and The Monitoring and Evaluation Procedures.

Additional information on the Pinellas County Comprehensive Plan may be obtained by contacting the Pinellas County Planning Department at:

310 Court Street
Clearwater, Florida 33756
(727) 464-8200 or planner@pinellascounty.org

Pinellas County complies with the Americans with Disabilities Act. To obtain accessible formats of this document, please contact the Pinellas County Communications Department at (727) 464-4600 / TDD (727) 464-4431.

Pinellas County, Florida

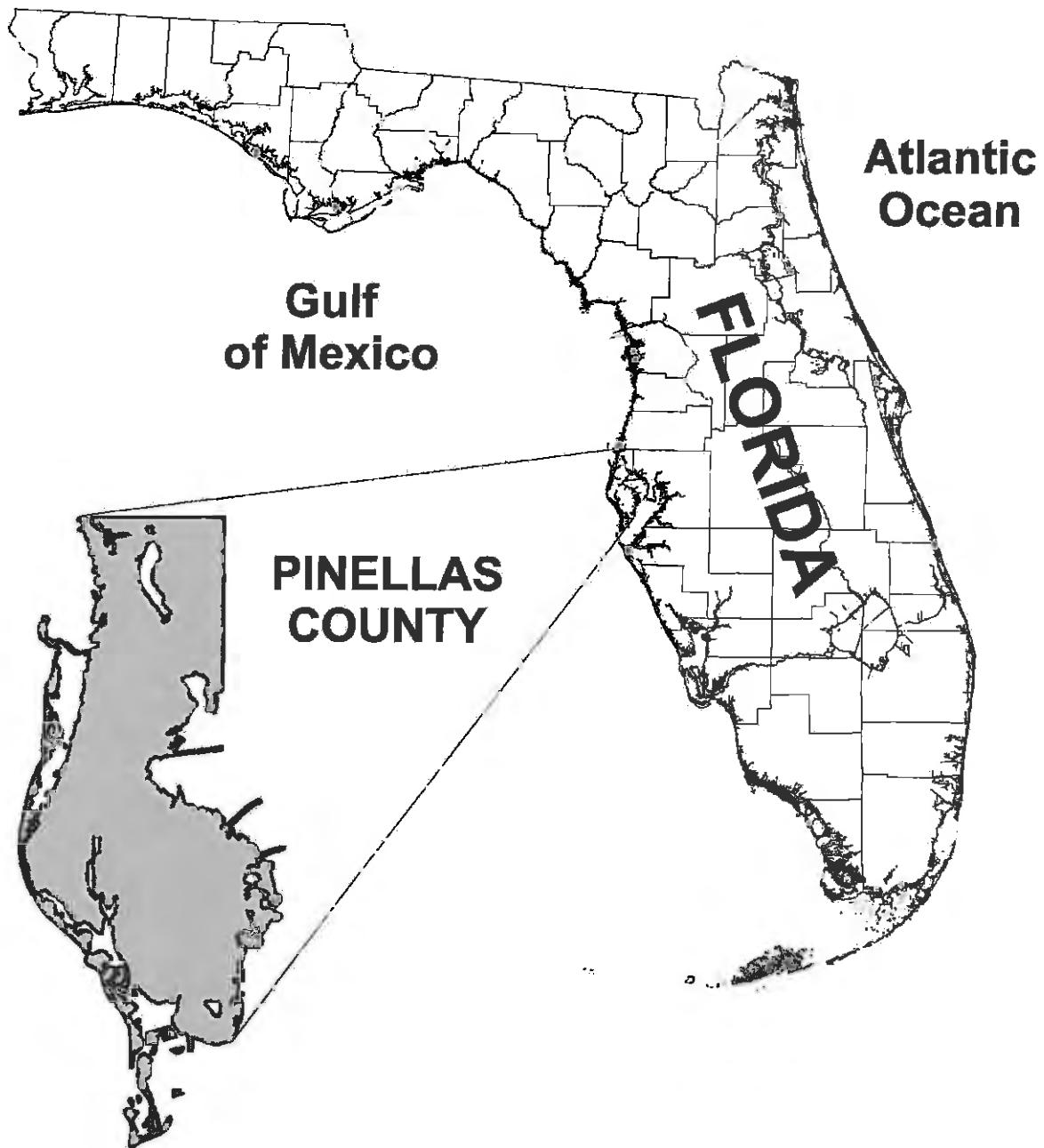


Table of Contents

PREFACE	i
LOCATION MAP	ii
<u>GOALS, OBJECTIVES AND POLICIES*</u>	GOPs-1
INTRODUCTION	Intro-1
1- <u>TRAFFIC CIRCULATION AND MOBILITY</u>	1-1
2- <u>LAND USE COORDINATION AND HIGHWAY BEAUTIFICATION</u>	2-1
3- <u>RIGHT-OF-WAY AND FUNCTIONAL CLASSIFICATION</u>	3-1
4- <u>BICYCLE AND PEDESTRIAN TRAVEL</u>	4-1
5- <u>PUBLIC TRANSPORTATION AND DEMAND MANAGEMENT</u>	5-1
6- <u>PORTS, AVIATION AND INTERMODAL FACILITIES</u>	6-1
7- <u>SAFETY, EFFICIENCY AND GOODS MOVEMENT</u>	7-1
8- <u>STATE, REGIONAL AND LOCAL COORDINATION</u>	8-1
<u>APPENDIX A (Tables)</u>	
1-1: <u>Deficient Road Segments - Existing Conditions</u>	A-1
1-2: <u>Pinellas County Road Improvements Fiscal Year 2007/08 - 2012/13</u>	A-10
1-3: <u>Pinellas County Road Improvements 2013 - 2025</u>	A-12
1-4: <u>US Highway 19 (Klosterman Road to Whitney Road) Existing Conditions</u>	A-14
1-5: <u>US Highway 19 (FIHS/SIS Segment) Long-Term Schedule of Capital Improvements</u>	A-15
<u>APPENDIX B (Figures/Maps)</u>	
1-1: <u>Existing Lane Configurations - Major Road Network</u>	B-1
1-2: <u>Countywide Planning Sectors*</u>	B-2
1-3: <u>Existing Level of Service - Major Road Network</u>	B-3
1-4: <u>County and State Scheduled Road Improvements</u>	B-4
1-5: <u>County and State Planned Road Improvements</u>	B-5
1-6: <u>2025 Level of Service</u>	B-6
1-7: <u>Planned 2025 Major Road Network</u>	B-7
2-1: <u>Scenic Noncommercial Corridors</u>	B-8
3-1: <u>Future Right-of-Way - Pinellas County</u>	B-9
3-1A: <u>Future Right-of-Way - North Pinellas County</u>	B-10

Table of Contents

(continued)

<u>3-1B: Future Right-of-Way - North Central Pinellas County</u>	B-11
<u>3-1C: Future Right-of-Way - South Central Pinellas County</u>	B-12
<u>3-1D: Future Right-of-Way - South Pinellas County)</u>	B-13
<u>3-2: Functional Classification - Pinellas County</u>	B-14
<u>3-2A: Functional Classification - North Pinellas County</u>	B-15
<u>3-2B: Functional Classification - North Central Pinellas County</u>	B-16
<u>3-2C: Functional Classification – South Central Pinellas County</u>	B-17
<u>3-2D: Functional Classification - South Pinellas County</u>	B-18
<u>4-1: Pinellas Trail Network</u>	B-19
<u>4-2A: Sidewalks – North County*</u>	B-20
<u>4-2B: Sidewalks – Mid County*</u>	B-21
<u>4-2C: Sidewalks – South County*</u>	B-22
<u>5-1: Persons Per Square Mile in Pinellas County*</u>	B-23
<u>5-2: Percent of Population Over the Age of 65*</u>	B-24
<u>5-3: Percent of Households with No Vehicle Available*</u>	B-25
<u>5-4: Major Trip Generators and Attractors</u>	B-26
<u>5-5: Pinellas Suncoast Transit Authority (PSTA) Bus Routes</u>	B-27
<u>5-6: Estimate of Transportation Disadvantaged Citizens by Census Tract*</u>	B-28
<u>6-1: Intermodal Facilities and Access Roads</u>	B-29
<u>6-2: St. Petersburg Clearwater International Airport – Existing and Planned Land Uses</u>	B-30
<u>7-1: Hurricane Evacuation Routes</u>	B-31
<u>7-2: Countywide Truck Routes*</u>	B-32
 <u>DEFINITIONS</u>	 Def-1
 <u>BIBLIOGRAPHY</u>	 Biblio-1

**Not included with this edition*

DATA and ANALYSIS

Transportation Element – 1-Traffic Circulation and Mobility

Traffic Circulation and Mobility

After experiencing 17 percent growth in population between 1970 and 1990 and eight percent growth between 1990 and 2000, Pinellas County's permanent population declined during the first decade of the 21st Century. During the four years since the 2010 US Census, it is estimated that the County's population has rebounded to roughly 933,000. There are approximately 11,500 more people residing in Pinellas County today than in 2000. In addition, there was a 4.6 percent drop in the number of jobs in the County from 2000 to 2010, reflecting slumping economic conditions that took hold in 2008.¹ Along with the decline in jobs, the County's K-12 school enrollment decreased by nearly nine percent to 117,653 in 2009/10.² This followed a peak of 128 thousand students in the 2002/03 school year.

Despite the limited growth in population, Pinellas remains the most densely populated county in the State with 3,345 people per square mile. Less than four percent of the County's land area is vacant buildable land compared to 15.6 percent in 1988.³ With the County's population growth decreasing and the limited supply of vacant land, development patterns in the County today are almost exclusively infill and redevelopment activity. Consequently, the fast-paced growth and accompanying land development activity in the County that had been the major causes of traffic congestion in prior decades are no longer anticipated. This is reflected by annual average daily traffic volumes on many of the County's major roadways that are decreasing or remaining relatively unchanged from year to year. The exception to this is on those facilities serving inter-county travel such as US Highway 19, Interstate-275 and State Road 60 where motorists continue to experience heavy traffic volumes. This reflects continued demand for regional travel particularly for people commuting to work.

Rather than accommodating anticipated population growth and development, the County's objectives in terms of transportation improvements have shifted to addressing the safety and mobility needs of pedestrians, bicyclists and transit users as well as motorists. These needs have become a primary concern in the planning and design of all road improvement projects as bicycle lanes and sidewalks are routinely constructed as part of road reconstruction and resurfacing projects.

The County plans to implement capacity improvements on some major road facilities as deemed necessary to address deficient level of service conditions. However, most major roadway expansion projects remaining to be built in Pinellas County are focused on State facilities supporting regional travel. These include US Highway 19, Gandy Boulevard, Roosevelt Boulevard, Ulmerton Road and the new State Road 690, which is part of the Gateway Express project in mid-Pinellas County.

This chapter provides further discussion regarding road projects as well as the County's Mobility Management System, which is utilized to manage the traffic impacts of development projects. The Mobility Management System replaced transportation concurrency in the County and is implemented through the site plan review process.

Data Summary

The County's major road network includes 2,427 lane miles.⁴ There are 1,037 lane miles of roadways under State jurisdiction and 871 under County jurisdiction. The remaining 519 are municipal.

Existing Lane Arrangements

Figure 1-1 illustrates the existing lane configurations for the major roadways in Pinellas County. This map reflects road improvement projects that have been completed since the adoption of the Comprehensive Plan in 1989. These improvements were identified in the Comprehensive Plan as being necessary to alleviate existing LOS deficiencies. Table 1A below includes a list of major road construction projects implemented by Pinellas County through the Capital Improvement Program (CIP) as identified in the Capital Improvements Element (CIE) and by FDOT as identified in their five-year work programs since 1989.

TABLE 1A
County Roads

No.	Street	Project Segment	Improvement*
	Trinity Blvd.	E. Lake Rd. to Pasco/Pinellas Co. Line	New construction – 4D
1	CR 1	Tampa Rd. to Alderman Rd.	Reconstructed/new const. - 2D
1	CR 1	Curlew Rd. to Tampa Rd.	Reconstructed to 4D
1	Keene Rd.	Sunset Pt. Rd. to SR 580	Reconstructed to 4D
1	Keene Rd.	Druid Rd. to Gulf-To-Bay Blvd.	Reconstructed to 4D
1	Keene Rd.	Gulf-To-Bay Blvd. to Sunset Pt. Rd.	New construction – 4D/6D
183	Gulf Blvd.	Walsingham Rd. to Clearwater Pass	Reconstructed to 2D
202	54 th Avenue N.	66 th St. to Park St.	Reconstructed to 4D
296	102nd Ave. N.	Seminole Blvd. To Starkey Rd.	Reconstructed to 4D/6D
296	118th Ave. N.	US 19 to I-275	Reconstructed to 6D
296	Bryan Dairy Rd.	66th St. to US 19	New Construct - 6P
296	Bryan Dairy Rd.	Starkey to 66th St.	Reconstructed to 4D
501	Belcher Rd.	Curlew Rd. to Alderman Rd.	Reconstructed to 4D
501	Belcher Rd.	54th Ave. to Park Blvd.	Reconstructed to 4D
528	Drew St.	NE Coachman Rd. to McMullen-Booth Rd.	Reconstructed to 4D
576	Sunset Point Rd.	Keene Rd. to McMullen-Booth Rd.	Reconstructed to 4D
611	49th Street	US 19 to Roosevelt Blvd.	Reconstructed to 6D
611	Bayside Bridge	Roosevelt Blvd. to Gulf-To-Bay Blvd.	New 6D Bridge Construction
611	East Lake Road	Tarpon Woods Blvd. to Pasco County Line	Reconstructed to 4D
611	McMullen-Booth Rd.	Curlew Rd. to Gulf-To-Bay Blvd.	Reconstructed to 6D
667	Forest Lakes Dr.	SR 584 to Hills./Pinellas Co. Line	New construction – 2D/4D
667	Forest Lakes Dr.	SR 584 to SR 580	Reconstructed 2D
752	Tampa Road	US 19 to Curlew Rd.	Reconstructed to 6D
816	Alderman Rd	Alt. US Hwy 19 to US Hwy 19	Reconstructed to 4D

County Roads			
No.	Street	Project Segment	Improvement*
880	Klosterman Rd.	Alt. US Hwy 19 to US Hwy 19	Reconstructed to 4D
State Roads			
No.	Street	Project Segment	Improvement*
	I-275	Gandy Blvd. to Big Island Gap (east of 4 th St.)	Reconstructed to 8F
55	US Hwy 19	Tarpon Ave. to Pasco/Pinellas CL	Reconstructed to 6D
55	US Hwy 19	South of Countryside Blvd. to north of SR 580	Reconstructed to 6P
55	US Hwy 19	North of E. Bay Dr. to 126 th Ave	Reconstructed to 6P
55	US Hwy 19	North of SR 580 to Tarpon Ave.	Add outside lanes. Expanded to 8D
55	US Hwy 19	North of Gulf-To-Bay Blvd. to north of Drew St.	Reconstructed to 6P
60	Gulf-To-Bay Blvd.	US Hwy 19 to Bayshore Blvd.	Reconstructed to 6D
580	SR 580	East of Countryside Blvd. to east approach at Oldsmar Bridge	Reconstructed to 6D
580	SR 580	Tampa Rd. to Race Track Rd.	Reconstructed to 8D
580	SR 580/Skinner Rd.	Alt. US 19 to Pinehurst Rd.	Reconstructed to 4D
584	Tampa Rd.	SR 580 to Curlew Rd.	Reconstructed to 6D
586	Curlew Rd.	US Hwy 19 to CR 1	Reconstructed to 4D
686	Bay Dr.	49 th St. to Missouri Ave.	Reconstructed to 6D
693	66 th St.	Bryan Dairy Rd. to Ulmerton Rd.	Reconstructed to 6D
699	Blind Pass Rd.	75 th Ave. to Gulf Blvd.	Reconstructed to 4D

*Indicates number of lanes/road type (D = divided; P = partially controlled access; F = freeway)

Existing Level of Service

The level of service (LOS) data contained in Table 1-1 reflects peak hour traffic conditions existing in 2006 on roads operating below the County's adopted LOS standard. Approximately 24 percent (584 lane miles) of the major road network in 2006 performed at peak hour LOS E or F or a volume to capacity (v/c) ratio of 0.9 (i.e., volume consuming 90 percent of road capacity) or higher. Pinellas County's LOS standard for roads is LOS C/D average daily/peak hour and v/c ratio 0.9. The 584 deficient lane miles is six miles less than 2005 and eight miles less than the 2004 total. It should be noted that these maps identify LOS conditions for major municipal facilities as well County and State roads.

The road segments listed in Table 1-1 are noted as constrained or are identified for improvements. The constrained facilities are precluded from undergoing improvements necessary to raise the LOS to an acceptable grade because of physical or policy constraints. Road segments identified for capacity improvements are backlogged facilities, meaning the scheduled or planned improvements are necessary to alleviate the deficient LOS conditions. These improvements may be scheduled in a work program or planned in the Metropolitan Planning Organization (MPO) Long Range Transportation Plan.

Work Program Improvements

Scheduled road improvement projects on County jurisdictional facilities shown in Figure 1-4 and described in Table 1-2 are included in the 2007/08 six-year Capital Improvement Program (CIP) and the Capital Improvements Element (CIE). State jurisdictional road projects depicted in Figure 1-4 and Table 1-2 are identified in FDOT's FY 2008/09 Tentative Work Program and the Metropolitan Planning Organization (MPO) Transportation Improvement Program (TIP). In addition to alleviating existing LOS deficiencies, the County projects are focused on major north-south and east-west corridors, such as County Road 296 and County Road 1 (Keene Road/Starkey Road/Park Street). These projects are intended to relieve traffic demand on the more heavily traveled parallel State roads such as US Highway 19 and Ulmerton Road. This approach of providing "parallel relief" to the State roads has been a long-standing policy of the County's road building program since the adoption of the Comprehensive Plan in 1989. Should the implementation of the projects occur as scheduled, the horizon year of the current CIE/CIP will represent a major milestone for the County's road building program as all of the remaining parallel relief projects will be completed or underway. Major capacity projects in the CIP/CIE are listed below.

- Bryan Dairy Road (County Road 296), reconstruction to six lanes from Starkey Road to 72nd Street.
- Starkey Road (County Road 1), reconstruction to six lanes from East Bay Drive to 84th Lane.
- Sunset Point Road (County Road 576), reconstruction to a two-lane enhanced facility from Alternate US Highway 19 to Douglas Avenue, a two lane divided facility from Douglas Avenue to Highland Avenue and a four-lane divided facility from Highland Avenue to Keene Road.
- Park Street (County Road 1), reconstruction to six lanes from 84th Lane to Tyrone Boulevard.
- Keystone Road (County Road 582), reconstruction to a four-lane facility from US Highway 19 to East Lake Road.

Regarding State projects, a top priority of FDOT, the MPO and Pinellas County has been the conversion of US Highway 19 to a partially controlled access facility in its entirety from Gandy Boulevard to the Pasco/Pinellas County Line. A major milestone in this effort will be realized by 2010 when all the partially controlled access improvements planned for the facility that aren't already in place between 49th Street and Countryside Boulevard will have begun construction. Partially controlled access improvements are also planned for the segments north of State Road 580 up through Tarpon Avenue, but none of them are earmarked for construction funding.

The FDOT Five-Year Work Program includes five scheduled capacity improvements and one planned improvement expanding Ulmerton Road to a six lane facility from east of 119th Street to Interstate-275. Upon completion of the current scheduled and planned reconstruction of Ulmerton Road, it will be a six-lane facility, in its entirety, from Indian Rocks Road to Interstate-275.

2025 Level of Service

Figure 1-5 provides a forecast of LOS conditions on the County's major road network in 2025. The LOS grades shown on the map are derived from data produced by the Tampa Bay Regional Planning Model (TBRPM), which is based on future land use, population, employment and school enrollment data. The model simulates future travel conditions on the 2025 road network, including scheduled and planned capacity improvements based on this data. These planned improvements exclude those identified in Table 1-3 as unfunded. Approximately 43 percent (1,045 lane miles) of the major road network is projected to operate at peak hour LOS E or F or a v/c ratio of 0.9 or greater in 2025, a 79 percent increase over the deficient lane miles reported for 2005. As discussed later in this Chapter, growth in average daily volumes on the County's major roads since 1990 has not been significant with the exception of the inter-County facilities. Therefore, it is anticipated that the 79 percent increase in deficient lane miles projected for 2025 will be concentrated on roads such as US Highway 19, the Bay area bridges, State Road 580 and East Lake Road.

Planned Road Improvements 2013-2025

Figure 1-5 shows the road improvements scheduled for construction between 2013 and 2025. These improvements are also listed in Table 1-3. Most of these projects were identified in the 2025 MPO Long Range Transportation Plan that was adopted in 2004. Listed below are projects that were modified or eliminated from the County's scheduled/planned road projects. The MPO approved amendments to the Long Range Transportation Plan in February, 2008 that reflect these changes.

- 28th Street North, 38th Avenue North to 62nd Avenue North, reconstruction from a two lane undivided to a two lane divided facility, has been removed from the Pinellas County CIP.
- 54th Avenue North, from Haines Road to 44th Street, reconstruction from a four lane undivided road to a four lane divided road, has been removed from the CIP.
- 58th Street North, from 38th Avenue North to 70th Avenue North, reconstruction from two lane undivided to two and four lane divided, has been removed as a planned project.
- Lakeview Road, from Keene Road to Hercules Avenue, reconstruction to two lane enhanced has been removed as a planned project.
- Sunset Point Road is currently shown in the MPO Plan as planned for improvement from a two lane undivided road to a two-lane enhanced facility. This project was modified and added to the FY 2007/08 CIP. The modifications include reconstruction to a two-lane divided facility from Douglas Avenue to Highland Avenue and a four-lane divided facility from Highland Avenue to Keene Road.

Improvements to 142nd Avenue, 16th Avenue Southeast and 126th Avenue are examples of projects intended to draw local traffic from Ulmerton Road to these planned parallel facilities. Improvements to Keystone Road, Sunset Point Road and Indian Rocks Road are examples of projects proposed for enhancement. In contrast to the County projects planned for 2013 to 2025, the FDOT Work Program continues to address capacity needs on the major corridors providing for cross county and inter-county travel, particularly within mid-County. These projects include construction of the 118th Avenue Expressway and the

expansion of Gandy Boulevard, Roosevelt Boulevard and the construction/expansion of State Road 686 (Roosevelt Boulevard/County Road 296 connector).

Pinellas County committed \$70 million of Penny for Pinellas revenue to the 118th Avenue project, which is currently estimated at \$200 million. This project was recently elevated on the MPO Project Priority list for Surface Transportation Program funding as Pinellas County is actively pursuing the acceleration of this project as well as the State's Roosevelt Boulevard/County Road 296 Connector project.

The construction/expansion of State Road 686 (Roosevelt Boulevard/County 296 Connector) partially controlled access facility, involves several projects. The reconstruction of Roosevelt Boulevard from a four-lane road between 49th Street and Ulmerton Road is planned for construction by 2025. The planned construction of a new road extending Roosevelt Boulevard south from Ulmerton Road to east of 40th Street is also planned for construction by 2025. Projects extending the planned facility from east of 40th Street to Interstate-275 are currently scheduled in the FDOT Work Program.

Roadway Transportation Trends in Pinellas County

With the exception of the facilities serving regional travel (e.g., Tampa Bay bridges, US Highway 19, East Lake Road, etc.), traffic volume on the County's major roadways has paralleled the slowing population growth. Based on a sample of traffic volume data collected at 114 count stations around the County, the average daily traffic in Pinellas County increased by five percent from 1990 to 2000. This reflects the prevalence of redevelopment activity in Pinellas County where, rather than adding new trips to the surrounding road network, most of the traffic resulting from the projects typically replace trips that were generated by the previous use of the property.

Inter-County Travel Demand

In contrast, inter-county travel between Pinellas and its neighboring counties has been increasing dramatically. Shown on the following table is a list of major roadways connecting Pinellas to Pasco, Hillsborough and Manatee Counties. Between 1990 and 2000, average daily traffic has increased no less than 16 percent on these facilities while the combined average increase on them was 30 percent. Traffic count data from 2005 is shown in Table 1B to illustrate the continuance of this trend, notwithstanding Courtney Campbell Causeway, since 2000.

TABLE 1B

Road	Adjoining Co.	Aver. Daily Traffic			Percent Increase	
		1990	2000	2005	90 to 00	00 to 05
US Highway 19	Pasco	47,180	54,651	66,500	16%	22%
East Lake Road	Pasco	18,745	27,829	31,529	48%	13%
Courtney Campbell Cswy	Hillsborough	39,509	55,056	51,000	39%	-8%
Howard Frankland Bridge	Hillsborough	93,732	108,489*	130,000	16%	20%
SR 580	Hillsborough	30,971	41,009*	52,500	32%	28%
Gandy Bridge	Hillsborough	24,942	29,975	31,500	20%	5%
Skyway Bridge	Manatee	23,538	30,561	44,500	30%	46%

*1999 Count

Interrelationship of Road Capacity and Demand⁵

Although road building programs provide economic as well as mobility benefits, it is generally understood that additional road capacity generates new traffic.⁶ Road expansion makes new trip destinations possible, increases trip frequencies due to easier access, encourages people to accept jobs further from their homes and brings additional strip commercial development which generates more vehicle trips.⁷ In Pinellas County, this relationship has become more evident in recent years as indicated by rapid increases in traffic volumes occurring soon after the implementation of capacity improvements.

For example, the improvement of Gulf-To-Bay Boulevard from a four-lane undivided to a six-lane divided facility from US Highway 19 to Bayshore Boulevard was completed in September 1992. From 1988 to 1991, the average daily traffic count on this segment of Gulf-To-Bay Boulevard was 43,600 trips. In 1993, after the improvements were in place, the number of average daily trips rose to 63,000, far exceeding the physical capacity of the road. A later example involved the Bayside Bridge which was opened in July 1993. By 1994, there were over 48,000 vehicles using this facility. Daily traffic volumes on the parallel section of US Highway 19 fell by 13,000 trips during the same year, indicating that the McMullen-Booth Road/Bayside Bridge corridor was operating effectively as a parallel reliever to US 19, as intended. However, while the number of daily trips rose on the Bayside Bridge to 50,000 in 1995 and 1996, US Highway 19 traffic volumes increased as well from 65,000 in 1994 to 68,000 and 78,000 in 1995 and 1996, respectively.

Construction Costs

With the last major update of the Transportation Element in 1998, one of the major issues affecting the State and County road building programs was the dramatic increase in the cost of right-of-way acquisition. This continues to be a formidable issue in the implementation of road construction projects. In 1998, FDOT reported that for urban road projects, the average right-of-way cost was 20 percent of the total project cost.⁸ In 2006, right-of-way costs for FDOT projects climbed to 66 percent of the total cost.⁹ Pinellas County's costs currently reflect the same percentage for right-of-way acquisition.

An emerging trend in recent years related to road building costs is the sharp increase in the price of materials such as steel and concrete. This has largely been the result of increased energy and fuel costs, labor shortages and hurricane rebuilding efforts in Florida and the southeastern US.¹⁰ Table 1C illustrates the magnitude of these cost increases in Florida. More recent estimates in 2006/07 indicate that the increase in these costs have slowed or declined as compared to the previous year although steel and asphalt prices continue their upward turn.

In Pinellas County, the average cost to construct one-lane mile of roadway, excluding right-of-acquisition, has increased from an average of \$2.2 million in 2004 to \$2.8 million in 2007.¹¹ The combination of the extreme increases in right-of-way acquisition and construction costs have prompted closer scrutiny of the feasibility and priority of scheduled and planned County and State road improvements.

TABLE 1C
Neighborhood and Environmental Impacts

Materials	Unit	03/04	04/05	Change	05/06	Change	06/07 (July-Feb.)	Change
Earthwork	CY	\$4.73	\$5.66	+19.7%	\$7.93	+40.1%	\$7.43	-6.31%
Asphalt	TN	\$57.62	\$68.49	+18.9%	\$90.81	+32.6%	\$103.58	+14.1%
Structural Concrete	CY	\$546.32	\$653.43	+19.6%	\$892.89	+36.7%	\$778.40	-12.8%
Structural Steel	LB	\$1.51	\$1.34	-11.3%	\$1.68	+25.4%	\$2.08	+23.8%
Reinforcing Steel	LB	\$0.67	\$0.86	+28.4%	\$0.96	+11.6%	\$0.95	-1.04%

Note: CY = cubic yard; TN = ton; LB = pound

Source: <http://www.enr.com/resources/daily/article.php?id=ENR070608>

Two other issues affecting road building projects in Pinellas County that were discussed in the 1999 update of the Transportation Element concerned neighborhood intrusion and environmental impacts. Several Comprehensive Plan amendments were approved in the 1990s to modify or eliminate planned road projects where concerns were raised regarding neighborhood and/or environmental impacts. Examples of amendments prompted by concerns about environmental impacts included the deletion of the planned extension of Forest Lakes Boulevard from State Road 584 to Keystone Road and the planned connector road between Linebaugh Avenue in Hillsborough County to the planned Forest Lakes Boulevard extension in 1992 and 1993.

Examples of amendments that were supported by citizens concerned about the impact proposed road projects would have on their neighborhoods included the deletion of a planned section of County Road 1 between Alderman Road and Alternate US Highway 19 and the downsizing of the planned improvement of County Road 1 from four to two lane divided between Tampa Road and Alderman Road in 1995. The same reduction in the planned construction of a four lane facility to a two lane divided facility was approved on Belcher Road/71st Street from 54th Avenue North to 38th Avenue North in 1996. Although environmental and neighborhood impacts were not the only issues that resulted in the Board of County Commissioner's action to approve the aforementioned amendments, they were among the primary considerations.

However, with most of the major road projects identified in the 1989 Comprehensive Plan having already been implemented or scheduled in the current CIP or State Work Program, the issues of neighborhood intrusion and environmental impacts are less of an issue than they have been in prior years. As Pinellas County and FDOT turn their attention toward the remaining capacity projects such as the expansion of Ulmerton Road, US Highway 19, County Road 296 and State Road 686, cost is the foremost concern.

Strategic Intermodal System

In January 2005, FDOT adopted its Strategic Intermodal System (SIS) Plan. The SIS is a statewide system of high-priority regional transportation facilities. It includes the State's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways. Pinellas County roadways currently included in the State's SIS network are US Highway 19 from Gandy Boulevard to the Pasco/Pinellas County Line, Gandy Boulevard from US Highway 19 to the Hillsborough/Pinellas County Line and the Interstate System. Also included as emerging SIS facilities are the St. Petersburg Clearwater International Airport and State Road 686 from the Airport entrance to US Highway 19. It should also be noted that, upon completion of the 118th Avenue Expressway from US Highway 19 to east of 40th Street, County Road 296 from US Highway 19 to Interstate 275 will become part of the County's SIS and US Highway 19 from County Road 296 to Gandy Boulevard as well as Gandy Boulevard from US Highway 19 to the Hillsborough/Pinellas County Line will be removed from the SIS.

The SIS Plan recognizes these facilities as top priorities for State discretionary capacity funding and calls for 75 percent of these monies to be allocated to SIS facility projects by 2015. While this policy would support the effort to continue the implementation of improvements on US Highway 19, it could draw funds away from other State roads that are not part of the SIS where needed improvements are not currently scheduled for construction. As more State revenue shifts toward SIS facilities, planned projects on non-SIS State roads may lose needed funding support.

Constrained Facilities

As Pinellas County and FDOT pursue the implementation of capacity projects on US Highway 19 and in the mid-County area, traffic volumes on some facilities where improvements were completed after 1990 are approaching saturation levels. For County roads, this trend is most evident in north Pinellas. Average daily traffic volumes on Tampa Road, which was expanded to a six lane divided road from US Highway 19 to East Lake Road, and Keene Road, a four/six lane facility constructed from Gulf-to-Bay Boulevard to Sunset Point Road, have increased to nearly 90 percent of the road's physical capacity.

County Road 611, including McMullen Booth Road and East Lake Road, gives reason for more serious concern as peak hour conditions on this corridor have degraded to LOS F. McMullen Booth Road/East Lake Road was improved to a six-lane divided facility from Gulf-to-Bay Boulevard to Brooker Creek and East Lake Road from Brooker Creek Road to Keystone Road was improved to a four-divided facility in the 1990s. McMullen Booth Road and East Lake Road are currently designated in the Comprehensive Plan as constrained facilities.

Although right-of-way is available to expand all of East Lake Road to a six-lane facility, there are no plans for such an improvement based on concerns regarding neighborhood impacts. The scheduled and planned expansion of US Highway 19 from Clearwater to Tarpon Springs to a partially controlled access road is expected to relieve a significant level of demand for McMullen Booth Road and East Lake Road. However, in the short term, Pinellas County is working with the MPO to identify and implement other solutions to reducing travel demand on the corridor as well as increasing the efficiency of its current operations.

Mobility Planning

A primary objective of the County's transportation planning efforts is to ensure that the safety and mobility needs of pedestrians, bicyclists and transit users as well as motorists are accommodated. This applies to the design and construction of capital improvements, and the application of the Land Development Code through the site plan review process and decisions affecting the amendment of the Future Land Use Map (FLUM). These activities are part of the County's mobility planning functions, which work toward the goal of providing the County's citizens with a safe, multi-modal and energy efficient transportation system that improves the quality of their lives. The Mobility Management System, which provides a coordinated approach to managing the traffic impacts of development projects through the site plan review process, is a part of the County's mobility planning efforts.

Mobility Management System

Concurrency management rules enacted in Rule 9J-5, F.A.C., provided the backbone for the State's Omnibus Growth Management Act of 1985. This required local governments to adopt and maintain level of service standards for public services and facilities. For transportation, Pinellas County adopted a roadway level of service (LOS) standard of C for average daily traffic conditions and LOS D for peak hour conditions with no mitigating improvements scheduled within the next three years. This standard was subsequently modified to include roads operating with a volume-to-capacity (V/C) ratio of 0.9 or greater as deficient. Volume-to-capacity (V/C) ratio is a measure of the saturation level of a roadway, expressing existing traffic volumes as a percentage of roadway capacity. Under concurrency management rules, maintaining this standard was a condition of approval for development projects.

The Florida Legislature passed Senate Bill 360, the Florida Community Renewal Act, into law in 2009. The Act amended Chapter 163, Florida Statutes. It designated eight counties, including Pinellas, as dense urban land areas (DULAs). The Act effectively removed State-mandated transportation concurrency management requirements in these designated areas. It also provided local governments within DULAs the option of establishing mobility plans and fees as growth management tools to be utilized in place of traditional concurrency management regulations.

Senate Bill 360 was ruled unconstitutional by a Leon County circuit court in 2010. In response to the ruling, the bill was modified in the 2011 Florida Legislative Session and re-introduced and adopted as House Bill 7207, the Community Planning Act. This Act furthered the intent of Senate Bill 360 by removing State imposed concurrency management requirements for all local governments in Florida.

With the repeal of the concurrency mandate, House Bill 7207 provided local governments with an open slate in terms of their procedures for managing growth. The Bill encouraged the implementation of creative strategic approaches aimed at increasing mobility and managing growth, including the development of "mobility fees".

Pursuant to the Community Planning Act, Pinellas County established a mobility management system designed to replace transportation concurrency with a program that increases mobility for all travel modes while addressing traffic impacts more efficiently. The mobility management

concept was developed in cooperation with the County's other local governments working through the Metropolitan Planning Organization (MPO) planning process.

Multi-modal Impact Fees

A central component of the Mobility Management System is the integration of multi-modal impact fees with the review and management of traffic impacts generated by development projects through the site plan review process. Development projects had previously been subject to payment of impact fees in addition to implementing improvements necessary to comply with their transportation concurrency requirements. Under the Mobility Management System, developers can apply their impact fee assessment to the cost of improvements they may be required to implement to address their traffic impacts. Multi-modal impact fees are assessed through a countywide ordinance, which is codified in Section 150 of the Pinellas County Land Development Code.

Monies generated from the Multi-modal Impact Fee Ordinance are used to fund improvements serving all principal modes of travel. These include walking, bicycling and transit as well as automobile use. In accordance with the terms of the Ordinance, the improvements funded by Pinellas County must provide a capacity benefit to the major road network, either by infrastructure expansion or by lessening the demand for single occupant vehicle travel. They must also be consistent with the Comprehensive Plan.

Mobility Management System Applied

The Mobility Management System seeks to allow for the management of moderate to large scale development projects through the application of site plan requirements designed to address their traffic impacts. "Moderate to large scale" development projects impacting roads with deficient operating conditions are classified as either Tier 1 or Tier 2. Tier 1 projects include those that generate between 51 and 300 new peak hour trips. Development projects generating more than 300 new peak hour trips are classified as Tier 2. "Deficient" roads operate with peak hour LOS E or F conditions and/or volume-to-capacity of 0.9 or higher.

The Mobility Management System requires developers of Tier 1 and 2 projects to submit a transportation management plan (TMP) to the County during the site plan review process. Transportation management plans must address development impacts while increasing mobility and reducing the demand for single occupant vehicle travel. Listed below are strategies that can be identified in a TMP. The cost of transportation improvements or strategies included in a TMP would be creditable toward the multi-modal impact fee assessments of development projects. If the cost of the TMP meets or exceeds the assessment, the development project would not be subject to payment of the fee.

Transportation Management Plan Strategies

- Access management improvements:
 - Acceleration/deceleration lane;
 - Reduction of driveways; and
 - Shared driveways/cross access easements with neighboring properties.

- Intersection capacity improvements, such as signal timing and turn lane storage capacity
- Provision of transit accommodations developed in coordination with PSTA:
 - New or enhanced transit stop(s) or shelter(s);
 - Walkways connecting transit stops to the principle building(s);
 - Bus pull-off area(s); and
 - Dedication of park and ride parking spaces.
- Provision of pedestrian accommodations:
 - Sidewalks along all street frontages;
 - Sidewalk/walkway connecting building entrance with frontage sidewalk;
 - Other pedestrian treatments in parking areas; and
 - Other sidewalks connecting to adjacent neighborhoods.
- Provision of bicycle accommodations, such as, but not limited to:
 - Bicycle rack(s);
 - Trail improvement; and
 - Bicycle lane installation.
- Implementation of transportation demand management strategies:
 - Ridesharing programs;
 - Flexible work hours; and
 - Telecommuting.
- Provision of traditional neighborhood site design features:
 - Orientation of building toward street
 - Parking oriented to side or rear of building; and
 - Building entry on street.
- Pedestrian shade accommodations such as awnings over sidewalks and other outdoor walkways, and tree plantings providing canopy
- Site design that minimizes cut-through traffic on neighborhood streets by encouraging vehicular traffic to utilize the major road network to travel to or from the site, utilizing local roads only for immediate site access.

Developers of Tier 2 projects are required to conduct a traffic study and submit an accompanying report. The report must include the results of the study and a transportation management plan identifying improvements necessary to manage the impacts of their project as identified in the traffic study. The report is subject to review and approval during the site plan review processes. The cost of the transportation management plan strategies can be applied as credit toward the development's multi-modal fee assessment or payment of the fee could be combined with a transportation improvement/strategy as part of the transportation management plan. It should be noted that, in accordance with the Community Planning Act, developers can only be required to address the impacts associated with their project rather than any pre-existing traffic congestion or deficient level of service conditions. Shown below are examples of development projects that meet the threshold of the Tier 1 and 2 categories under the Mobility Management System.

Examples of development projects that would generate 51 peak hour trips (Tier 1) shown below.

- 55 single family homes
- 35,076 square foot general office
- 11,335 square foot general commercial

- *81,677 square foot general industrial*

Examples of development projects that would generate 301 peak hour trips (Tier 2) shown below.

- *330 single family homes*
- *298,393 square foot general office*
- *68,035 square foot general commercial*
- *490,217 square foot general industrial*

Development projects that generate less than 51 new peak hour trips are required to pay a multi-modal impact fee based on the proposed land use. They are not required to submit a transportation management plan or traffic study.

Projects impacting non-deficient roads are required to implement TMPs in situations where it is determined that development approval would cause the level of service conditions on a roadway to become deficient. This determination is rendered during the site plan review process. A traffic study may be submitted by a site plan applicant or required by the County to provide a more detailed assessment of level of service impacts and also to identify potential improvements that would be suitable for a transportation management plan.

Endnotes

- ¹. 2011 American Community Survey.
- ². *Juvenile Welfare Board Children's Services, 2010.*
- ³. Ibid.
- ⁴. Roadway inventory and level of service information in this section is based on the 2007 Metropolitan Planning Organization Level of Service Report.
- ⁵. Level of service data source used for this section: annual MPO Level of Service Reports, 1993 to 1997. Traffic volume data source used in this and subsequent sections: MPO Traffic Count Program.
- ⁶. P. Hall, Great Planning Disasters, (London: Weibenfeld and Nicolson, 1980), p. 66. D.R. Porter, "The Future Doesn't Work", *Transportation Research News*, December 1987, p. 14. Cynthia L. Hoyle, Traffic Calming, Planning Advisory Service Report 456, July 1995, p. 4.
- ⁷. Hoyle, p. 4.
- ⁸. Florida Department of Transportation, Office of Policy Planning, 2002 Transportation Costs, March, 2003, p. 11.
- ⁹. Information provided by Florida Department of Transportation District 7 Office, 2006.
- ¹⁰. Ananth Prasad, *Rising Construction Costs – The Florida Story*, Florida Department of Transportation, 2007.
- ¹¹. Figure is an average of Pinellas County and FDOT cost estimates.

DATA and ANALYSIS

**Transportation Element –
Definitions**

Definitions

ACCESS MANAGEMENT - The regulation and control of vehicular access to public roads to insure the safe and efficient operation of the roadway system.

AMERICANS WITH DISABILITIES ACT (ADA) - Federal legislation outlining specific rights of persons with disabilities, and providing that publicly funded mass transit agencies must provide complementary paratransit service within the fixed-route service area to those persons unable to use fixed-route service because of a disability.

BACKLOGGED – A term applied to roads that are not designated as constrained, are operating at peak hour level of service E or F, and are not scheduled for construction in the first three years of either the Florida Department of Transportation's Adopted Work Program or the Six-Year Schedule of Improvements within the Pinellas County Capital Improvements Element.

BICYCLE FACILITIES - Any travel corridor designed to accommodate non-motorized traffic, including bike and pedestrian paths and bike lanes on roadways.

COLLECTOR - A road which provides connection to minor public facilities, interconnection of minor thoroughfares, access to concentrated land uses, or access to diffuse land use areas.

COMMUNITY TRAILS - Paved bicycle and pedestrian facilities that provide a high level of safety and efficiency for the user.

COMMUNITY TRANSPORTATION COORDINATOR (CTC) - Transportation entity responsible for ensuring that coordinated transportation services are provided to the transportation disadvantaged population in the designated service area. In Pinellas County, the Pinellas Suncoast Transit Authority (PSTA) is the community transportation coordinator.

COMMUTER ASSISTANCE PROGRAM - Program designed to encourage commuters to participate in transportation demand management initiatives, including vanpooling, telecommuting, and guaranteed ride home programs.

CONGESTION MANAGEMENT PROCESS (CMP) - A systematic process designed to emphasize effective management of existing transportation facilities through the use of travel demand and operational strategies.

CONGESTION MITIGATION AND AIR QUALITY (CMAQ) - A Federal program that provides funding for projects that contribute to the attainment of the National Ambient Air Quality Standards. Eligible projects include intersection improvements, transit projects, and Transportation Management Organizations/Initiatives. Pinellas County is not currently eligible for CMAQ Program funding.

CONSTRAINED - A condition in which capacity improvements cannot be implemented on a particular road because of physical or policy barriers.

COUNTYWIDE TRUCK ROUTE PLAN - A plan adopted by the MPO that designates roads suitable for travel by heavy trucks and vehicles carrying hazardous materials.

CORRIDOR - A term used in reference to a road and the adjacent land. As applied in the Pinellas County Concurrency Management System, corridors include the area within one-half mile of the road centerline and terminus.

DEFICIENT FACILITY - A road operating at peak hour level of service E or F, and/or a volume-to-capacity (v/c) ratio of 0.9 or higher with no mitigating improvements scheduled within three years.

DESIGNATED OFFICIAL PLANNING AGENCY (DOPA) - Agency designated by the state Commission for the Transportation Disadvantaged to provide planning services to the local transportation disadvantaged service area. In Pinellas County, the Pinellas County MPO is the designated official planning agency.

DEVELOPMENT OF REGIONAL IMPACT (DRI) - Any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety or welfare of citizens in more than one county. This includes the traffic generation of developments above a certain size.

FLORIDA INTRASTATE HIGHWAY SYSTEM (FIHS) - A system of designated roadways created in 1990 by the Florida Legislature to provide for high-speed and high-volume traffic flow, including limited- and controlled-access facilities (e.g., Interstate highways, Florida's Turnpike, expressways, and other facilities of regional significance).

FUNCTIONAL CLASSIFICATION - The assignment of roads into categories according to the character of service they provide in relation to the total road network to assist in determining appropriate regulatory controls and roadway design criteria.

HEADWAY - On a fixed bus route, the amount of time between successive arrivals of a bus.

HIGHWAY BEAUTIFICATION ACT - Federal legislation passed in 1965 providing for the clean-up and beautification of federal highways.

INTELLIGENT TRANSPORTATION SYSTEMS (ITS) - The application of advanced technology and operational strategies in an integrated manner to increase the effectiveness of the surface transportation system.

INTERMODAL FACILITIES - Transportation facilities which provide for linkages between travel modes, such as rail or bus stations at airports.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT (ISTEA) – 1991 Federal legislation which provided funding for transportation improvements, including roads, bicycle/pedestrian facilities, and mass transit systems. Its current successor legislation is the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

FRED MARQUIS PINELLAS TRAIL – The main line of the County's trail network, the Fred Marquis Pinellas Trail currently extends from St. Petersburg to Tarpon Springs.

JOINT PARTICIPATION AGREEMENT (JPA) - An agreement between the State and another entity to jointly participate in a planning or capital project.

LEVEL OF SERVICE (for roads) - A qualitative measure of roadway performance expressed in letter grades ranging from A through F, with A roads operating under optimum free-flow conditions and F roads operating under the most deficient conditions characterized by forced-flow traffic with considerable delays.

LIMITED ACCESS - A street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access.

LIVABLE COMMUNITIES – Planning concept that revolves around land development, building and street design elements that create environments where people want to work and live.

LOCAL PLANNING AGENCY (LPA) – As the designated LPA for Pinellas County, the County Planning Department is responsible for carrying out planning responsibilities defined in Chapter 163, F.S., associated with the delivery of public services and facilities under the jurisdiction of the Board of County Commissioners.

MILLION GROSS TON MILES (MGTM) - A measure of rail usage incorporating the weight of freight and rolling stock carried per length of railroad line.

MINOR ARTERIAL - A road that accommodates higher-speed, longer-length trips, and serves one of seven significant trip purposes listed under federal guidelines

MIXED-USE DEVELOPMENT - Defined by the Urban Land Institute as developments with three or more significant revenue-producing uses, such as office, retail, residential, hotel/motel, entertainment, cultural, recreation, etc., which are mutually supportive in well-planned projects.

MOBILITY MANAGEMENT SYSTEM - The process utilized by Pinellas County to implement the Pinellas County Mobility Plan approved by the Metropolitan Planning Organization in 2013. This includes the process of managing the transportation impacts of development projects and the assessment, collection and expenditure of multi-modal impact fees.

MOBILITY PLANNING – Activities associated with providing a safe and energy efficient multi-modal transportation system through the implementation of capital improvement projects, application of the Land Development Code through the site plan review process and decisions regarding amendment of the Future Land Use Map.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY (MAP 21) - The 2012 federal surface transportation legislation (Public Law 112-141) that authorized federal-aid highway and transit programs. MAP-21 sets forth funding and associated requirements for the MPOs and transportation improvement projects. The Act took effect on October 1, 2012, replacing the 2005 federal surface transportation legislation known as SAFETEA-LU.

MPO LONG RANGE TRANSPORTATION PLAN - Plan adopted by the Pinellas County MPO which sets forth the future transportation system of Pinellas County, and takes into account all modes of transportation, including automobile, bicycle, air, rail, surface freight, and pedestrian travel.

MPO LONG RANGE TRANSPORTATION PLAN UPDATE - A process of updating the MPO Long Range Transportation Plan to account for and analyze changes in transportation patterns, socioeconomic conditions, technology, and policies since the most recent adoption date.

MPO TRAILWAYS PLAN - Identifies proposed countywide trail network as well as funding and strategies for its implementation.

MULTI-MODAL - Any planning process, capital improvement, or transportation system which takes into account all available modes of travel, including vehicle, mass transit, rail, aviation, bicycle, and pedestrian activity.

MULTI-MODAL IMPACT FEE - An assessment levied by local governments on land development activity to help fund transportation improvements required to provide for public services and facilities needed to accommodate the impacts of development projects.

PARATRANSIT SERVICE - Demand-response transportation provided in lieu of fixed-route bus service, including taxi and wheelchair van transportation.

PARTIALLY-CONTROLLED ACCESS - A street or highway to which the right of access is highly regulated to maximize the operational efficiency and safety of the through traffic using the facility. Owners or occupants of abutting lands and other persons have a right of access to or from such facilities in a manner determined by the jurisdiction which controls the facility.

PEAK HOUR - In describing traffic conditions, is the 100th highest volume hour of the year in the predominant traffic flow direction.

PEDESTRIAN FACILITIES/WAYS - Any corridor that safely accommodates pedestrian traffic, such as sidewalks and the Pinellas Trail.

PENNY FOR PINELLAS - Local option one cent sales tax passed by referendum in 1989 and extended through referendum in 1997 and 2007, providing funds for capital improvements in Pinellas County through 2020.

PINELLAS TRAIL LOOP – The foundation of the future trail network in Pinellas County, the Pinellas Loop includes the existing and planned sections of the Pinellas Trail and the Progress Energy Trail. It will be an uninterrupted 75-mile facility upon completion.

PINELLAS MOBILITY INITIATIVE (PMI) - A study of alternative multi-modal strategies to deal with future traffic congestion based upon the effect of and on land use patterns, local transportation policies, development regulations, and the environment. The emphasis of the PMI is on advanced technology public transportation, including monorail as well as bus rapid transit.

PRINCIPAL ARTERIAL - A road which accommodates higher-speed, longer-length trips, and serves at least two of seven significant trip purposes listed in federal guidelines.

REGIONAL TRANSPORTATION ANALYSIS (RTA) traffic demand model - State-sponsored modeling program used to forecast traffic volumes and to simulate future travel conditions for personal and commercial vehicles and public transit in FDOT District 7.

SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU) - 2005 Federal legislation which provides funding for transportation improvements, including roads, bicycle/pedestrian facilities, and mass transit systems.

SCENIC/NONCOMMERCIAL CORRIDOR - A specially designated roadway for which policies exist to preserve traffic capacity and to protect the aesthetic qualities of the roadway corridor.

SCHOOL SIDEWALK PROGRAM - A program established by Pinellas County in which sidewalk needs near schools are identified, prioritized, and scheduled for construction.

STRATEGIC INTERMODAL SYSTEM (SIS) – Statewide system of high-priority regional transportation facilities that includes the State’s largest and most significant commercial airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways.

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY (TBARTA) - TBARTA is an agency tasked by the Florida legislature with coordinating transportation planning in a region that includes Citrus, Hillsborough, Hernando, Manatee, Pasco, Pinellas and Sarasota County. The agency is responsible for developing a transportation system that will serve the region’s needs for the next 50 years relying on a variety of rail, bus and roadways.

TAMPA BAY REGION - Area served by the Tampa Bay Regional Council, and comprised of Pinellas, Pasco, Hillsborough, Manatee, and Sarasota Counties.

TELECOMMUTING - An arrangement whereby employees work at a location other than the conventional office site, usually from home or an office close to home, resulting in the electronic transfer of information rather than movement of people to and from the workplace.

TRAFFIC CALMING - The use of various devices, such as speed humps and narrow lanes, to modify the behavior of motorists traveling through residential areas.

TRAFFIC CIRCULATION ELEMENT - A former element of the Comprehensive Plan which contained the goals, objectives, policies, and major findings of the Comprehensive Plan related to traffic circulation. This element was incorporated into the Transportation Element.

TRANSPORTATION DEMAND MANAGEMENT (TDM) - Using various techniques, such as vanpooling, increasing transit use, and telecommuting, to reduce the demand for single-occupant vehicle travel and vehicle-miles traveled

TRANSPORTATION DISADVANTAGED - Those persons who, because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation

and are, therefore, dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities. These persons also include children who are handicapped or high-risk or at-risk as defined in Ch. 411, F.S.

TRANSPORTATION DISADVANTAGED (TD) PROGRAM - Program created by Ch. 427, F.S., to coordinate and provide funding for transportation services to transportation disadvantaged persons.

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA 21) – Legislation passed in 1998 that replaced the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) and that was succeeded by SAFETEA-LU.

TRANSPORTATION IMPROVEMENT PROGRAM (TIP) - A five-year program of transportation improvements adopted annually by the MPO that incorporates State and Federal work programs along with the capital improvement programs/elements of local governments within the MPO's jurisdiction.

TRANSPORTATION MANAGEMENT INITIATIVE (TMI) - Organization formed to encourage and coordinate the participation of local businesses in transportation demand management activities. These agencies are also known as transportation management organizations (TMO's).

TRANSPORTATION MANAGEMENT PLAN (TMP) - A plan submitted by a developer, in accordance with Pinellas County Mobility Management System requirements, to minimize the impacts of proposed development and to increase mobility within corridors affected by the project.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) - A program involving the implementation of traffic control measures, such as high-occupancy vehicle (HOV) lanes, signal timing adjustments, median closings, and access management strategies to increase the operating efficiency of the traffic circulation system.

TRIP ATTRACTION VARIABLES - Based on employment conditions, trip attraction variables are used by the Regional Transportation Analysis traffic demand model to simulate the attraction of vehicle trips to destination points in Pinellas County.

TRIP PRODUCTION VARIABLES - Based on land use conditions and population statistics, trip production variables are used by the Regional Transportation Analysis traffic demand model to simulate the generation of vehicle trips from points of origin in Pinellas County.

VANPOOL - A group of six or more passengers sharing a prearranged ride to and from work in a van.

VOLUME TO CAPACITY (V/C) RATIO - A measure of traffic congestion along a roadway, expressed as the ratio of traffic on a particular segment of road to the total capacity of that roadway segment.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	SHCEDULE FOR TRANSPORTATION ELEMENT AMENDMENTS														
2									Mar	April	May	June	July	Aug	Sept.
3	APPROVAL PROCESS FOR PROPOSED COMP PLAN CHANGES														
4	Staff Prepares Amendments														
5	Planning Board (LPA)								15						
6	Adjustments per LPA								16-18						
7	City Commission Transmittal Hearing Comp Plan Amendment									12					
8	45 day review										27				
9	City Commission first reading hearing for comp plan											14			
10	City Commission adoption hearing for comp plan											28			
11	Appeal period (30 days)												28		
12															

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Conditional Use 2016-0008, authorization for a take-out only restaurant on a transient lodging property.

Date: April 12, 2016

Prepared By: Chelsey Welden – Planner II

Through: Jennifer Bryla– Community Development Director

Summary of Issue The applicant wishes to incorporate a take-out only hot dog cart on the outdoor patron area of the transient lodging establishment. This use is listed as requiring Conditional Use approval within the City's Land Development Code.

The proposed take-out restaurant would be located adjacent to the pool deck on the western side of the Plaza Beach Hotel. As the application was reviewed by the Technical Review Committee and they recommended conditions be placed on the use.

As a conditional use the Technical Review Committee recommends approval with the following conditions placed on the project:

- the Cart needs to be permanently affixed to the deck so that no portable vending can take place; but able to be removed in the event of a storm.
- no tables and chairs can be associated with the Cart
- a trash receptacle must be placed within 50 feet of the Cart.
- no signage can be associated with the cart
- patrons shall be directed to the hotel restrooms for patron use
- the cart must be self-contained and not support any additional vending
- the Cart shall have no amplifying equipment

If approved, the applicant may then apply for their business tax receipt and fire inspection.

Requested Motion: "I move to approve Conditional Use 2016-0008 with conditions as outlined."

Attachment: Staff Report, Relevant Code Provisions, Applicant Letter, Site Plan/Survey and Photographs.

**Reviewed by the
City Manager**

WS



St. Pete Beach City Commission

155 Corey Avenue
St. Pete Beach, FL 33706
727-367-2735

4/12/16

Conditional Use Case

#2016-0008
**(Take-out
Restaurant, Plaza
Beach Resort)**

Owner/Agent

Maria Czyszczon Rev.
Trust, Owner/
Jack Brock, Agent

Location

4506 Gulf Boulevard

Commission District

District 3

Staff Representative

Jennifer Bryla,
Community
Development

Findings

In its review of the
proposed application,
staff has determined:

1. The proposed application is consistent with Florida Statutes and the St. Pete Beach Comprehensive Plan.
2. The proposed application is compatible with the



ITEM SUMMARY:

Applicant requests conditional use approval for a hot dog cart, classified as a take-out only restaurant, pursuant to Section 46.4(a) of the City's Land Development Code (LDC).

Existing Use: Transient Lodging

Proposed Use: Transient Lodging with Take-out Only Restaurant

Adjacent Uses:

North: Transient Lodging

South: Condominiums

East: Infrastructure (Gulf Blvd.)

West: Beach

character of the existing area. - The proposed plans will not have a negative impact on off-street parking or transportation. - The proposed plans will not negatively affect public health, safety, or welfare. - The applicant has demonstrated the financial and technical capacity to complete the improvements. Staff Recommendation Approval with conditions	PUBLIC NOTICE: Notice of public hearing has been advertised and notice has been provided as required by State Statutes. As of the date of this report, no written comments have been received. Oral and written comments may be presented at the public hearing. COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE: The subject property is zoned BH/C (Boutique Hotel/Condo District), which allows hotels as a permitted use and certain eating and drinking establishments, including “take-out only restaurants”. The subject property has a future land use designation of BH/C (Boutique Hotel/Condo) in the Comprehensive Plan, which also allows for hotels as a permitted use, and while it does not specifically list eating and drinking establishments as a permitted use, they are not prohibited. PROJECT DESCRIPTION: The proposed hot dog cart will be located on the property of the Plaza Beach Resort. The applicant desires to place the hot dog cart on the western side of the pool deck, on the southwestern portion of the hotel property. The cart, named “Darla’s Dogs”, intends to serve both hotel guests and beachgoers with various bottled and canned drinks, snacks, and hot dogs. Although on wheels and typically mobile in nature, the cart will be permanently tied down with chains or by another method similar in nature. JUSTIFICATION / TECHNICAL REVIEW: The proposed conditional use application is in compliance with the regulations set forth in Section 46.4 of the LDC, which pertains to allowable conditional uses in the Boutique Hotel Condo District as well as Division 4 of the LDC which pertains to conditional use permits. Outdoor restaurants are exempt from additional parking requirements when associated with a transient lodging accommodation located on a private beach pursuant to Section 23.5(a). The hot dog cart is classified as a “take-out only restaurant” as defined in Division 2 of the City’s Land Development Code which provides for eating and drinking establishments that offer food and beverages prepared on a customer-demand basis on premises and which provide no seating or other facilities. Additional parking will not be required for this business pursuant to Section 23.5(a) of the LDC, which states that outdoor dining associated with a transient lodging establishment on private beach is exempt from additional parking. The Technical Review Committee reviewed the application on February 17th, 2016 and had the following departmental comments: 1) Recreation: No Comment. 2) Building: If cart is not permanently affixed, it must be removed during a tropical storm or hurricane warning. If it is permanently
---	---

affixed, an engineer or architect must certify the fastening of the cart to prevent uplift, and that the cart meets wind loads.

3) Fire:

- A fire extinguisher (min size 2A10BC) must be provided on cart (NFPA 1 2012ed Table 13.6.2, NFPA 10 Table 6.2.1.1 & Table 6.3.1.1).
- Ensure that propane delivery system is free of leaks.
- The cart must be placed at least 10 feet from the nearby patio covering structure to allow sufficient ventilation (NFPA 1 2012 ed. Section 10.11.6.1 & 2).

4) Public Services: No Comment.

5) Code Enforcement: No Comment.

6) Planning & Zoning: The cart must be securely tied down in order to be considered a take-out only restaurant and not mobile vending.

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions:

- 1) The cart shall be tied down at all times except during a hurricane, at which time it must be removed from the location.
- 2) There shall be no seating or tables provided for customers.
- 3) At least one trash receptacle shall remain within 50 feet of the hot dog cart at all times.
- 4) no signage can be associated with the cart
- 5) patrons shall be directed to the hotel restrooms for patron use
- 6) the cart must be self-contained and no additional vending shall be permitted
- 7) the Cart shall have no amplifying equipment

If approved the applicant then apply for business tax receipt and fire inspection.

Attachments:

Exhibit A. – Land Development Code Sections

Exhibit B. – Conditional Use Application

Exhibit C. – Site Plan/Survey

Exhibit D. – Photographs

Exhibit A.
CU 2016-0008

Sec. 46.4. – BH/C allowable conditional uses.

- a) Eating and drinking establishments - full-service restaurant, limited service restaurant, take-out only restaurant, bar/lounge, subject to section 6.24 of this Code as may be applicable

Sec. 4.4. – Conditional use application standards for review.

- a) *Standards applicable to all conditional uses.* When considering an application for approval of a conditional use, the city commission review shall consider the following standards:

(1) Whether the conditional use is consistent with the goals, objectives, and policies of the Comprehensive Plan, any adopted special area plan and these regulations;

(2) Whether the proposed use will be compatible with the character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and residential, commercial and/or service facilities available within the existing area. More specifically:

- a. Whether the overall appearance and function of the area will be significantly affected consideration shall be given to the existence of other uses in the area, based on the number, size, and location of the uses and the intensity and scale of the proposed and existing uses in the area;

- b. Whether the application will preserve any city, state or federally designated historic, scenic, archaeological, or cultural resources;

- c. Whether the application will be compatible with adjacent development, if any, based on characteristics such as size, building style and scale; or whether such incompatibilities are mitigated through such means as screening, landscaping, setbacks, and other design features; and

- d. Whether the application will have significant adverse impacts on the livability and usability of nearby land due to noise, dust, fumes, smoke, glare from lights, late-night operations, odors, vehicular traffic, truck and other delivery trips, the amount, location, and nature of any outside activities, potential for increased litter, or privacy and safety issues.

(3) Whether the transportation system is capable of adequately supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, if any, site access requirements, neighborhood impacts, and pedestrian safety;

- (4) Whether the minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks, if applicable, will be provided and will function properly and safely;
- (5) Whether generally, the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation have been made;
- (6) Whether the applicant has demonstrated the financial and technical capacity to complete any improvements and mitigation necessitated by the development as proposed and has made adequate legal provision to guarantee the provision such improvements and mitigation; and
- (7) Whether the proposed use complies with all additional standards imposed on it by the particular provision of these regulations authorizing such use and by all other applicable requirements of the regulations of the City of St. Pete Beach.



CONDITIONAL USE APPLICATION

Case Number: 2016-0008

PROPERTY FOR PROPOSED VARIANCE

Legal Description: N 130 FT of Gov Lot 1W of Gulf Blvd Sec 7-32-16 Cont 1.25AC(C)
 Parcel ID: 07-32-16-00000-210-0100
 Address: 4506 Gulf Boulevard St Pete Beach, FL 33706
 Current Zoning: Commercial FLUM Designation: B-CH Lot Area: .954 acres
 Existing Use: Non existent Proposed Use: Take out only restaurant

APPLICANT/AGENT:

Name: Jack Brock for Darla Winger

Address: 412 73rd Ave Apt 2

City: St Pete Beach

State: FL

Zip: 33706

Phone: 917.216.7666

Email: johnrbrockjr@gmail.com

PROPERTY OWNER: Robert Czystechnon and Krzysztof Revocable Trust of 2007, Maria Czystechnon Revocable Trust of 2007.

Name: _____

Address: 5301 Gulf Blvd. Apt. F508

City: St Pete Beach

State: FL

Zip: 33706

Phone: 727.367.2498

Email: Kris@plazabeach.com or
Robert@plazabeach.com

DETAILS OF THE REQUEST: Cite code sections for which conditional use is requested: (Add additional sheets if necessary)

The proposed food stand/hot dog cart is an allowable Conditional Use classified as a "take-out only restaurant" per
Sec.46.4a of the City's Land Development Code. Plaza Beach Hotel currently offers no on site food services and
would like to place a hot dog cart on the property.

Attach the following supporting documentation to this application:

- Recent survey of the property
- A site plan, drawn to scale, illustrating the proposed conditional use

This completed application, together with all required supporting documents and fees, shall be submitted by 12:00 noon on the stated filing date for the Technical Review Committee meeting. Failure to do so will delay your application to a later date. If any materials are missing or any part of this application is left blank, staff may refuse the

application until such time as it is completed by the applicant. _____(applicant's initials)

Application Checklist:



Check here if document is attached	Required Document
✓	Recent Survey of the property illustrating all boundaries, easements, and physical improvements.
✓	Site Plan drawn to scale showing proposed deviations of the code.

In order for an application for a conditional use to be approved or approved with conditions, the City Commission must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof demonstrating that the application for the conditional use complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):

1. Whether the conditional use is consistent with the goals, objectives, and policies of the Comprehensive Plan and any adopted special area plan.
This Conditional Use will be consistent with the Comprehensive Plan as allowed by Sec. 46.4(a) of the Land Development Code.

2. Whether the proposed use will be compatible with the character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and residential commercial and/or service facilities available within the existing area. More specifically:

- a. Whether the overall appearance and function of the area will be significantly affected consideration shall be given to the existence of other uses in the area, based on the number, size, and location of the uses and the intensity and scale of the proposed and existing uses in the area;

The adjacent area has hotels and condo hotels, some of which have eating and drinking establishments-full-service restaurants or limited service restaurants.

The Plaza Beach Hotel presently has none of these and desires to offer a limited take-out only amenity to its guests as well as beach goers.

Signage will be limited to a "Darla's Dogs" placard affixed to the side of the cart (approx. 2ft x 3ft) and an 8" x 11" menu listing the price of the offerings: bottled water, canned soda, bagged chips and snacks as well as hot dogs.

- f. Whether the minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks, if applicable, will be provided and will function properly and safely (please provide current and proposed number of parking and loading spaces);

Required deliveries will be made by a personal vehicle requiring minimal, temporary access and will function properly and safely.

- g. Whether generally, the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation have been made;

Our proposed plan preserves the public health, safety and welfare and will be operated solely by applicant and owner, both of whom have Food Handler Certification. Both the owner and agent have experience in the food service industry.

- h. Whether the applicant has demonstrated the financial and technical capacity to complete any improvements and mitigation necessitated by the development as proposed and has made adequate legal provision to guarantee the provision of such improvements and mitigation; and,

A Commercial General Liability insurance policy is currently in place for \$3.5 million with the West Coast Insurance Group. A business account for the LLC has been opened with JP Morgan Chase Bank and the required Commissary relationship has been established with Catering By Jo-El's.

- i. Whether the proposed use complies with all additional standards imposed on it by the particular provision of these regulations authorizing such use and by all other applicable requirements of the regulations of the City of St. Pete Beach.

The proposed use complies with all additional standards and regulations.

 John Brock 2-11-16
Signature of Applicant Date Signature of Authorized Agent Date

For office use only:

Hearing Date: _____ Fees: _____

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued

CINDER BLOCK WALL

BBQ GRILLS

SHUFFLE BOARD

PLANT BED

TABLE

TABLE

TABLE

25'

SHOWER

ACCESS RAMP

TABLE

FENCE

17'

16' PATH

P
O
O
L

73'

12'

CART

FENCE

WALL OPENING

25' x 14' WOODEN COVERED

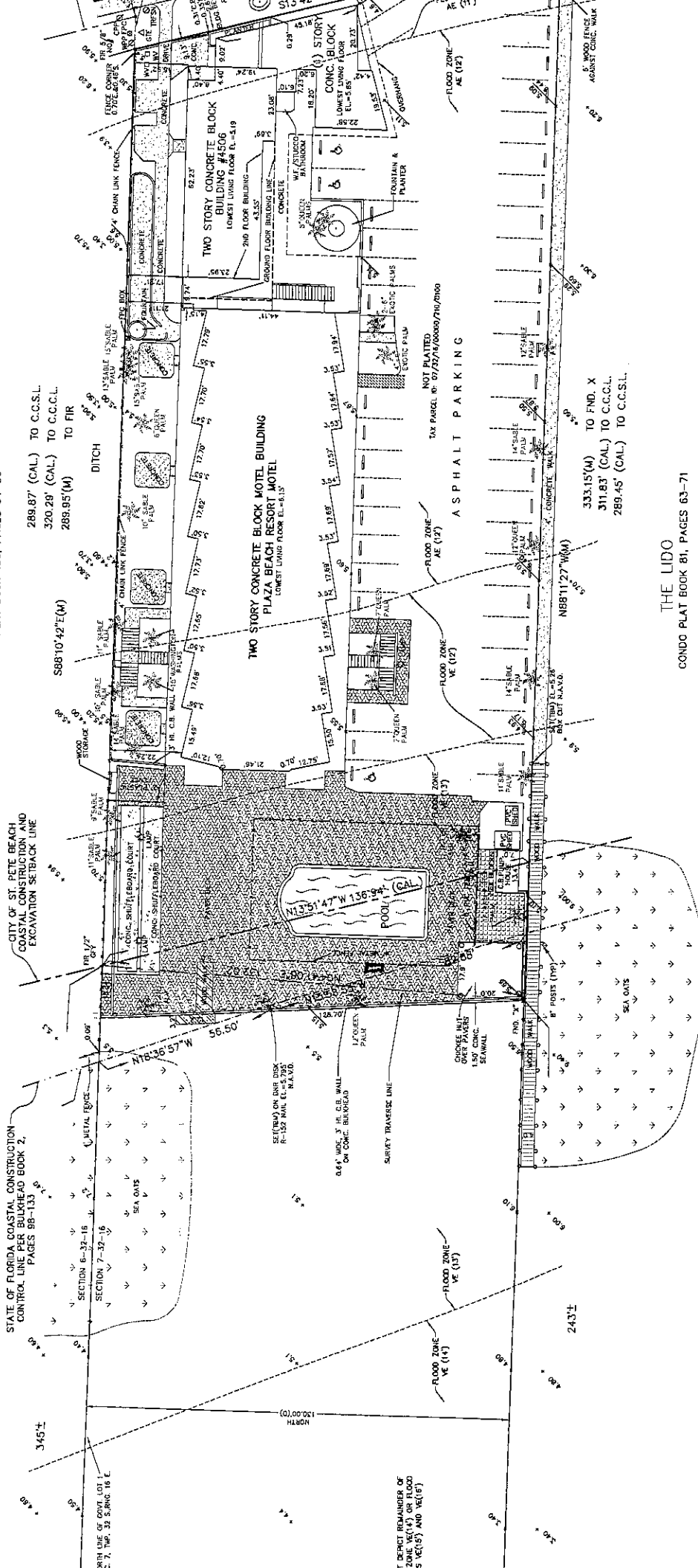
TIKI 25' x 25'

46'

RESORT

PARKING LOT

GULF STRAND RESORT
A CONDOMINIUM
CONDO PLAT BOOK 105, PAGES 34-36



- LEGEND:
- FIR = FOUND FROM ROD
 - FND = FOUND
 - (CAL) = CALCULATED
 - CONC. BLOCK = CONCRETE BLOCK
 - CPP = CONCRETE PUMP POLE
 - R/W = RECLAIMED WATER VALVE
 - GTE = GENERAL TELEPHONE
 - PRC = FLORIDA POWER CORPORATION
 - SH = SANITARY MANHOLE
 - R/W = RIGHT-OF-WAY
 - GM = GAS METER
 - WV = WATER VALVE
 - WV = WATER VALVE
 - CONC. = CONCRETE
 - TRFEN = TRAFFIC SIGN
 - CCEL = COASTAL CONSTRUCTION CONTROL LINE (STATE OF FLORIDA)
 - NEE = NEIGHBOR
 - IP = INTERIOR
 - IP = INTERIOR
 - (M) = MEASURED

TOTAL AREA TO MEAN HIGH WATER LINE
AREA = 79,271.86 SQ. FT. - OR 1.797 ACRES
AREA TO C.C.S.L. = 38,181.64 SQ. FT. OR 0.827 ACRES
AREA TO C.C.C.L. = 41,544.55 SQ. FT. OR 0.954 ACRES

A BOUNDARY SURVEY OF
That part of the 130.00 Acres of land in
Section 7, Township 32 North, Range 16 East,
of the West line of Gulf Boulevard (State Road
190) in Pinellas County, Florida

THIS PROPERTY LIES IN FLOOD ZONES: AE(11),
AE(12), AE(13), VE(14), VE(15) AND
VE(16). THE FLOOD ZONE INFORMATION IS
NUMBER 125148 1210302276 G, REVISION 9/03/03

THE SURVEYOR'S NOTES.

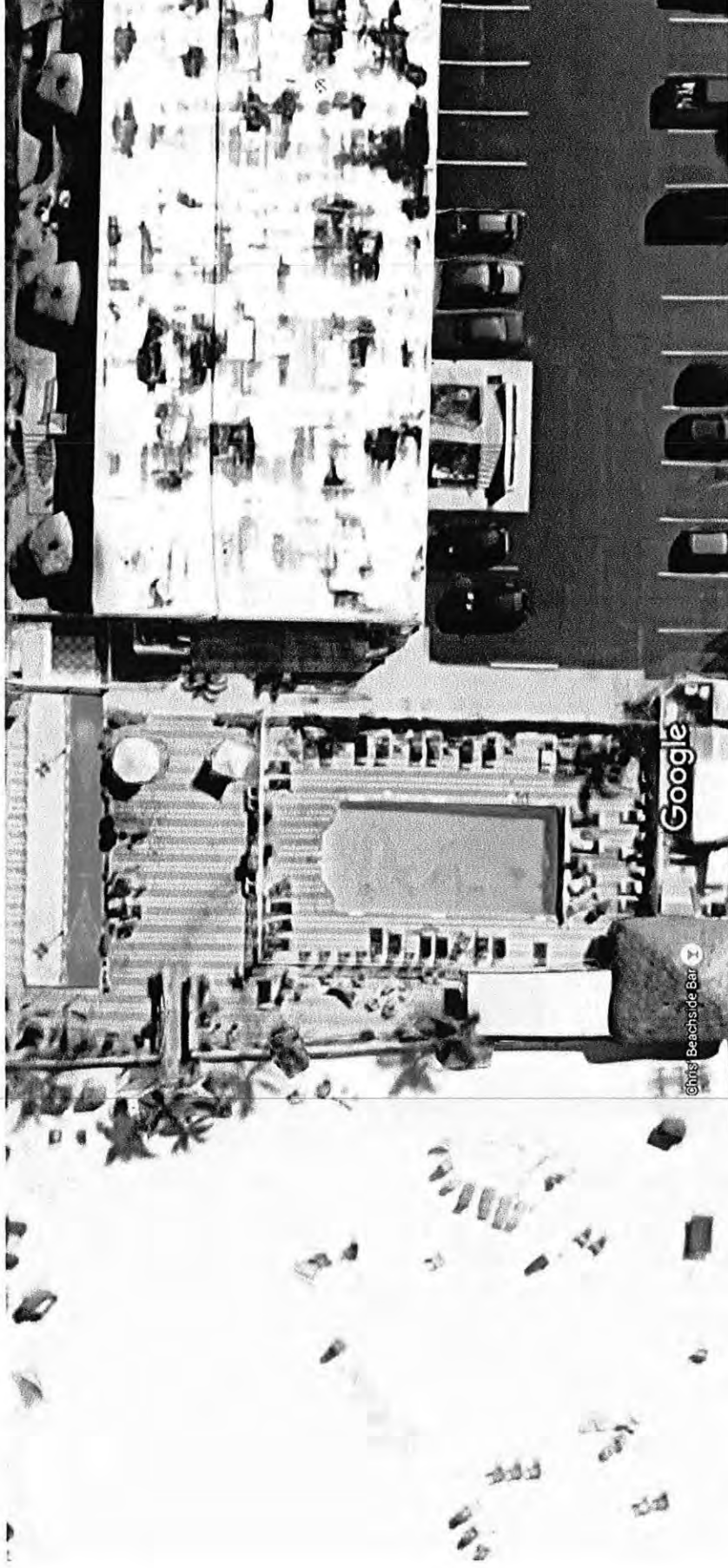
JOHN C. BRENDIA AND ASSOCIATES, INC.

C E R T I F I C A T I O N

R E V I S I O N S

Exhibit D.

Google Maps



Imagery ©2016 Google, Map data ©2016 Google, INEGI 20 ft



St. Pete Beach City Commission Agenda Report

Issue Considered: Conditional Use 2016-0013, authorization for a deck adjacent to a take-out only restaurant.

Date: April 12, 2016

Prepared By: Chelsey Weldon – Planner II

Through: Jennifer Bryla– Community Development Director

Summary of Issue The applicant desires to build a deck on the eastern side of the Smiley's located at 3700 Gulf Boulevard. The purpose of the project is to provide a place for patrons of Smiley's to sit. The current restaurant is take-out only, and the applicant has no plans at this time to provide table service.

The proposed seating area will be an approximately 900 ft² raised wooden deck above an existing stormwater swale. The applicant will be required to maintain the function of the stormwater system that is currently in place on the property.

As a conditional use the Technical Review Committee recommends approval with the following conditions placed on the project:

- An addition exist shall be incorporated into the design of the deck
- A guardrail shall be incorporated into the deck if the height of the deck is higher than 30" above the finished grade.
- All trees with a DBH greater 3" shall remain
- The existing hedge that runs along the eastern property line shall remain.
- a fence shall be put in place on the back of the existing hedge to prevent pedestrian access to Gulf Boulevard
- Signage shall be placed prohibiting the removal of alcohol beyond the boundaries of the property.
- two waste receptacles shall be placed on the deck
- Amplified systems are prohibited on the deck

The applicant is also requesting a variance from the City code to allow encroachment into the secondary front yard. The requirement is 25' from the property line and the applicant is requesting to reduce that distance 5'. The findings for a variance are:

- existence of circumstances that are unique to the subject property.
- the variance shall not alter a boundary of a district or grant a non-conforming use

- the variance shall be in harmony with the LDC and not be injurious to the neighborhood.
Staff found that the request complies with these criteria and therefore recommends approval of the variance.

Requested Motion: "I move to approve Conditional Use 2016-0013 with the conditions as outlined."

Attachment: Staff Report, Relevant Code Provisions, Application, Site Plan/Survey and Photographs existing and proposed.

**Reviewed by the
City Manager**

WS



St. Pete Beach City Commission

155 Corey Avenue
St. Pete Beach, FL 33706
727-367-2735

4/12/16

Conditional Use w/ Variance Case

#2016-0013

(Outdoor Dining,
Smiley's Snack Shack)

Owner/Agent

Paul Nicklaus, Owner/
John R. Phillips Jr.,
Agent

Location

3700 Gulf Boulevard

Commission District

District 3

Staff Representative

Jennifer Bryla,
Community
Development

Findings

In its review of the
proposed application,
staff has determined:

1. The proposed application is consistent with Florida Statutes and the St. Pete Beach Comprehensive Plan.
2. The proposed plans are compatible with the character of the



ITEM SUMMARY:

Applicant requests (1) conditional use approval for the addition of a deck that will be used for outdoor seating for a restaurant, pursuant to Section 14.4 (g) of the Land Development Code (LDC); and (2) a variance to Section 14.7(c)(2) of the LDC to allow the deck to encroach 20 ft. into the required 25 ft. secondary front yard setback.

Existing Use: Restaurant

Proposed Use: Restaurant with Outdoor Seating

Adjacent Uses

North: Condominium

South: Infrastructure (37th Ave.)

East: Infrastructure (Gulf Blvd.)

West: Infrastructure (El Centro St.)

existing area. 3. The proposed plans will not have a negative impact on off-street parking or transportation. 4. The proposed plans will not negatively affect public health, safety, or welfare. 5. The applicant has demonstrated the financial and technical capacity to complete the improvements. Staff Recommendation Approval	PUBLIC NOTICE: Notice of public hearing has been advertised and notice has been provided as required by State Statutes. As of the date of this report, no written comments have been received. Oral and written comments may be presented at the public hearing. COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE: The subject property is zoned RFM (Resort Facilities Medium) which allows a variety of commercial uses and their accessory uses. The existing business is classified as a fast-food restaurant, which is a permitted use in this district, and the establishment of an outdoor eating & drinking area is allowable per conditional use approval. The property has a future land use designation of RFM (Resort Facilities Medium) in the Comprehensive Plan, which also allows a variety of commercial uses. PROJECT DESCRIPTION: The proposed outdoor seating area will serve Smiley's Snack Shack, located on the subject property. The applicant desires to build a deck on the eastern side of the property, along Gulf Boulevard. The purpose of the project is to provide a place for patrons of Smiley's to sit. The current restaurant is take-out only, and the applicant has no plans at this time to provide table service. The proposed seating area will be an approximately 900 ft² raised wooden deck above an existing stormwater swale. The City is requiring that the proposed development design will not impact the swale's ability to hold and treat stormwater. In addition the applicant is requesting a variance from the LDC for the secondary front yard setback along Gulf Blvd. The required setback is 25 ft. and the proposed requested setback is 5 ft. The applicant intends to leave the trees and vegetation as undisturbed as possible to provide natural screening for the deck. The required findings for granting a variance are as follows: -existence of circumstances that are unique to the subject property. - the variance shall not alter a boundary of a district or grant a non-conforming use - the variance shall be in harmony with the LDC and not be injurious to the neighborhood JUSTIFICATION / TECHNICAL REVIEW: The proposed conditional use application is in compliance with the regulations set forth in Sections 6.24 of the LDC which pertains to the establishment of outdoor eating & drinking areas, Section 14.4 of the LDC which pertains to the allowable conditional uses in the RFM zoning district,
--	---

and Division 4 of the LDC which pertains to conditional use permits. The project is also in compliance with Division 23 of the LDC (parking requirements), as the site currently has excess parking to accommodate the addition.

The Technical Review Committee reviewed the application on February 17th, 2016 and had the following departmental comments:

- 1) Recreation: No Comment.
- 2) Building: The deck structure construction plans will be required to be signed and sealed by an architect or engineer.
- 3) Fire: Occupancy load based on square footage of 900 s.f. will be 60 occupants, which requires the following:
 - An additional exit from the deck (NFPA 101 2012 ed Section 12.2.3.7).
 - Guards around the perimeter of the deck if height exceeds 30 inches above the finished ground level. (NFPA 101 2012 ed Section 7.1.8).
- 4) Public Services: No Comment.
- 5) Code Enforcement: No Comment.
- 6) Planning & Zoning: If guardrail is provided, it must comply with height regulations for fences pursuant to Section 6.15 of the LDC.

As stated, the applicant is also requesting a variance. The required findings for granting a variance are as follows:

- existence of circumstances that are unique to the subject property.
- the variance shall not alter a boundary of a district or grant a non-conforming use
- the variance shall be in harmony with the LDC and not be injurious to the neighborhood

STAFF RECOMMENDATION:

The proposed project is not exempt from the requirements for providing the additional off-street parking for the increase in square footage, as a transient lodging use would be. Therefore staff evaluated that the existing facility is 1,333 sf., which is required to provide 14 spaces. With the addition of the 900 sf of deck space, the project would have approximately 2,233 sf which would require an additional 4 spaces. The project currently has 23 spaces on site. The project is compliant with the LDC in all other aspects. Upon review of the required findings for a variance, staff concludes that the project does meet the criteria and recommends granting the variance.

Staff recommends approval of the Conditional Use with the following conditions placed on the project:

- An addition exist shall be incorporated into the design of the deck

- A guardrail shall be incorporated into the deck if the height of the deck is higher than 30" above the finished grade.
- All trees with a DBH greater 3" shall remain
- The existing hedge that runs along the eastern property line shall remain.
- A fence shall be put in place on the back of the existing hedge to prevent pedestrian access to Gulf Boulevard
- Signage shall be placed prohibiting the removal of alcohol beyond the boundaries of the property.
- Two waste receptacles shall be placed on the deck
- Amplified systems are prohibited on the deck

It is staff's opinion that the improvements will generally improve the operation of the site and provide additional amenities for the surrounding neighborhood and city alike.

Attachments:

Exhibit A. – Land Development Code Sections

Exhibit B. – Conditional Use Application

Exhibit C. – Site Plan/Survey

Exhibit D. – Photographs existing and proposed

Exhibit A.
LDC Code Sections CU- 20160013

Sec. 6.24. - Outdoor dining and outdoor drinking areas.

A full or limited service restaurant may establish an outdoor dining area and a bar/lounge may establish an outdoor drinking area pursuant to the requirements of this section and as outlined within each zoning district. If an outdoor drinking and/or dining area is required to obtain conditional use approval, it shall be pursuant to the review and approval procedures provided under [Division 4](#) of this Code. If public consumption of alcohol is proposed to occur on any public street, sidewalk or private sand beach area in connection with the outdoor dining or outdoor drinking area, approval by the City Commission is required pursuant to [Chapter 6](#) of the City Code of Ordinances.

Sec. 14.4. – RFM allowable conditional uses.

g) Eating and drinking establishment –Fast food, beach bar and outdoor restaurant.

Sec. 3.12. – Variance authority and approval criteria.

(1) The appropriate board of authority may authorize variances to the land development regulations if the applicant is able to demonstrate the following conditions:

- a. The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant; and
- b. Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance; and
- c. The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district; and
- d. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting

the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application; and

e. The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

Sec. 4.4. – Conditional use application standards for review.

a) *Standards applicable to all conditional uses.* When considering an application for approval of a conditional use, the city commission review shall consider the following standards:

(1) Whether the conditional use is consistent with the goals, objectives, and policies of the Comprehensive Plan, any adopted special area plan and these regulations;

(2) Whether the proposed use will be compatible with the character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and residential, commercial and/or service facilities available within the existing area. More specifically:

a. Whether the overall appearance and function of the area will be significantly affected consideration shall be given to the existence of other uses in the area, based on the number, size, and location of the uses and the intensity and scale of the proposed and existing uses in the area;

b. Whether the application will preserve any city, state or federally designated historic, scenic, archaeological, or cultural resources;

c. Whether the application will be compatible with adjacent development, if any, based on characteristics such as size, building style and scale; or whether such incompatibilities are mitigated through such means as screening, landscaping, setbacks, and other design features; and

d. Whether the application will have significant adverse impacts on the livability and usability of nearby land due to noise, dust, fumes, smoke, glare from lights, late-night operations, odors, vehicular traffic, truck and other delivery trips, the amount, location, and nature of any outside activities, potential for increased litter, or privacy and safety issues.

(3) Whether the transportation system is capable of adequately supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability,

on-street parking impacts, if any, site access requirements, neighborhood impacts, and pedestrian safety;

(4) Whether the minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks, if applicable, will be provided and will function properly and safely;

(5) Whether generally, the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation have been made;

(6) Whether the applicant has demonstrated the financial and technical capacity to complete any improvements and mitigation necessitated by the development as proposed and has made adequate legal provision to guarantee the provision such improvements and mitigation; and

(7) Whether the proposed use complies with all additional standards imposed on it by the particular provision of these regulations authorizing such use and by all other applicable requirements of the regulations of the City of St. Pete Beach.

CONDITIONAL USE APPLICATION

Case Number: 20160013

PROPERTY FOR PROPOSED VARIANCE

Legal Description: SECTION 7, TOWNSHIP 32 SOUTH, RANGE 16 EAST

Parcel ID _____

Address: 3700 GULF BLVD., ST. PETE BEACH, FL 33706Current Zoning: RPM FLUM Designation: AE(11') Lot Area: 19,800 sq. ft.Existing Use: Restaurant Proposed Use: Restaurant

APPLICANT/AGENT:

PROPERTY OWNER:

Name: JOHN R. PHILLIPS, JR.Name: Paul NicholasAddress: 8601 GULF BLVDAddress: 3700 Gulf Blvd.City: ST PETE BEACH State: FLCity: St. Pete Beach State: FLZip: 33706 Phone: 727 480 7918Zip: 33706 Phone: 727-647-2700Email: ebjrp@yahoo.com

Email: _____

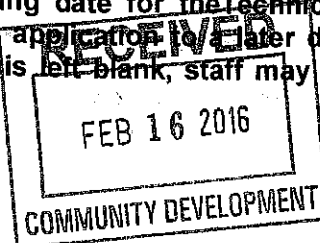
DETAILS OF THE REQUEST: Cite code sections for which conditional use is requested: (Add additional sheets if necessary)

Section 14.4 (g) - The applicant is requesting additional outside seating for this location. The applicant is proposing constructing a deck that will be at ground level to accommodate the outside seating addition. A variance will be required under 14.7 c(2) of 20 ft to the allowable 25 ft for a secondary front yard setback.

Attach the following supporting documentation to this application:

- Recent survey of the property
- A site plan, drawn to scale, illustrating the proposed conditional use

This completed application, together with all required supporting documents and fees, shall be submitted by 12:00 noon on the stated filing date for the Technical Review Committee meeting. Failure to do so will delay your application to the next date. If any materials are missing or any part of this application is left blank, staff may refuse the



application until such time as it is completed by the applicant.
initials)

(Signature)

(applicant's initials)

Application Checklist:

Check here if document is attached	Required Document
	Recent Survey of the property illustrating all boundaries, easements, and physical improvements.
	Site Plan drawn to scale showing proposed deviations of the code.

In order for an application for a conditional use to be approved or approved with conditions, the City Commission must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof demonstrating that the application for the conditional use complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):

1. Whether the conditional use is consistent with the goals, objectives, and policies of the Comprehensive Plan and any adopted special area plan.

We believe that the addition of a deck allowing patrons to enjoy the outside amenities that exist on St. Pete Beach with our magnificent weather is consistent with the above listed criteria. Outdoor seating has been expanded throughout St. Pete Beach and has existed at this location for over five years.

2. Whether the proposed use will be compatible with the character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and residential commercial and/or service facilities available within the existing area. More specifically:

We believe the proposed deck area will be compatible with the character of the existing area. Outside seating already exists at this site and immediately across the street at the Zamora.

- a. Whether the overall appearance and function of the area will be significantly affected consideration shall be given to the existence of other uses in the area, based on the number, size, and location of the uses and the intensity and scale of the proposed and existing uses in the area;

The addition of an outside deck will have a positive affect on the immediate properties and accomodate the neighboring properties. The outside seating will be at ground level where it exists presently. It will border Gulf Blvd. and will minimally affect the immediate neighborhood.

- b. Whether the application will preserve any city, state, or federally designated historic, scenic, archaeological, or cultural resources (check with Community Development to determine historic resource status);

N/A

- c. Whether the application will be compatible with adjacent development, if any, based on characteristics such as size, building style and scale, or whether such incompatibilities are mitigated through such means as screening, landscaping, setbacks, and other design features;

The property directly across the street from the proposed deck is the Zamora Hotel, which has a roof top bar. The deck will be bordered by Gulf Blvd to the east and the parking lot for Smiley's on the west. This is the area where outside seating and activities currently exist and have existed for over five years.

- d. Whether the application will have significant adverse impacts on the livability and usability of nearby land due to noise, dust, fumes, smoke, glare from lights, late-night operations, odors, vehicular traffic, truck and other delivery trips, the amount, location, and nature of any outside activities, potential for increased litter, or privacy and safety issues;

The proposed conditional use will not adversely impact the livability and usability of nearby land. Any noise anticipated from the deck will be masked by the traffic noise from Gulf Blvd. The staff is well trained and motivated to keep a clean environment and atmosphere for the patrons. There have been zero noise complaints from outside patrons since the outdoor seating has existed at this location.

- e. Whether the transportation system is capable of adequately supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, if any, site access requirements, neighborhood impacts, and pedestrian safety (a traffic study may be required);

The parking that currently exists at Smiley's is sufficient to accommodate the conditional use that is being requested.

- f. Whether the minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks, if applicable, will be provided and will function properly and safely (please provide current and proposed number of parking and loading spaces);

There are currently 25 parking spaces at this location. The parking available is more than sufficient for the area of outside seating that is being requested.

- g. Whether generally, the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation have been made;

The preservation of the public health, safety and welfare will not be negatively impacted by the proposed conditional use.

- h. Whether the applicant has demonstrated the financial and technical capacity to complete any improvements and mitigation necessitated by the development as proposed and has made adequate legal provision to guarantee the provision of such improvements and mitigation; and,

The applicant has both the financial and technical capacity to complete any improvements or mitigation deemed necessary to facilitate this request.

- i. Whether the proposed use complies with all additional standards imposed on it by the particular provision of these regulations authorizing such use and by all other applicable requirements of the regulations of the City of St. Pete Beach.

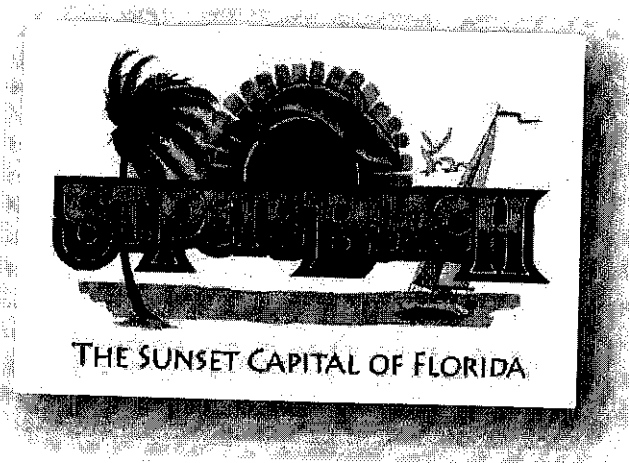
We believe the proposed use complies with the regulations, standards and applicable regulations of the City of St. Pete Beach.

Signature of Applicant	Date	Signature of Authorized Agent	Date
------------------------	------	-------------------------------	------

For office use only:

Hearing Date: _____ Fees: \$1,126.48

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued



Community Development
Department
155 Corey Avenue
St. Pete Beach, Florida 33706
727.363.9265
cddirector@stpetebeach.org

CONDITIONAL USE APPLICATION

Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.

- ☒ I understand that the City will not accept or process an incomplete application.
- ☒ I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a conditional use. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a conditional use.
- ☒ On all conditional uses, a majority vote is required. Action on this application by the City Commission may be continued to a later meeting.
- ☒ I understand that if a conditional use is approved by the City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the City Commission becomes voided.
- ☒ I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.
- ☒ I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

After acknowledgement of these conditions, complete the application form on the following pages

Signature of Applicant

Date



Owner's Authorization for Agent
Community Development Department
City of St. Pete Beach, Florida

I/WE

A. PAUL NICKLAUS JR.
(print name of property owner)

hereby authorize

John R. Phillips, Jr.
(print name of agent)

to represent me/us in an application for

Conditional Use by Variance.
(type of application: variance, conditional use, zoning, etc.)

[Signature]
Signature of Owner

Signature of Owner

A. PAUL NICKLAUS JR.
Print Name of Owner

Print Name of Owner

The forgoing instrument was acknowledged before me this 16 day of Feb
2016 ~~2015~~, by A. Paul Nicklaus who is personally known
or produced _____ as identification.

[Signature]
(Notary Signature)

2/16/16
(Date)

My Commission Expires Aug 17th 2018

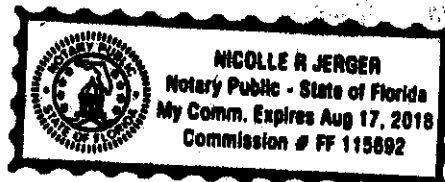
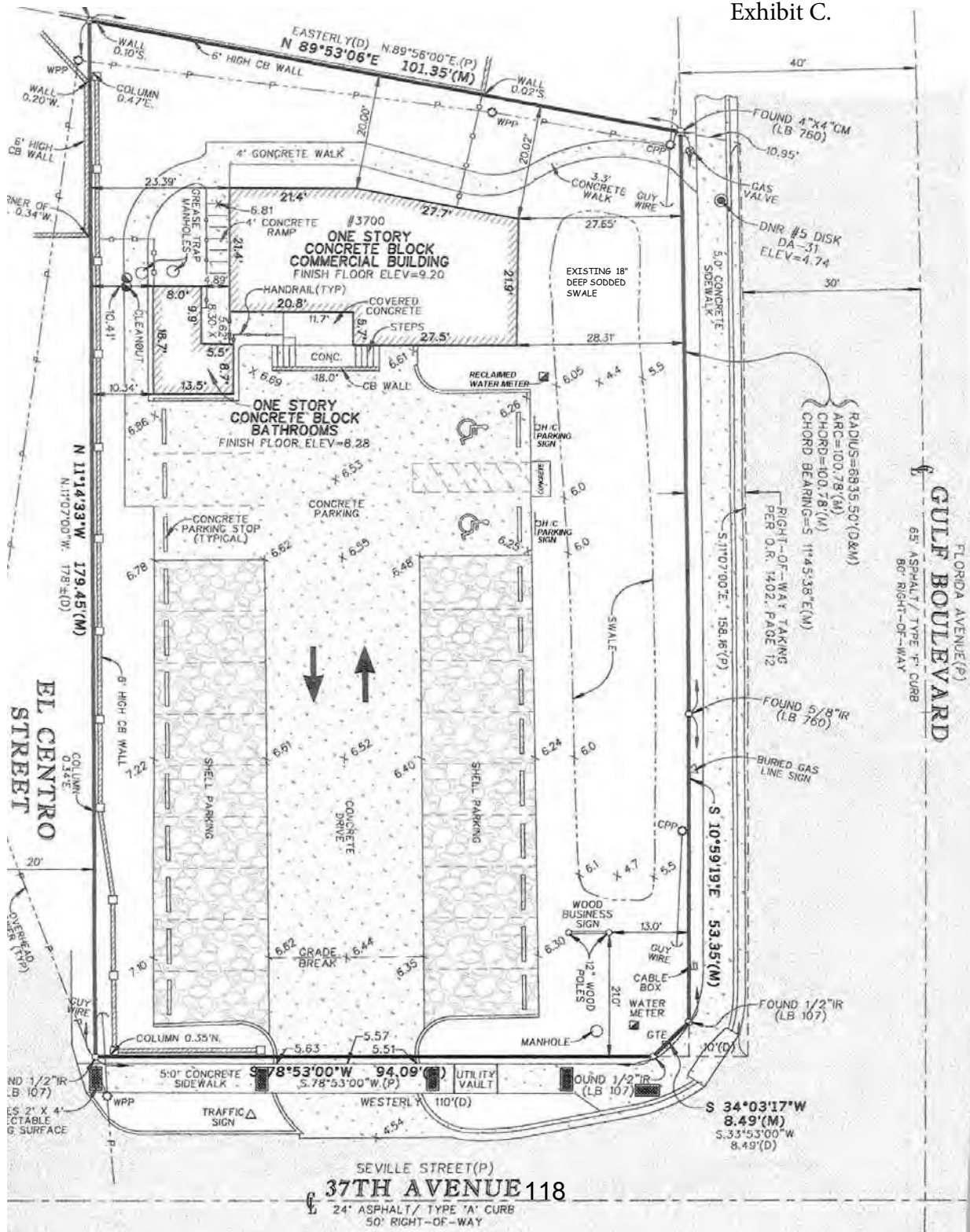


Exhibit C.



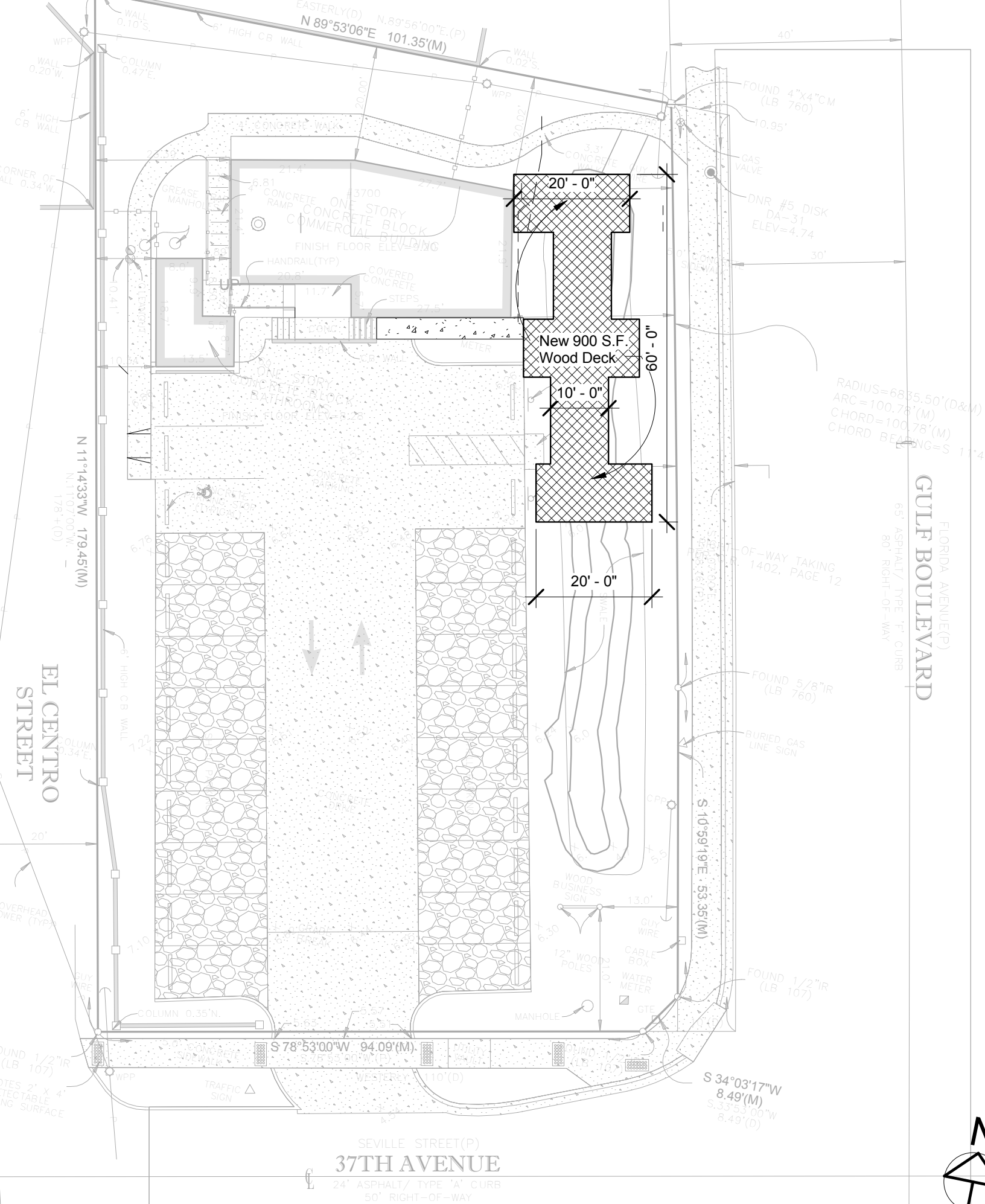


Exhibit D.



Proposed location of new deck looking North.



Proposed location of new deck looking North.

Exhibit D.



View from across Gulf Blvd.



North side of property.

Exhibit D.



Proposed location of new deck looking South.



Proposed Wood
Deck Smileys
Snack Shack

Rendering

Project number	*	S L -2
Date	1/30/14	
Drawn by	DAO	
Checked by	GS	
Scale		12" = 1'-0"

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Appointments to the Barrier Islands Government Council (BIG C), Florida League of Cities (FLC), Pinellas Mayors' Council (PMC), Pinellas County Flood Insurance Coalition, Suncoast League of Cities (SLC) and the Tampa Bay Regional Planning Council (TBRPC)

Date: April 12, 2016

Prepared By: Rebecca C. Haynes, City Clerk

Through: Wayne Saunders, City Manager

Summary of Issue: Subsequent to each election, board appointments are reviewed and decided among Commissioners. The current representatives and organizations are:

BIG C:	Mayor Lowe, Representative Vice Mayor Finnerty, Alternate
FLC:	Commissioner Pletcher, Representative Commissioner Premier, Alternate
PMC:	Vice Mayor Finnerty, Representative Mayor Lowe, Alternate
PCFIC:	Commissioner Pletcher, Representative Commissioner Premier, Alternate
SLC:	Commissioner Premier, Representative Commissioner Falkenstein, Alternate
TBRPC:	Commissioner Falkenstein, Representative Commissioner Pletcher, Alternate

Funding: N/A

Requested Motion: "I move to approve board appointments as follows..."

Attachments: None

**Reviewed by
City Manager:** WS

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Appointments to Advisory Boards and Committees

Date: April 12, 2016

Prepared By: Rebecca C. Haynes, City Clerk

Through: Wayne Saunders, City Manager

Summary of Issue: In accordance with Section 22 of the City Charter, members of the advisory boards "...shall be appointed at the first regularly scheduled meeting following the general election."

At the March 15, 2016 election, Terri Finnerty was re-elected in District 1 and Ward Friszolowski was elected in District 3. Appointments and/or reappointments need to be made to the following advisory boards/committees: Beach Stewardship Committee, Board of Adjustment, Finance and Budget Committee, Historic Preservation Board, Library Advisory Committee, Planning Board and Recreation Advisory Committee.

I have attached the current list of appointees.

Funding: N/A

Requested Motion: N/A

Attachments: Advisory Board and Committee Members lists

**Reviewed by
City Manager:** WS

BEACH STEWARDSHIP COMMITTEE

CREATED: City Code, Article XI - Section 22-301 through 22-309

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Quarterly

TIME: Established by the Board Members

PLACE: Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Florida

MIKE GREIGER
Appointed 3/14
Mayor Lowe
Term Expires 3/17

413 Hermosita Drive

mgreiger@earthlink.net

418-3663 Cell
363-1119 Home

JANET L. HARRIS, CHAIR
Appointed 10/15
Commissioner Falkenstein
Term Expires 3/17

550 72nd Ave.

beachjanet174@gmail.com

902-9529 Cell

LENNY STAMOS
Appointed 3/14
Commissioner Finnerty
Term Expires 3/16

2491 East Vina Del Mar

lennyssurf@hotmail.com

360-3016 Home

LYNDA LIND FONTANA
Re-appointed 3/14
Commissioner Premier
Term Expires 3/16

5396 Gulf Blvd., #607

lyndalind@yahoo.com

360-6011 Home
656-2046 Cell

DAN ROTHENBERGER
Appointed 4/15
Commissioner Pletcher
Term Expires 3/17

423 Hermosita Dr.

dan@workingtides.com

813-505-6255 Cell

Updated: 02/16/2016

BOARD OF ADJUSTMENT

CREATED: City Code, Article II - Section 22-31 through 22 - 40

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Last Wednesday of each month

TIME: Established by the Board Members

PLACE: Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, FL

SANDIE LYMAN

Appointed 5/14
Mayor Lowe
Term Expires 3/17

810- 59th Ave.

458-4058 Cell
360-7060 Home

sandie7@verizon.net

TOM DEYAMPERT

Appointed 12/15
Commissioner Finnerty
Term Expires 3/16

510 7th Ave No

367-1437 Home
420-2669 Cell

tomdeyampert@gmail.com

LAURIE VALLETT

Re-Appointed 4/15
Commissioner Falkenstein
Term Expires 3/17

407 55th Avenue

560-9628 Cell

lvaletspb@aol.com

PAUL SKIPPER, CHAIRMAN

Re-Appointed 3/14
Commissioner Premer
Term Expires 3/16

255 Corey Avenue

367-7008 Home

natvprop@aol.com

DAVID LITTELL

Re-Appointed 4/15
Commissioner Pletcher
Term Expires 3/17

243 Mar Street

367-3640 Home

dlittell1@earthlink.net

Updated: 12/14/2015

FINANCE & BUDGET REVIEW COMMITTEE

CREATED: City Code, Article III - Section 22-26 through 22-74

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Determined by City Manager or Administrative Services Director

TIME: Established by Board Members

PLACE: Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Florida

AL JOHNSON, CHAIR

Appointed 5/14

Mayor Lowe

Term Expires 3/17

9375 Blind Pass Rd.

543-2794 Cell

alanj@runmsm.com

DEBORAH SCHECHNER

Appointed 3/14

Commissioner Finnerty

Term Expires 3/16

710 Boca Ciega Isle Dr.

488-4796 Cell

paxsez1@tampabay.rr.com

JOHN SAMORAJCZYK

Re-appointed 4/15

Commissioner Falkenstein

Term Expires 3/17

5414 Lelani Dr.

367-2166 Home

jsamo@prodigy.net

JOANNE MELODAYO

Re-appointed 3/14

Commissioner Premier

Term Expires 3/16

4151 Belle Vista Dr.

360-2627 Home

686-5815 Cell

jomellow@aol.com

MARY HACKER, VICE CHAIR

Appointed 4/15

Commissioner Pletcher

Term Expires 3/17

221 North Tessier Dr.

813-879-6683 Cell

mhacker1@tampabay.rr.com

Updated: 7/2/2015

HISTORIC PRESERVATION BOARD

CREATED: City Code, Article VII - Section 22-206 through 22-213

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Monthly on the first Thursday

TIME: 3:30 p.m.

PLACE: Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Florida

TINA DOUGLASS

Appointed 5/14
Mayor Lowe
Term Expires 3/17

2811 Pass-A-Grille Way 367-3451

tinardouglass@gmail.com

SEAN HURLEY

Appointed 3/14
Commissioner Finnerty
Term Expires 3/16

2506 Pass-A-Grille Way 365-2107

sean@hurley-associates.com

INGRID JACOBUS, V. CHAIR

Re-appointed 4/15
Commissioner Falkenstein
Term Expires 3/17

6411 4TH Palm Pt. 360-4020 Home

IMJacobus@aol.com

MARTIN LOTT, CHAIR

Re-appointed 3/14
Commissioner Premier
Term Expires 3/16

3510 E. Maritana 367-3977 Home

lott@georgefyoung.com

CHRIS MARONE

Appointed 4/15
Commissioner Pletcher
Term Expires 3/17

107 5th Avenue 367-5356 Home
422-7363 Cell

cmarone@maronelaw.com

Updated: 4/24/2015

LIBRARY ADVISORY COMMITTEE

CREATED: City Code Article V, Section 22-136 through 22-144

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Determined by Library Administrator or Administrative Services Director

TIME: 2:00 p.m.

PLACE: Commission Chambers at City Hall,
155 Corey Avenue, St. Pete Beach, FL

LANCE PETERSON

Appointed 3/14

Mayor Lowe

Term Expires 3/17

3919 Belle Vista Drive E. (H) (727)360-6068

St. Pete Beach, FL (C) (727)324-9758

lpeters7@tampabay.rr.com

STEVE TRAIMAN, VICE CHAIR

Appointed 3/14

Commissioner Finnerty

Term Expires 3/16

420 64TH Avenue #706 360-1387 Home

traimancreativecopy@gmail.com

JUDY COHAN, CHAIRWOMAN

Re-appointed 4/15

Commissioner Falkenstein

Term Expires 3/17

6600 Sunset Way, #216 367-4407 Home

judy.cohan@verizon.net

WENDY HOLMES

Appointed 4/15

Commissioner Premier

Term Expires 3/17

215 43rd Avenue
St. Pete Beach, FL

wphbcchb12@gmail.com (727)452-0160

JOHN PHILLIPS, SR.

Re-appointed 4/15

Commissioner Pletcher

Term Expires 3/17

403 Gulf Way, #302 360-8497 Home

marge@tampabay.rr.com

Updated: 05/29//2015

PLANNING BOARD

CREATED: City Code, Article VIII, Section 22-241 through 22-248

TERMS: To run concurrently with the term of office for the Commission Member who made the appointment

MEETS: Monthly

TIME: Established by the Board Members

PLACE: Commission Chamber at City Hall, 155 Corey Avenue, St. Pete Beach, Florida

TIFFANY SECKA, CHAIRWOMAN

Appointed 5/14
Mayor Lowe
Term Expires 3/17

P.O. Box 66334 415-6007
St. Pete Beach, FL 33736

tmsmarie@aol.com

MICHAEL LEHMAN

Appointed 10/15
Vice Mayor Finnerty
Term Expires 3/16

535 80th Ave. 492-4452
St. Pete Beach FL 33706

michael@bobosart.com

JACK OHLHABER

Appointed 4/15
Commissioner Falkenstein
Term Expires 3/17

5810 Balao Way South 360-5918 (H)
St. Pete Beach, FL 33706 460-9753 (C)
johlhaber@gmail.com

WARD FRISZOLOWSKI, VICE CHAIR

Re-appointed 3/14
Commissioner Premier
Term Expires 3/16

3566 Belle Vista Dr. E. 367-7320 (H)
896-4611 (C)

W.Friszolowski@harvardjolly.com

RON HOLEHOUSE

Re-appointed 4/15
Commissioner Pletcher
Term Expires 3/17

113 12th Avenue 367-2457 (H)
492-7316 (C)

ronholehouse@gmail.com
ronald.holehouse@regions.com

Updated 01/19/2016

RECREATION ADVISORY COMMITTEE

CREATED: City Code, Article IV, -Section 22-101 through 22-109

TERMS: To run concurrently with the term of office of the Commission Member who made the appointment

MEETS: Quarterly

TIME/PLACE: Commission Chamber at City Hall, 155 Corey Avenue, St. Pete Beach, Florida

ROBERTA RHODES 8540 Gulf Blvd. 346-5611 Home
Appointed 3/14
Mayor Lowe
Term Expires 3/17 roberta.rhodes@att.net

AUSTIN PIAZZA, VICE CHAIR 453 81st Avenue 902-9207 Home
Appointed 3/14
Commissioner Finnerty
Term Expires 3/16 austinpiazza@gmail.com

SCOTT SEUBERT 6477 1st Palm Point 367-6321 Home
Reappointed 4/15
Commissioner Falkenstein
Term Expires 3/17 sseubert6321@yahoo.com

STEVE STEWART 250 Julia Circle S. 798-4077 Home
Appointed 3/14
Commissioner Premier
Term Expires 3/16 a082964@allstate.com

DANIELLE MICKLITSCH, CHAIR 2373 West Vina Del Mar 727-415-8737
Appointed 4/15
Commissioner Pletcher
Term Expires 3/17 dmicklitsch@gmail.com

Updated: 4/24/2015

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Approval of employment agreement for the position of City Clerk with Rebecca Haynes

Date: April 12, 2016

Prepared By: Rebecca C. Haynes, City Clerk

Prepared Through: Wayne Saunders, City Manager

Summary of Issue: On February 23, 2016, the City Commission authorized City Attorney Dickman to negotiate and draft an employment agreement with Rebecca Haynes for the position of City Clerk. Ms. Haynes has been employed in the Charter position since May 16, 2011, and the proposed agreement will bring the position into conformance with the other Charter positions.

The agreement is effective on the approval date and the compensation associated with the agreement is retroactive to October 1, 2015. The current salary is \$62,541.44.

Funding: Budgeted Salaries and Benefits

Requested Motion: "I move to approve the employment agreement with Rebecca Haynes for the position of City Clerk, with the compensation set at _____."

Attachments: Draft agreement

**Reviewed by
City Manager:** 

CITY CLERK EMPLOYMENT CONTRACT

THIS CONTRACT (hereinafter "Contract") is made and entered into on the _____ day of _____, 2016 ("Effective Date"), by and between the City of St. Pete Beach, Florida, a Florida municipal corporation, (the "City") and Rebecca C. Haynes, an individual, ("Employee" or "City Clerk") pursuant to the following terms and conditions:

WITNESSETH:

WHEREAS, the City desires to employ the services of Employee as City Clerk as provided by Sec. 3.09 and Article IV of St. Pete Beach City Charter ("City Charter"); and

WHEREAS, Sec. 4.05 of the City Charter gives the city commission sole authority to hire the city clerk, and sole authority to discipline or discharge the city clerk.

WHEREAS, Sec. 4.05 of the City Charter mandates that the city clerk shall keep and have the care and custody of the books, records, papers, legal documents and journals of proceedings of the city commission and shall carry out such additional duties as may be required by the commission; and

WHEREAS, Sec. 2-134 of the City Code of Ordinances establishes that the city commission shall have the sole and exclusive authority to hire, to terminate and to discipline the city clerk; and the city manager shall be entitled to recommend to the city commission that the city clerk be disciplined or terminated; but thereafter, the commission shall determine if it wishes to follow said recommendation; and

WHEREAS, Employee has been employed by the City in the capacity of City Clerk since May 16, 2011 without an Employment Contract between the parties; and

WHEREAS, the City desires to provide certain benefits and to establish certain conditions of Employee's employment; and

WHEREAS, Employee desires to continue employment as City Clerk pursuant to the terms of this Contract.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

The above recitals are true and correct and are incorporated herein by reference. This Contract supersedes any previous Contract that may or may not exist between the Parties whether verbal, oral, implied or in writing.

ARTICLE I
TERMS AND CONDITIONS - THE CITY

1.0 The City agrees as follows:

1.1 The City hereby appoints Employee as its City Clerk to exercise responsibilities and duties consistent with the terms, conditions and covenants of the Personnel Policies and Regulations, and the City Charter. Further, Employee shall be subject to the general direction, supervision and orders and the overall responsibility to the legislative, statutory duties and secretarial support needs of the City Commission, and with collaboration and assistance of the City Manager. Employee agrees to accept appointment as City Clerk and agrees to exercise Employee's best efforts in performing said duties.

1.2 The City will pay and compensate the Employee the sum of \$ _____ for the first year of this Contract, retroactively to the start of fiscal year 2015-16. Each subsequent year for the term of this Contract, the City Commission and City Manager shall undertake to review the Employee's performance hereunder, no later than September 30th of each year. The City Commission may grant a salary increase that it deems appropriate, following the annual review.

1.3 To provide Employee with the same insurance benefits, educational enrichment benefits, holidays, sickness and other leave benefits, accrual of and taking of paid time off (PTO) benefits, three (3) personal days, disability benefits and pension plan benefits, as established by the City's Personnel Policies, and other management benefit plans for City Department Directors.

1.4 To contribute an amount equivalent to 12% of Employee's salary to Employee's existing 401 Account, or as provided for other City Department Directors.

1.5 That the Employee is not subject to a limitation on PTO hours.

ARTICLE II
TERMS AND CONDITIONS - CITY CLERK

2.0 The Employee agrees as follows:

2.1 To continue employment by the City in the capacity of City Clerk of the City, subject to the overall direction, supervision and orders, and the overall responsibility to the legislative, administrative and statutory duties of the City Commission.

2.2 Notwithstanding the overall legislative, administrative and statutory duties of the City Commission, the parties agree that the City Manager shall have day-to-day supervision of Employee on equal terms as other City Directors. In addition to Employee's responsibilities referenced in 2.1 above, Employee agrees to fulfill the duties and responsibilities expressed in the City Charter and current 'City Clerk' job description, as amended from time to time by mutual consent of the Parties, maintained by the City's Human Resources office. If Employee and City Manager require resolution of opinions regarding Employee's duties as City Clerk, they shall seek

resolution from the City Commission at a public hearing during their respective reports to the City Commission.

2.3 Employee shall fulfill the obligations and responsibilities that are customarily attributed to the position and title of City Clerk, shall perform all of the duties, work services and functions as set forth in the City position description for the position City Clerk and in this Contract. The Employee warrants that she possesses the requisite skills and background to perform as required hereunder.

2.4 The Employee shall coordinate and administer an adequate plan for the control and supervision of the City Clerk's office and shall serve as a City Department Director and perform the customary duties of this office. Employee and City Manager shall collaborate regarding appropriate budgeting of the City Clerk's Office; Employee shall have day-to-day supervision of the Clerk's Office; and the City Manager shall have the authority to hire and terminate staff of the Clerk's Office, after consultation with Employee.

2.5 That the position of City Clerk is not and cannot be an hourly-type employment. Hence, the Employee shall do all things necessary and required to be available to the City to attend various meetings of the City Commission and its various advisory, and charter established boards in addition to all other administrative and employment requirements. The City shall provide a Deputy Clerk to assist the City Clerk in the performance of duties.

ARTICLE III TERM AND TERMINATION

3.0 Notwithstanding the authority granted to the City Commission by the City Charter, this Contract shall be automatically extended on the same terms and same conditions as herein provided for an additional period of one (1) year ("Renewal Term"). The Renewal Term of this Contract shall start on the first day of each fiscal year. Said Contract shall continue thereafter for periods of one (1) year unless either party hereto gives written notice sixty (60) days prior to the expiration of the applicable Renewal Term. Upon mutual written agreement of both parties, the length of the Renewal Term(s) may be modified.

3.1. In the event the Employee elects to voluntarily terminate this Employment Contract prior to the expiration date, Employee shall provide the City with not less than sixty (60) days written notice to the City Commission and City Manager indicating Employee's intention to discontinue employment.

3.2 In the event the City elects to terminate or not renew this Contract for any or no reason prior to the expiration hereof, the City shall pay to the Employee severance pay at an equal amount as other City Department Directors and more specifically expressed in the City's "Personnel Rules and Regulations," to wit "Section 4.04(B): Employees who have served in a position covered by Section 1.01(B) for more than three hundred sixty-five (365) consecutive days whose employment with the City is terminated will, subject to Subsections 4.04(C) and (D), be paid severance pay of one (1) week's pay for each year of continuous employment with the City but not less than eight

(8) weeks nor more than twenty-six weeks.” For purposes of this section, Employee’s employment start date at the City is May 16, 2011.

However, in the event the Employee is terminated because of Employee’s conviction of any illegal act or upon her voluntary resignation then the City shall have no obligation to pay the aggregate severance sum designated in this paragraph. An “illegal act” for purposes of this Contract, shall mean felony or crime involving moral turpitude or dishonesty; upon a finding that Employee committed an ethical violation by a court, administrative proceeding, the State of Florida Ethics Commission, or other body or court of competent jurisdiction; or upon other actions constituting gross misfeasance, malfeasance, gross incompetence, or illegal act involving personal gain in conjunction with Employee’s position as City Clerk.

3.3 In addition to the above, the parties may terminate this Contract at any time and on any agreed basis by mutual consent of both parties provided same is reduced to writing and filed amongst the public records of the City.

ARTICLE IV NOTICE

When any of the parties’ desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the parties designate the following as the respective places for giving notice:

<u>CITY:</u>	Mayor and City Council City Manager City of St. Pete Beach 155 Corey Avenue St. Pete Beach, FL 33706
--------------	--

<u>EMPLOYEE:</u>	Rebecca C. Haynes City Clerk 155 Corey Avenue St. Pete Beach, FL 33706
------------------	---

ARTICLE V MISCELLANEOUS

5.0 The text herein shall constitute the entire Contract between the parties. This Contract may only be amended in writing signed by both parties.

5.1 Florida Law: This Contract is executed and is to be performed in the State of Florida, and shall be governed by and construed with the laws of the State of Florida. Venue for any legal action shall be set in Pinellas County, Florida.

5.2 Litigation: In connection with any litigation arising out of this Contract including any administrative, trial level or appellate proceedings, the prevailing party shall be entitled to recover all costs incurred, including a reasonable attorney fees.

5.3 Severability/Integration: If any clause, section or other part or application of this Contract shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

[Signature page to follow]

IN WITNESS WHEREOF, we, the parties, have hereunto set our hands and have executed this Contract on the Effective Date.

ATTEST:

CITY OF ST. PETE BEACH:

Wayne Saunders, City Manager

Mayor Marie Lowe

EMPLOYEE:

Rebecca C. Haynes

Approved as to form:

City Attorney

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance No 2016-04 – Traffic and Vehicles

Date: April 12, 2016

Prepared By: Jennifer Bryla – Community Development Director

Through: Wayne Saunders, City Manager

Summary of Issue: Proposed for your consideration is City-initiated amendment to Chapter 82 of the Code of Ordinances. The City Commission has directed staff to evaluate the City's parking Ordinance (Chapter 82 of the Code of Ordinances) in an effort to:

- 1) More clearly define the different types of parking permits issued by the City;
- 2) Simplify the posted times of restricted parking areas; and
- 3) Add application submittal requirements.

There are many different types of parking permits administered through the Community Development Department, all valid for different areas of the city and sold at different costs. While the fee schedule in the Code of Ordinances does give names to some of these parking permits, differentiating them from each other, Chapter 82 does not. This condition has made it very difficult to implement the code and has relied on opinion in the past to administer the parking permits. Staff has gone through and assigned names to each type of parking permits, and expanded upon descriptions where necessary for clarity sake.

All posted parking signs are proposed to be changed to require permits or payment of meters from 8am-8pm except for the "B" non-metered residential streets, which will remain as they are, which is generally 9-5 pm as well as the "D" permit signs that indicate times for on-street parking.

A new section was added for the "D" parking permit—a decal and hangtag that the City has issued for years annually to residents of "D" streets as defined in Chapter 82, but without any specific regulations in the Code. In this new section, any person who can furnish proof of residency and vehicle registration for a residence on a "D" street (generally the side

streets in Pass-a-Grille) may purchase a decal. This is an increase from the informal procedure of only issuing (2) permits per household, as is the maximum for the “B” decals.

Finally, a new annual parking permit was added—the new “C” parking decal will replace the “D” parking decal in the area generally described as the portion of the Don CeSar Place subdivision east of Gulf Boulevard. This addition is intended to alleviate the lack of parking for homeowners in this area. This permit will restrict parking on one side of the street, and will be valid in the above-stated area only.

During the first reading of the Ordinance, the Commission requested that staff add additional “E” permit spaces on 70th avenue between Gulf Boulevard and Sunset Way.

Requested Motion: I move to approve Ordinance No. 2016-04 (read title).

Attachments

- (1) **Exhibit A** – Ordinance 2016-04
- (2) **Exhibit B** – Staff Report
- (3) **Exhibit C** – Amended Table Establishing “A” Permits “Exhibit B”
- (4) **Exhibit D** – Planning Board Minutes Ordinance No. 2016-04
- (5) **Exhibit E** - Chapter 82 Code of Ordinances with changes in underline strikethrough

**Reviewed by the
City Manager**

WS

ORDINANCE 2016-04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST PETE BEACH, FLORIDA, AMENDING CHAPTER 82, TRAFFIC AND VEHICLES, OF THE CITY OF ST PETE BEACH CODE OF ORDINANCES, BY MOVING SECTION 82-236 FROM DIVISION 4 OF ARTICLE II, SPECIFIC STREET REGULATIONS, TO SECTION 82-1 OF ARTICLE I, IN GENERAL AND CLARIFYING THE DEFINITION FOR “RESIDENT”; ADDING SECTION 82-2 OF ARTICLE I ESTABLISHING REQUIREMENTS FOR ISSUANCE OF PARKING PERMITS; AMENDING SECTION 82-137 OF DIVISION 1 OF ARTICLE III TO DESIGNATE NEW “C” PERMIT RESTRICTED STREETS; AMENDING SECTION 82-203 OF DIVISION 3 OF ARTICLE III RELATED TO “A” AND “B” AND “E” PARKING PERMITS FOR BUSINESSES AND RESIDENTS IN PASS-A-GRILLE AND ON BEACH PLAZA; ADDING SECTIONS 82-244 & 82-245 TO DIVISION 4 OF ARTICLE III ESTABLISHING REGULATIONS FOR EXISTING “D” RESIDENTIAL PARKING PERMITS AND NEW “C” RESIDENTIAL PARKING PERMIT; AMENDING THE DOCUMENT ENTITLED “EXHIBIT B” ATTACHED HEREIN, INCREASING THE ALLOWABLE NUMBER OF PARKING PERMITS FOR 1801 GULF WAY; PROVIDING MISSING LETTER DESIGNATIONS FOR EACH TYPE OF PARKING PERMIT THROUGHOUT THE CHAPTER; REMOVING MULTIPLE REFERENCES TO THE POLICE DEPARTMENT AND REPLACING WITH THE SHERIFF’S DEPARTMENT; CORRECTING SCRIVENER’S ERRORS; PROVIDING FOR AMENDMENT OF THE CITY PARKING MAPS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to improve the traffic and parking control regulations pertaining to city streets and city-controlled parking areas within the city; and

WHEREAS, the City Commission has found this ordinance to be in the best interest of the health, safety, and welfare of the citizens of the city;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST PETE BEACH, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. Section 82-1 of the Code of Ordinances is amended as follows:

Sec. 82-1. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Commuter vehicle” means a motor vehicle parked in a residential area by a person who is not a resident of the designated residential area.

“Controlled parking residential area” means a contiguous or nearly contiguous area containing streets or parts thereof primarily abutted by property which has a specific residential zone designation on the official zoning map and which is designated for restricted residential parking by the city manager, pursuant to criteria and procedures established in this division.

“Dwelling” means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for lease; and containing independent kitchen, sanitary and sleeping facilities. A dwelling does not include motels, hotels, and other transient accommodation uses.

“Resident” means a person who owns or leases real property within the city, as evidenced by a form listed in Sec. 82-2.

“Residential parking permit” means a special permit issued under this division for the privilege of parking on a street designated as a "controlled parking residential area."

SECTION 2. Section 82-2 of the Code of Ordinances is amended as follows:

Sec. 82-2. Requirements for issuance of parking permits.

The following shall be required at the time of issuance:

- (a) A valid driver’s license.
- (b) Proof of residency in one of the following forms shall be required for all annual parking permits:
 - (1) Voter Registration Card;
 - (2) Real Estate Tax Bill;
 - (3) Lease Agreement for a period of at least 6 consecutive months within the year of issuance;
 - (4) Driver’s License with current address;
 - (5) Utility Bill with current address; or
 - (6) Three pieces of mail with current address.
- (c) Proof of employment in one of the following forms shall be required for all annual parking permits for employees and owners of businesses in accordance with Sec. 82-202:

- (1) A current paycheck stub with the applicant's name.
- (2) A letter signed by the owner of the business stating the applicant is currently employed at that location.
- (3) A current business tax license issued by the City of St. Pete Beach that contains the applicant's name.
- (d) In the event that a resident cannot produce any of the above documents, the resident will immediately be referred to a supervisor who will assist the resident by looking for other possible ways to provide satisfactory proof of residency that may be approved by the Community Development Director.
- (e) Current vehicle registration shall also be required for issuance of all annual parking permits. Hang tags shall be exempt from this requirement.
- (f) Payment in accordance with Appendix A of this Code.

SECTION 3. Section 82-137 of the Code of Ordinances is amended as follows:

Sec. 82-137. - Posted restricted parking zones.

- (a) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:

1st Avenue between Gulf Way and Pass A Grille Way;

12th Avenue thru 14th Avenue between Gulf Way and Pass A Grille Way;

17th Avenue thru 20th Avenue between Gulf way and Pass A Grille Way;

22nd Avenue between Gulf Way and Pass A Grille Way;

25th Avenue between Sunset Way and Pass A Grille Way;

27th Avenue thru 30th Avenue between Sunset way and Pass A Grille Way;

Sunset Way between 23rd Avenue and 24th Avenue;

Sunset Way between 28th Avenue and 30th Avenue;

1st Avenue West between 31st Avenue and 32nd Avenue;

32nd Avenue between Sunset Way and the beach;

AlhambraSouth Maritana Drive between West Maritana Drive and Granada Street;

Alhambra Street between West Maritana and West Debazan Avenue;

West Debazan Avenue between East Debazan and South Maritana;

Debazan Avenue between Casablanca and Alhambra Street;

East Debazan between Alhambra Street and South Debazan Avenue;

Alfonzo Street between West Maritana Drive and West Debazan Avenue;

Granada Street between East Debazan Avenue and East Maritana Drive;

Barcelona Street between Debazan Avenue and East Maritana Drive; Beach Plaza between 70th Avenue and 71st Avenue; and

Pass-A-Grille Way between 7th Avenue and 3rd Avenue;

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (b) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:

2nd Avenue to 5th Avenue;

Sunset Way between 24th Avenue and 25th Avenue;

Sunset Way between 22nd Avenue and 23rd Avenue;

32nd Avenue between 1st Street West and the beach; and

One parking space on the west side of Casablanca Avenue at Cabrillo Avenue.

- (c) The following city streets shall require a "D" permit for parking at any time every day on one side of the street, as designated on the city parking maps:

10th Avenue between Gulf Way and the alley before Pass-A-Grille Way;

11th Avenue between Gulf Way and Pass-A-Grille Way;

21st Avenue between Gulf Way and Pass-A-Grille Way;

23rd Avenue between Sunset Way and Pass-A-Grille Way;

4 parking spaces on the south side of West Maritana Drive east of Casablanca Avenue;

- (d) The following city streets shall require a "D" permit for parking at any time every day on each side of the street, as designated on the city parking maps:

6th Avenue between Gulf Way and Pass-A-Grille Way; and

7th Avenue between Gulf Way and Pass-A-Grille Way.

- (e) The following city streets shall require a "B" permit for parking at any time every day on each side of the street, as designated on the city parking maps:

42nd Avenue between Belle Vista Drive and Poinsettia Drive; and

43rd Avenue between Belle Vista Drive and Moody Street.

- (f) The following city streets shall require a "B" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (g) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:

67th Avenue between Beach Plaza and Sunset Way; and

70th Avenue between Gulf Boulevard and Sunset Way; and

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (h) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:

68th Avenue to 70th Avenue between Beach Plaza and Sunset Way.

Beach Plaza between 70th Avenue and 71st Avenue

- (i) Parking in the locations designated on the following city streets shall be limited to thirty (30) minutes, as designated on the city parking maps:

3 parking spaces on the west side Pass-A-Grille Way south from 9th Avenue;

3 parking spaces on the north side of 10th Avenue west from Pass-A-Grille Way;

1 parking space on the east side of the 800 block of Gulf Way;

1 parking space on the east side of 1300 block of Gulf Way;

1 parking space on the south side of 26th Avenue west of Pass-A-Grille Way;

3 parking spaces on the north side of 32nd Avenue west of Pass-A-Grille Way; and

The north side of the Don Vista Center.

- (j) Parking on each side of the following city street shall be limited to two (2) hours, between the hours of 8:00 a.m. and 6:00 p.m. every day, as designated on the city parking maps:

8th Avenue between Gulf Way and Pass-A-Grille Way. Vehicles displaying a valid "D" Permit are exempt from the limit of two hours.

- (k) Parking in the main Don Vista Center parking lot shall be prohibited unless an event is scheduled by the City at the Don Vista Center.

- (l) Parking on the west side of Gulf Way between 9th Avenue and 10th Avenue shall be limited to employees of the public concession stand at the beach.

- (m) Parking on one side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

1st Avenue between Gulf Way and Pass-A-Grille Way;

10th Avenue to 22nd Avenue between Gulf Way and Pass-A-Grille Way;

23rd Avenue to 30th Avenue between Sunset Way and Pass-A-Grille Way;

32nd Avenue between 1st Street West and Pass-A-Grille Way;

El Centro at the Don Vista Center;

West Maritana Drive between Alhambra Street and South Maritana Drive;

South Maritana Drive between West Maritana Drive and Granada Street;

Alhambra Street between West Maritana and West Debazan Avenue;

West Debazan Avenue between East Debazan and South Maritana;

Debazan Avenue between Casablanca and Alhambra Street;

East Debazan between Alhambra Street and South Debazan Avenue;
Alfonzo Street between West Maritana Drive and West Debazan Avenue;
Granada Street between East Debazan Avenue and East Maritana Drive;
Barcelona Street between Debazan Avenue and East Maritana Drive;
Casablanca Avenue between 37th Avenue and Pinellas Bayway;
East Maritana Drive between 37th Avenue and Pinellas Bayway;
Belle Vista Drive between 41st Avenue and Belle Vista Drive East;
Lido Drive between 1st Street East and Plaza Way;
36th Avenue between El Centro and East Maritana Drive;
41st Avenue between Belle Vista Drive and Poinsettia Drive;
46th Avenue between Gulf Boulevard and the east end of Lido Park;
49th Avenue;
51st Avenue between Gulf Boulevard and the beach;
51st Avenue between Gulf Boulevard and the east end;
55th Avenue between Aloha Drive and Leilani Drive;
Boca Ciega Isle Drive at the entrance;
58th Avenue between Gulf Boulevard and 2nd Street East;
64th Avenue between Gulf Winds Drive and 430 64th Avenue;
Gulf Winds Drive between 2nd St. East and 71st Avenue;
64th Avenue to 73rd Avenue between Sunset Way and Gulf Boulevard;
Sunset Way between 23rd Avenue and 24th Avenue;
Sunset Way between 25th Avenue and 26th Avenue;
Sunset Way between 29th Avenue and 30th Avenue;

Sunset Way between 64th Avenue and 67th Avenue;

1st Street West between 31st Avenue and 32nd Avenue;

Casablanca Avenue between 37th Avenue and Cabrillo Avenue; and

78th Avenue to 87th Avenue between Blind Pass Road and Boca Ciega Drive; and Corey Circle.

- (n) Parking on each side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

Pass-A-Grille Way between 13th Avenue and 32nd Avenue;

14th Avenue to 20th Avenue between Pass-A-Grille Way and the east end;

30th Avenue between Sunset Way and the beach;

31st Avenue between Sunset Way and Pass-A-Grille Way;

2nd Street West;

Cabrillo Avenue;

West Maritana Drive between Casablanca Avenue and Alhambra Street;

Belle Vista Drive between 44th Avenue and 41st Avenue;

37th Avenue between Gulf Blvd. and east Maritana;

44th Avenue between Gulf Boulevard and Moody Street;

45th Avenue between Gulf Boulevard and 2nd Street East;

Punta Vista Drive;

Boca Ciega Isle Drive between Plaza Way and 520 Boca Ciega Isle Drive;

52nd Avenue between Gulf Boulevard and the beach;

55th Avenue between Gulf Boulevard and Aloha Drive;

Aloha Drive;

59th Avenue between Gulf Boulevard and Bimini Way;

Gulf Winds Drive between 2nd St. East and Gulf Blvd.;

64th Avenue between 1st Palm Point Street and 425 64th Avenue;

64th Avenue between Gulf Blvd. and Gulf Winds Drive;

67th Avenue between Gulf Blvd. and Gulf Winds Drive;

Sunset Way between 70th Avenue and 71st Avenue;

1st Street East between Lido Drive and 45th Avenue;

2nd St. East between Lido Drive and 45th Avenue; and

2nd St. East between 60th Avenue and Gulf Winds Drive.

- (o) Parking on one side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Pass-A-Grille Way between 1st Avenue and 7th Avenue;

Casablanca Avenue between Pinellas Bayway and Cabrillo Avenue;

51st Avenue between Gulf Boulevard and the beach;

67th Avenue between Beach Plaza and Sunset Way;

Sunset Way between 68th Avenue and 70th Avenue;

Gulf Winds Drive between 64th Avenue and 2nd St. East;

64th Avenue between Gulf Blvd. and Sunset Way;

Sunset Way between 64th Avenue and 66th Avenue; and

66th Avenue between Gulf Blvd. and Sunset Way.

- (p) Parking on each side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Gulf Way;

Pass-A-Grille Way between 7th Avenue and 12th Avenue unless otherwise posted; and

Beach Plaza between 67th Avenue and 70th Avenue.

- (q) Parking on the north side of 10th Avenue between Gulf Way and Pass-A-Grille Way shall require a "D" permit for parking at any time every day, or shall be limited to patrons of the museum, unless otherwise posted, as designated on the city parking maps.
- (r) Parking on the following city streets and parking lots shall be limited as hereafter designated, as shown on the city parking maps:

Lazarillo Park-Parking shall be for park users only;

Lido Park-45th Avenue Lot-Parking shall be for park users only;

Lido Park-46th Avenue Lot-Parking shall be for park users only, with the exception of four parking spaces designated "B" Permit Required from 8:00 a.m. to 8:00 p.m.;

Don Boat Ramp-"D" Permit or "B" Permit required with attached boat trailer, or any vehicle with attached boat trailer subject to payment of designated parking fee from 8:00 a.m. to 8:00 p.m.;

County Park-Parking is subject to payment of designated parking fee at any time;

44th Avenue Parking Lot-Five parking spaces designated "B", "D", or "E" Permit required; Two parking spaces designated "B" Permit Required "3" hour limit; One parking space designated "3" hour limit;

Ron McKenney Park-Parking shall be for park users only;

Sunset Park - "B" Permit required from 8:00 a.m. to 8:00 p.m. on the waterfront side;

Egan Park/Captiva Circle:

North side: No parking

East side: Two waterfront parking spaces designated "Car parking only 24-hour limit"; 16 waterfront parking spaces designated "Vehicle with attached boat trailer only" and subject to payment of designated parking fee at any time. Parking fee and vehicle with boat trailer attached restriction waived during adult softball games for the six southernmost waterfront spaces.

South Side-East end of Captiva Circle: Four parking spaces designated "No vehicle with boat trailer attached parking at any time." South Side of Captiva Circle-Designated "No Parking Anytime."

Egan Park gravel parking lot-"B" permit required for Vehicle with attached boat trailer."

Don Vista Parking Lot:

South side: Don Vista parking only, and

North side: 15 spaces, Don Vista parking only.

- (s) Parking in the locations designated on the following city streets shall be limited to 15 minutes, as designated on the city parking maps:

Corey Avenue parking spaces directly in front of the Post Office.

- (t) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 5:00 p.m. Saturdays, Sundays and holidays on one side of the street, as designated on the city parking maps:

Gulf Winds Drive between 64th Avenue and Bay St; and

64th Avenue between Gulf Winds Drive and First Palm Point.

- (u) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 9:00 p.m. Saturdays, Sundays and holidays on each side of the street, as designated on the city parking maps:

64th Avenue between 425 64th Avenue and the east end of 64th Avenue;

67th Avenue between Gulf Winds Drive and Bay St;

Bay St. between Gulf Winds Drive and 64th Avenue; and

First through Fourth Palm Points Streets.

- (v) The following city streets shall require a "C" permit for parking at any time every day on one side of the street, as designated on the city parking maps:

37th Avenue between Gulf Blvd. and El Centro;

East Maritana Drive between 37th Avenue and Pinellas Bayway;

Casablanca Avenue between 37th Avenue and Pinellas Bayway;

Casablanca Avenue at Cabrillo Avenue; and

36th Avenue between Gulf Blvd and East Maritana Drive.

SECTION 4. Section 82-203 of the Code of Ordinances is amended as follows:

Sec. 82-203. - Parking permits.

- (a) Gulf Way and Eighth Avenue. "A" hang tag permits may be issued for Gulf Way and Eighth Avenue as follows:

- (1) Each owner of real property legally used as a residence or lodging in Pass-a-Grille, which abuts a street upon which the city has installed parking meters along the frontage of that real property or Eighth Avenue is entitled to purchase a permit exempting the holder thereof from the payment of parking meter fees anywhere within the Pass-a-Grille area.
- (2) Incorporated by reference in this subsection is exhibit B to this section, which was first adopted by Ordinance 2009-28. It is on file in the city clerk's office and is a survey of "permits needed" for houses and apartments having street addresses on Gulf Way from First Avenue to 22nd Avenue and Eighth Avenue. Each owner of real property as set forth in exhibit B shall be entitled to purchase, at a cost established by resolution of the city and listed in appendix A to this Code, the following:
 - a. A number of permits equal to one-half of the number of the indicated "permits needed" per house or apartment.
 - b. Additional permits up to the total number of units.
 - c. If a street address has only one unit, a permit may be purchased for that unit.
 - d. Notwithstanding the provisions of exhibit B as cited above, each property on Gulf Way is entitled to a minimum of two permits.
- (3) These permits shall be controlled in such a way to restrict their use only to the property owners and bona fide guests residing on the property subject to receipt of the permits.
- (4) Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Permits shall be renewed annually, and the city official administering this subsection shall maintain books and records on the collection of fees and issuance of permits.
- (5) Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees in the areas designated by this subsection. Vehicles displaying the permits issued under this subsection shall be entitled to park without payment of meter fees at parking metered spaces within Pass-a-Grille only.
- (6) The city may adopt reasonable rules and regulations necessary for the administration and enforcement of this subsection and may amend the survey referred to in subsection (a)(2) of this section from time to time as may be necessary or appropriate.
 - (b) Vehicles utilized by persons attending services at the Pass-a-Grille Community Church shall be exempt from parking meter fees on 16th Avenue in Pass-a-Grille on Sundays between the hours of 7:00 a.m. and 1:00 p.m., and at such other times as specifically authorized by the city manager.

The Pass-a-Grille Community Church may also purchase temporary “B” hang tags at the cost of \$2.00 per permit. These permits shall exempt persons attending services at the Pass-a-Grille Community Church from parking fees at meters on Sundays between the hours of 7:00 a.m. and 1:00 p.m.

Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees at metered spaces and shall be valid at parking meters between First Avenue and Twenty-First Avenue.

- (c) “B” Parking Permits for employees of on-premise businesses in Pass-a-Grille shall be issued as follows:
 - (1) The owner or his agents of any business operated on premises located only in the Pass-a-Grille area and south of 31st Avenue or the owner or his agents of any business operated on premises having frontage on Beach Plaza shall be entitled to purchase parking permits for full-time or part-time employees in the form of a decal. The cost of the permit shall be established by resolution of the city commission and is listed in appendix A to this Code.
 - (2) Permits shall be valid from the date of purchase through December 31 of the same year. They shall not be prorated. The date of purchase shall be plainly stamped on each permit.
 - (3) Permits shall be displayed in accord with regulations adopted by the city, and when so displayed shall exempt the holder thereof from parking meter fees only during those hours when the holder is actively engaged in his employment on the eligible premises.
 - (4) The city shall adopt such reasonable rules and regulations as may be necessary to administer and to enforce this subsection.
 - (5) To be eligible to obtain a parking permit in accord with this subsection, the applicant shall furnish the required documents listed in Sec. 82-2(c).
 - (6) Any owner or his agent who permits use of the parking permits authorized in this subsection in violation of this subsection or in violation of any administrative rules or regulations shall be denied eligibility to purchase such permits for a period of one year following a finding of such violation, after hearing before the city manager.
- (d) “M” Hang Tag Permits for watersport businesses at Merry Pier. Operators of commercial watersports business, who possess a current and valid occupational license for such business at the Merry Pier, may purchase one-day parking permits from the city for resale at the same price to their legitimate customers. The cost of the permits shall be established by resolution of the city commission and is listed in appendix A to this Code. Proper display of such permit will only exempt the permit holder from payment of parking meter fees in Pass-a-Grille when engaged in a commercial watersport through a vendor at the Merry Pier for the

date which appears on the face of the permit. The parking permit must be properly displayed.

- (e) “E” Hang Tag Permits for Gulfwinds Condominium, Friendly Native Condominium and Ramar Apartments and Starlight Towers Condominium. Parking permits for Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments and Starlight Towers Condominium shall be obtained as follows:

- (1) Issuance of permits shall be subject to the following:

a. The record title owner of a condominium unit at the Gulfwinds Condominium or Friendly Native Condominium or the lessee under written lease with a term of not less than one year for a unit at the Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments, or Starlite Towers Condominium may purchase one permit per each bedroom of the unit exempting the holder thereof from the payment of parking meter fees within the Upham Beach Area and shall allow the holder to park within spaces marked “B permit parking only” anywhere within the Upham Beach area, defined as the following: 6700-6900 Sunset Way; 6700-7000 Beach Plaza; 67th, 68th, 69th & 70th Avenues.

- (2) The record title owner of a unit entitled to issuance of permits under this subsection may purchase permits at a cost established by resolution of the city commission and listed in appendix A to this Code.

- (3) The holder of a permit shall allow it to be used only by himself or by his bona fide guests.

- (4) Permits shall be valid for the period from January 1 through December 31 of each year. The purchase price shall not be prorated.

- (5) The city may adopt reasonable rules and regulations deemed necessary for the administration and the enforcement of this subsection.

- (6) The parking spaces which are marked 'B permit parking only' shall be restricted to the use by appropriate holders of the permits issued under this subsection between the hours of 8:00 a.m. and 8:00 p.m. every day.

- (7) Any person who violates this subsection shall be penalized pursuant to section 1-14 relating to violations of city ordinances and relating to violations of persons illegally parked. Additionally, vehicles improperly parked may be towed and stored at the expense of the owner.

- (f) “B” Hang Tag Permits for Pass-a-Grille businesses: Business owners with valid occupational licenses in the Pass-a-Grille area will be permitted to purchase two hang tag permits per year. These permits will be used by patrons of the businesses only during actual business hours. Fees for such permits are provided for in Appendix A Fee Schedule.

SECTION 5. Sections 82-244 and 82-245 of the Code of Ordinances are added as follows:

Sec. 82-244. – “D” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137(a-d), generally described as the residential side streets in Pass-a-Grille and the surrounding area.
 - (1) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “D” street as defined in Sec. 82-137(a-d) shall be allowed to purchase a “D” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) Each dwelling shall also be allowed to purchase two temporary “D” hang tags per month for their visitors, not to exceed 3 consecutive months.
 - (3) “D” hang tags shall be valid from the date of purchase to the same date of the next succeeding month, and shall not be purchased more than three months in advance. The date of purchase shall be plainly stamped on each permit.
 - (4) “D” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.

Sec. 82-245. – “C” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137(v), generally described as the residential side streets on East Maritana Drive and Casablanca Avenue between 37th Avenue and Pinellas Bayway.
- (b) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “C” street as defined in Sec. 82-137(v) shall be allowed to purchase a “C” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
- (c) “C” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.

SECTION 6. This Ordinance shall be published in accordance with the requirements of law.

SECTION 7. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED ON FIRST READING _____, a.d. 2016

PASSED ON SECOND AND FINAL READING _____, a.d. 2016

Maria Lowe, MAYOR

FIRST READING: _____
PUBLISHED: _____
SECOND READING: _____
PUBLISHED: _____

	St. Pete Beach City Commission 155 Corey Avenue St. Pete Beach, FL 33706 727-367-2735
4/12/2016	
Item Number Ordinance #2016-04 Type of Application Amendment to Chapter 82 of the Code of Ordinances Applicant City of St. Pete Beach Location City wide Project Planner(s) Jennifer Bryla, AICP, Chelsey Weldon Requested Action Approval of Ordinance 2016-04 on first reading and place on the April 12th agenda for adoption Staff Recommendation Approval Planning Board Heard Ord 2016-04 on Feb. 16, 2016. Recommended approval with changes outlined (4-0)	ITEM SUMMARY: The City Commission has directed staff to evaluate the City's parking Ordinance (Chapter 82 of the Code of Ordinances) in an effort to: 1) More clearly define the different types of parking permits issued by the City; 2) Simplify the posted times of restricted parking areas; and 3) Add application submittal requirements. All posted parking signs are proposed to be changed to require permits or payment of meters from 8am-8pm except for the "B" non-metered residential streets, which will remain as they are, which is generally 9-5 pm as well as the "D" permit signs that indicate times for on-street parking. Exhibit B which was originally adopted as a component of Ordinance 84-38 and 2009-28, outlines the number of "A" hang tags are permitted per residence along Gulf Way to mitigate for the lack of available space on their property or along a side street. The table expresses the maximum number of "A" parking permits each property may purchase per year. The Ordinance presents an updated number to reflect the current number of units that the Camelot Apartments has—an increase from 20 to 24 units. This will permit them to purchase up to 24 annual parking permits. 

City Commission

First Reading (3/8/2016)

Final Reading (4/12/2016)

Findings

In its review of the proposed application, staff has determined:

1. The proposed application is consistent with Florida Statutes.
2. The proposed application is consistent with the Pinellas County Regional Policy Plan.
3. The proposed application is consistent with the St. Pete Beach Comprehensive Plan.
4. The proposed application is consistent with the intent of the LDC.

Numerous scriveners' errors were also corrected throughout the chapter, including references to the police department and grammatical mistakes as well as roadway spelling mistakes.

There are many different types of parking permits administered through the Community Development Department, all valid for different areas of the city and sold at different costs. While the fee schedule in the Code of Ordinances does give names to some of these parking permits, differentiating them from each other, Chapter 82 does not. This condition has made it very difficult to implement and has relied on opinion in the past to administer the parking permits. Staff has gone through and assigned names to each type of parking permit, and expanded upon descriptions where necessary for clarity sake.

A new section was added for the "D" parking permit—a decal and hangtag that the City has issued for a defined period of time to residents of "D" streets as defined in Chapter 82, but without any specific regulations in the Code. In this new section, any person who can furnish proof of residency and vehicle registration for a residence on a "D" street (generally the side streets in Pass-a-Grille) may purchase a decal. This is an increase from the informal procedure of only issuing (2) permits per household, as is the maximum for the "B" decals.

Finally, a new annual parking permit was added—the new "C" parking decal will replace the "D" parking decal in the area generally described as the portion of the Don CeSar Place subdivision, generally east of Gulf Boulevard from 37th ave to the western end of Pinellas Bayway. This permit is intended to alleviate the lack of parking in for homeowners in this area. The permit will restrict parking to one side of the street, as is the case now and will be valid in the above-stated area only.

PUBLIC NOTICE:

Notice of public hearing has been advertised as required by State Statutes. As of the date of this report, no oral or written comments have been received. Oral and written comments may be presented at the public hearing.

COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The proposed Ordinance is consistent with the City of St. Pete Beach's Comprehensive Plan, which does not regulate parking or give any guidance as to how parking regulations should be formulated.

The proposed Ordinance is also consistent with the Land Development Code, which regulates the form and location of parking spaces, lots, and structures. Specifically, Division 23 (Off-Street Parking and Loading) provides dimensional standards for parking areas, as well as dictates the number of parking spaces required for each type of use. The "A" parking permit study which resulted in the attached table was predicated on earlier regulations, prior to establishment of Division 23. However, the goal of the "A" permits as well as the others is still to provide enough parking spaces for both businesses and residences. For example, each residence (house, condo,

apartment, etc.) must have (2) parking spaces per unit, and each transient accommodation unit (timeshare, hotel, motel, etc.) must have (1) space per unit, plus (1) additional for every (10) units.

The goal of Chapter 82 of the Code of Ordinances is to compliment the regulations provided in Division 23 of the Land Development Code to make sure that business, residences, and visitors all have a place to park without conflict.

PLANNING BOARD:

The Planning Board heard Ordinance 2016-04 on February 16th, 2016 and provided a recommendation of approval to the City Commission (4-0) for the following items within the Ordinance: approval of the definitions; approval of the requirements for permits; approval of the signage changes; exclusion of any permit type changes; and a requirement to perform a complete study of parking issues in regard to permits throughout the city. The motion was seconded by Member Lehman and unanimously approved by a roll call vote (4 yes – 0 no).

STAFF RECOMMENDATION:

Upon review of the above guiding documents, staff recommends approval of Ordinance 2016-04 as presented.

Attachments

- (1) Exhibit A** – Ordinance 2016-04
- (2) Exhibit B** – Staff Report
- (3) Exhibit C** – Amended Table Establishing “A” Permits “Exhibit B”
- (4) Exhibit D** – Planning Board Minutes
- (5) Exhibit E** – Chapter 82, Code of Ordinances with edits indicated in underline strikethrough

Exhibit B

Exhibit C Ordinance 2016-04

Address	Off Street Parking	Number of Units	A Permits Existing Ord.84-38	A Permits Amended Ord 2009-
101 Gulf Way	2	Single House	0	2
105 Gulf Way	2	Single House	0	2
106 Gulf Way	2	Single House	0	2
201 Gulf Way	2	House/Apt.	1	2
203 Gulf Way	2	House/Apt.	1	2
205 Gulf Way	3	House/Apt.	0	2
207 Gulf Way	2	Single House	0	2
209 Gulf Way	0	Single House	2	2
301 Gulf Way	0	House/Apt.	3	3
303 Gulf Way	1	Single House	1	2
305 Gulf Way	2	Two Apts.	2	2
309 Gulf Way	1	Single House	1	2
401 Gulf Way	0	2Apts. 12 Rms.	14	14
403 Gulf Way	32	22 Apts.	0	2
555 Gulf Way	20	14 Apts.	0	2
601 Gulf Way	0	Single House	0	2
603 Gulf Way	4	6Apts./House	4	4
605 Gulf Way	2	1Apt./House	2	2
609 Gulf Way	2	Single House	0	2
611 Gulf Way	0	Single House	0	2
701 Gulf Way	0	11Apts.	11	11
709 Gulf Way	0	3Apts. 32 Rooms	35	35
801 Gulf way	0	2 Apts. 38 Rooms	40	40
1001 Gulf Way	2	Single House	0	2
1003 Gulf Way	1	Single House	1	2
1005 Gulf way	1	House/Apt.	2	2
1007 Gulf Way	2	6 Apts.	4	4
1009 Gulf Way	2	2 Apts.	2	2
1103 Gulf way	0	House/3 Apts.	5	5
1105 Gulf Way	4	4 Apts.	0	2
1107 Gulf Way	2	2Apts. 4 Rms.	4	4
1109 Gulf Way	0	Single House	0	2
1205 Gulf Way	2	2 Apts.	0	2
1207 Gulf Way	2	Single House	0	2
1301 Gulf Way	7	9 Apts.	2	2
1307 Gulf Way	12	14 Apts.	2	2

Exhibit B

1401 Gulf Way	9	12 Apts.	3	3
1405 Gulf Way	2	Single House/Apt.	1	2
110 15th Face GW	0	Single House	0	2
1605 Gulf Way	5	4 Apts.	0	2
1615 Gulf Way	0	Single House	0	2
1701 Gulf Way	6	6 Apts.	0	2
1705 Gulf Way	6	4 Apts.	0	2
1801 Gulf Way	20	20 Apts.	0	24
1901 Gulf Way	1	Single House	0	2
1903 Gulf Way	5	5 Apts.	0	2
1905 Gulf Way	5	4 Apts.	0	2
1907 Gulf Way	5	4 Apts.	0	2
2001 Gulf Way	2	Single House	0	2
2003 Gulf Way	2	Single House	0	2
2005 Gulf Way	0	Single House	0	2
110 21st. Face GW	0	Single House	0	2
2101 Gulf Way	12	5 Apts.	0	2
2103 Gulf Way	0	Single House	0	2
2105 Gulf Way	2	Single House	0	2
2107 Gulf Way	0	Single House	0	2
TOTAL			143	215 237

PLANNING BOARD MINUTES

FEBRUARY 16, 2016

4:00 P.M.

Ms. Welden stated at 4:00 p.m. that a quorum was not present and the meeting would be delayed until 4:30 p.m. The meeting went into recess at this time.

The meeting reconvened at 4:30 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Ward Friszolowski, Vice Chairman
Michael Lehman, Member
Jack Ohlhaber, Member
Ron Holehouse, Member

ABSENT:

Tiffany Secka, Chairwoman (excused)

ALSO PRESENT:

Andrew Dickman, City Attorney
Jennifer Bryla, Community Development Director (entered meeting at 4:34 p.m.)
Chelsey S. Welden, Planner II
Mary Jo Murphy, Deputy City Clerk

1. Changes to the Agenda

Ms. Welden, Planner II, announced that Ms. Bryla, Community Development Director, had requested to pull Item 3. b., "Planning Board Procedures," from the agenda. City Attorney Dickman requested that if the board members had any suggestions, additions, or deletions to the Planning Board Procedures, to please forward them to Chelsey Welden. City Attorney Dickman stated he would work with Staff to edit the Planning Board Procedures and will present them to be finalized during the next meeting.

Vice Chairman Friszolowski noted the following actions to take place:

- Item 3. b., "Planning Board Procedures," will be pulled from the agenda
- Item 3. c., "Ordinance 2016-04," will become 3 b.
- Item 3. d., "Project Updates," will become 3 c.

2. Audience Comments

There were no audience comments.

3. Agenda Items

a. Minutes for Acceptance: January 19, 2016

Member Holehouse made a motion to accept the 1/19/16 minutes. The motion was seconded by Member Ohlhaber and unanimously approved by a roll call vote (4 yeses – 0 nos).

b. Planning Board Procedures

This item was pulled from the agenda. Please refer to Item 1, “Changes to the Agenda.”

b. Ordinance 2016-04 - an ordinance amending Chapter 82 – Code of Ordinances

Ms. Welden, Planner II, updated the Planning Board in regard to Staff’s direction from the City Commission to perform the following actions in regard to Ordinance 2016-04:

- posted parking signs: make consistent throughout the city
- permits: create application requirements
- parking ordinance: define types of parking permits and assign letter decals

Vice Chairman Friszolowski suggested putting forth a good will effort by sending Ordinance 2016-04 to the president of associations in the Don Cesar and Vina area.

Member Holehouse suggested researching cutting the curb and installing parking meters on the side streets for businesses on the 60 block. Ms. Bryla agreed that it should be examined.

Member Holehouse stated that the special event permits are creating parking problems for residents. Ms. Bryla informed the board that the special event permits are issued from the Recreation Department. Ms. Bryla stated she had a discussion with the Recreation Department Director, Jennifer McMahon, in regard to the special event permits and the problem has been recognized. Ms. Bryla was informed that steps are being put into place to include listing if outside entities will be present during the special event permits application process. Member Holehouse suggested there should be a designated space for commercial parking which would not be in front of residential homes. Ms. Bryla stated she would relay the suggestion to Ms. McMahon.

Ms. Welden reviewed Ordinance 2009-28, Exhibit B, with the board. Member Holehouse informed the board that some residential homes on Gulf Way have a side street address opposed to a Gulf Way address. Therefore, Exhibit B does not reflect a

complete list of addresses. Ms. Welden stated Staff would research the properties.

Member Ohlhaber asked if the people issuing the tickets were notified. Ms. Welden stated she did not know if they were conferred with but stated Staff would pass the information along for them to review.

In regard to Page 4, Sec. 82-61 Speed Limits, (b), Vice Chairman Friszolowski recommended and stated the following:

- Eliminate the following three streets listed in the table for 20 miles an hour: 44th Avenue, 41st Avenue and Belle Vista Drive. Vice Chairman Friszolowski suggested changing the streets to 25 miles per hour. Ms Bryla stated she would make that recommendation to the City Commission.
- Vice Chairman Friszolowski also commented there is an error as to the name of "Belle Vista Drive" in the table. The correct name should be: Belle Vista Drive East.

In regard to the above-mentioned policy decision, City Attorney Dickman advised Vice Chairman Friszolowski that Staff will research it to see if it is geographically accurate and for Vice Chairman Friszolowski to speak with his Commissioner about the speed limits being re-opened for review.

Member Holehouse posed a question to Ms. Welden as to the following: Page 14 (p), "Pass-A-Grille Way between 7th Avenue and 12th Avenue unless otherwise posted..." Member Holehouse inquired why it was cut off at 7th and 12th. Ms. Welden replied that she would research this issue.

Member Holehouse suggested adding more parking on 9th and 10th near the park. Ms. Bryla responded that Staff would relay his suggestion to the City Commission.

Member Ohlhaber made a motion to recommend approval of Ordinance 2016-04 to the City Commission with the technical changes being made.

Member Ohlhaber withdrew his motion.

Member Lehman made a motion to recommend approval of Ordinance 2016-04 with the removal of the section in regard to "C" stickers until a time that communities, through neighborhood associations, can respond, and to make any technical changes. The motion was seconded by Member Ohlhaber.

At 5:35 p.m. Ms. Welden exited the meeting.

Member Lehman withdrew his motion, and Member Ohlhaber withdrew his second.

Member Ohlhaber made a motion to approve Ordinance 2016-04 with the approval of the definitions; approval of the requirements for permits; approval of the signage; an exception to the permit types; and a requirement to perform a complete study of parking issues in regard to

permits throughout the city. The motion was seconded by Member Lehman and unanimously approved by a roll call vote (4 yeses – 0 nos).

Vice Chairman Friszolowski suggested for the board to review Section 39 individually and to decide whether to address certain issues. Ms. Bryla responded affirmatively.

In regard to Boca Ciega Drive's streetscape, Member Lehman requested the opportunity to have a conversation about the possibilities for the street before it goes to the planning of design. Ms. Bryla stated she would speak with the City Manager and the Public Services Director in regard to Mr. Lehman's request. City Attorney Dickman replied to Member Lehman that he would research and interpret the provisions and then advise the Planning Board about their purview and scope of duty in regard to the issue.

After board discussion in regard to powers and duties required of the Planning Board, City Attorney Dickman advised the Board that he would work with Ms. Bryla before the next meeting to determine the powers and duties assigned to the Planning Board.

c. Project Updates – Pass-A-Grille design work

Member Holehouse exited the meeting at 6:15 p.m.

Ms. Bryla informed the board members that a joint meeting on March 15, 2016 at 3:30 p.m. was agreeable with the Historic Preservation Board. There was board discussion as to having the joint meeting on March 3, 2016 at 3:30 p.m. Ms. Bryla stated she would confirm the date with the Historic Preservation Board, the consultant and the Clerk and would contact the board members as to the date.

4. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 6:21 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Ward Friszolowski, Vice Chairman

Minutes approved on: _____

Chapter 82 - TRAFFIC AND VEHICLES^[1]

Footnotes:

--- (1) ---

Cross reference— Consumption or possession of open containers of alcoholic beverages in public places prohibited, § 6-5; identification of commercial vehicles required, § 26-2; emergency procedures during hurricanes, § 34-1; distribution of handbills restricted, § 46-1; noise regulations, § 46-131 et seq.; motor vehicle noise restrictions, § 46-147; skateboards and motorized vehicles restrictions in parks and recreation areas, § 58-6; streets and sidewalks, ch. 74; skateboarding prohibited, § 74-1; vehicles for hire, ch. 90; permits required for vehicles on the beach, § 94-73.

State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166; Florida Uniform Traffic Control Law, F.S. ch. 316; restrictions on power of municipality to regulate traffic, F.S. §§ 316.006—316.008.

ARTICLE I. - IN GENERAL

Sec. 82-1. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commuter vehicle means a motor vehicle parked in a residential area by a person who is not a resident of the designated residential area.

Controlled parking residential area means a contiguous or nearly contiguous area containing streets or parts thereof primarily abutted by property which has a specific residential zone designation on the official zoning map and which is designated for restricted residential parking by the city manager, pursuant to criteria and procedures established in this division.

Dwelling means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for lease; and containing independent kitchen, sanitary and sleeping facilities. A dwelling does not include motels, hotels, and other transient accommodation uses.

Resident means a person who owns or leases real property for at least (6) six consecutive months within the city, as evidenced by a form listed in Sec. 82-2.

Residential parking permit means a special permit issued under this division for the privilege of parking on a street designated as a "controlled parking residential area."

Cross reference— Definitions generally, § 1-2.

Sec. 82-2. Requirements for issuance of parking permits.

The following shall be required at the time of issuance:

- (a) A valid driver's license.
- (b) Proof of residency in one of the following forms shall be required for all annual parking permits:
 - (1) Voter Registration Card
 - (2) Real Estate Tax Bill

- (3) Lease Agreement for a period of at least 6 consecutive months within the year of issuance
 - (4) Driver's License with current address
 - (5) Utility Bill with current address
 - (6) Three pieces of mail with current address
- (c) Proof of employment in one of the following forms shall be required for all annual parking permits for employees and owners of businesses in accordance with Sec. 82-202:
- (1) A current paycheck stub with the applicant's name,
 - (2) A letter signed by the owner of the business stating the applicant is currently employed at that location.
 - (3) A current business tax license issued by the City of St. Pete Beach that contains the applicant's name.
- (d) In the event that a resident cannot produce any of the above documents, the resident will immediately be referred to a supervisor who will assist the resident by looking for other possible ways to provide satisfactory proof of residency that may be approved by the Community Development Director.
- (e) Current vehicle registration shall also be required for issuance of all annual parking permits. Hang tags shall be exempt from this requirement.
- (f) Payment in accordance with Appendix A of this Code.

Sec. 82-3. - Penalty.

Except as otherwise provided, anyone violating the provisions of this chapter shall be punished according to the penalties set out in F.S. § 316.655.

(Code 1960, § 24-1; Ord. No. 216, § 10; Code 1983, § 21-4)

Sec. 82-4. - Unattended motor vehicles.

No person driving or in charge of any motor vehicle, except a licensed delivery truck or other delivery vehicle making deliveries, shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key. No vehicle shall be permitted to stand unattended upon any perceptible grade without stopping the engine and effectively setting the brake thereon.

(Code 1960, § 24-28(a); Ord. No. 216, § 4; Ord. No. 275, § 1; Ord. No. 399, § 2; Code 1983, § 21-22)

State Law reference— Similar provisions, F.S. § 316.1975.

Secs. 82-5—82-29. - Reserved.

ARTICLE II. - SPECIFIC STREET REGULATIONS^[2]

Footnotes:

--- (2) ---

Cross reference— Streets and sidewalks, ch. 74.

DIVISION 1. - GENERALLY

Sec. 82-30. - Traffic control devices.

All traffic control devices erected and in place on all city streets within the city as of April 1, 2006 shall be deemed valid for all purposes in the location where the same have been erected, and the violation of any such device by any person shall be deemed a violation of the applicable state control law pertaining to such device.

(Ord. No. 06-14, § 1, 4-25-06)

Sec. 82-31. - One way streets.

The following streets, roadways and avenues shall be designated as one way.

- (1) East Maritana Drive between 35th Avenue and 36th Avenue.
- (2) 22nd Avenue west bound between Gulf Way and Pass-A-Grille Way.
- (3) 16th Avenue west bound between Gulf Way and Pass-A-Grille Way.
- (4) 15th Avenue east bound between Gulf Way and Pass-A-Grille Way.
- (5) 9th Avenue east bound between Gulf Way and Pass-A-Grille Way.
- (6) El Centro south bound between 37th Avenue and 35th Avenue.
- (7) 10th Avenue westbound between Pass-A-Grille Way and Gulf Way.
- (8) Alley between 16th Avenue and 17th Avenue.

(Ord. No. 98-76, § 1, 12-15-98; Ord. No. 99-40, § 1, 8-3-99; Ord. No. 06-16, § 1, 5-9-06; Ord. No. 10-06, § 1, 5-25-10; Ord. No. 10-30, § 1, 9-28-10)

Secs. 82-32—82-60. - Reserved.

DIVISION 2. - SPEED LIMITS^[3]

Footnotes:

--- (3) ---

Editor's note—Ord. No. 02-08, § 1, adopted Feb. 19, 2002, repealed former §§ 82-61—82-65, which pertained to posting; fifteen miles per hour; twenty miles per hour; twenty-five miles per hour; thirty-five miles per hour. Section 2 of said ordinance enacted provisions designated as § 82-61 to read as herein set out. See the Code Comparative Table.

State Law reference— Speed limits generally, F.S. §§ 316.183—316.1906; municipal authority as to speed limits, F.S. §§ 316.007, 316.008(1)(j), 316.189.

Sec. 82-61. - Speed limits.

- (a) The applicable speed limit for all city streets within the city shall be 30 miles per hour for all commercial areas and 25 miles per hour for all residential areas, unless otherwise provided by ordinance.
- (b) Notwithstanding subsection (a) hereof, the following speed limits shall be applicable on the following city streets:

20 mph:	
Gulf Way	From 1st Avenue to 22nd Avenue
44th Avenue	From Gulf Boulevard to Poinsettia Drive
41st Avenue	From Belle Vista Drive to Poinsettia Drive
Belle Vista Drive	From 39th Avenue to Oleander Way

- (c) The city manager shall post appropriate speed limit signs that meet the requirements of state law for all speed limits established in this section. All speed limits in effect at the time of adoption of this section shall remain effective unless amended hereby or hereafter by ordinance. It shall be unlawful for any person to exceed any speed limit established under this section.

(Ord. No. 02-08, § 2, 2-19-02; Ord. No. 06-14, § 2, 4-25-06)

Secs. 82-62—82-94. - Reserved.

DIVISION 3. - WEIGHT LIMITS

Sec. 82-95. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bus means any vehicle designed or operated for the transportation of persons, other than an ordinary automobile, station wagon, camper, motor home, truck as defined in this section or van with a capacity of carrying persons, rather than property, provided, further, that the carrying of luggage is not consistent with this definition.

Bus route means certain streets, as designated in this division, over and along which buses shall operate within the city during designated hours.

Deviating truck means any truck in the restricted vehicle classification which travels over a street other than a designated truck route.

Truck means any vehicle designed for the transportation of property in the following classifications:

- (1) Unrestricted vehicles (light/medium trucks) means pickups, vans and panels with a maximum length of 21 feet and a maximum gross vehicle weight (GVW) of 8,000 pounds and single-unit, single-rear-axle trucks with a maximum length of 35 feet and a maximum GVW of 35,000 pounds.
- (2) Restricted vehicles (heavy trucks) means single-unit, multi-rear-axle trucks with a maximum length of 40 feet and a maximum GVW of 60,000 pounds, including dumptrucks and concrete mixers, and all tractor-trailer and semitrailer combinations with a maximum length of 55 feet and a maximum GVW of 80,000 pounds.

Truck route means certain streets, as designated in this division, over and along which trucks in the restricted vehicle classification shall operate within the city during designated hours.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(a))

Cross reference— Definitions generally, § 1-2.

Sec. 82-96. - Truck routes and bus routes established; map.

There is established within the city a system of truck routes and bus routes as shown on a map on file in the office of the city clerk. Streets indicated as truck routes on the map, and no others, shall be used for truck traffic. The streets indicated as bus routes on the map, and no others, shall be used for bus traffic.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(b))

Sec. 82-97. - Posting of truck and bus routes; signs.

For the purpose of this division, the city manager shall cause truck routes to be clearly posted and shall cause bus routes to be clearly posted. The city manager is authorized to install appropriate signs along designated roadways to control truck operations and to control bus operations, in accordance with this division. Signs will conform to those shown in the Manual of Uniform Traffic Control Devices, and their use shall be as designated therein.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(f))

Sec. 82-98. - Enforcement; penalties.

Any person who shall violate this division shall be subject, upon conviction, to fine or imprisonment as provided in section 1-14. Such moneys, excluding those previously committed, shall be held in trust by the city for use in signing and for physical improvements to the city and to maintain facilities on the truck route system and on the bus route system.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(g))

Sec. 82-99. - Observance of truck routes and bus routes; exceptions.

- (a) All buses and all trucks in the restricted vehicles classification within the city shall be operated only over and along the bus routes and truck routes established pursuant to section 82-96.
- (b) This division shall not prohibit operation on streets of destination if authorized truck routes and bus routes are used until reaching the intersection nearest the destination point and such destination is proven upon request through possession of a valid and current delivery ticket or other dispatch order.
- (c) Authorized emergency vehicles are exempt from this division.
- (d) Detoured trucks on an officially established detour, if such trucks could lawfully be operated upon the street for which the detour is established, are exempted from this division.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(c))

Sec. 82-100. - Manner of utilization of bus routes and truck routes.

- (a) Bus traffic and truck traffic of outside origin. Bus traffic and truck traffic of outside origin shall be subject to the following:
 - (1) Inside destination point. All restricted buses and trucks entering the city for a destination point in the city shall proceed only over an established bus or truck route and shall deviate only at the intersection with the street upon which the traffic is permitted, nearest the destination point. Upon leaving the destination point, a deviating truck or bus shall return to the truck route by the shortest permissible route.
 - (2) Multiple inside destination points. All restricted buses and restricted trucks entering the city for multiple destination points shall proceed only over established bus routes or truck routes and shall deviate only at the intersection with the street upon which bus traffic or truck traffic is permitted, nearest the first destination point. Upon leaving the first destination point, a deviating truck or deviating bus shall proceed to other destination points by the shortest direction and only over truck routes or bus routes. Upon leaving the last destination point, a deviating truck or deviating bus shall return to the truck route or the bus route by the shortest permissible route.
- (b) Truck traffic or bus traffic of inside origin. Truck traffic or bus traffic of inside origin shall be subject to the following:
 - (1) Outside destination point. All restricted trucks or restricted buses on a trip originating in the city and travelling in the city for a destination point outside the city shall proceed to the nearest intersection of a designated bus route or a designated truck route and travel from that point to the city limits only over designated truck routes or designated bus routes.
 - (2) Inside designated points. All restricted buses or restricted trucks on a trip originating in the city and traveling in the city for destination points in the city shall proceed only over designated truck routes or designated bus routes.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(d))

Sec. 82-101. - Hours of operation; time of day restrictions.

Trucks and buses shall be able to travel upon truck routes or bus routes at all hours of the day unless duly authorized signs are installed limiting the hours of use on a particular street or portion of a street for either buses or trucks. Those streets which are designated as partially restricted bus routes or

truck routes shall be off limits to trucks or buses in the restricted classification during the hours of 6:00 p.m. to 6:00 a.m. Any restricted truck or restricted bus attempting to utilize a partially restricted truck route or partially restricted bus route during a restricted time period shall be regarded as a deviating truck or as a deviating bus.

(Code 1960, § 24-7; Ord. No. 273, §§ 1—4; Ord. No. 294, § 1; Ord. No. 313, §§ 1—3; Ord. No. 82-49, § 1; Code 1983, § 21-3(e))

Secs. 82-102—82-130. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING^[4]

Footnotes:

--- (4) ---

Cross reference— Streets and sidewalks, ch. 74.

State Law reference— Municipal authority relative to stopping, standing and parking, F.S. §§ 316.007, 316.008(1)(a); stopping, standing and parking generally, F.S. §§ 316.1945—316.1967.

DIVISION 1. - GENERALLY

Sec. 82-131. - Parking at Don Vista Community Center.

- (a) The parking lot at the Don Vista Community Center shall be used for parking only by permit issued to persons who are using the community center. Persons not having a permit and using the community center are prohibited from parking in the center's parking lot.
- (b) The city shall post signs which provide, in some manner or form, that the parking lot at the Don Vista Community Center is reserved for parking for a vehicle whose operator has a permit and is using the community center. The signs may also provide for no parking for persons not using the community center.

(Code 1960, § 24-35; Ord. No. 341, §§ 1—3; Code 1983, § 21-21)

Sec. 82-132. - Special restrictions for buses and taxicabs.

The operator of a bus, including a tour bus of any kind, nature or description, wherein passengers are carried through the city or a taxicab shall not stop, stand or park upon any street in any district at any place or at any time other than at a bus stop or taxicab stand, respectively. However, this section shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other stopping, standing or parking regulations at any place for the purpose of and while engaging in the expeditious unloading or loading of passengers.

(Code 1960, § 24-28(b); Ord. No. 216, § 4; Ord. No. 275, § 1; Ord. No. 399, § 2; Code 1983, § 21-23)

Sec. 82-133. - Parking on unimproved property.

- (a) It shall be unlawful for any person to park any motor vehicle on the unimproved property of another person where such property has been posted with a notice prohibiting parking. Any person who parks any motor vehicle on the unimproved property of another person shall have the burden of proving that permission or consent therefor has been granted, either by the owner of the property or by the city manager.
- (b) Penalties for violation of subsection (a) of this section shall be assessed in accordance with section 1-14.

(Code 1983, § 21-29; Ord. No. 84-35, §§ 1, 2, 7-17-84)

Sec. 82-134. - Parking within marked parking stalls.

- (a) Parking restrictions. The following shall apply wherever the city has provided marked parking stalls, either upon city streets or upon city-maintained parking areas, except as provided in subsection (b) of this section:
 - (1) All vehicles shall only be permitted to park within the marked stalls which have been provided on such streets or parking areas.
 - (2) No vehicle shall be entitled to be parked in more than one stall at any one time, unless its overall length is greater than the length of one stall.
 - (3) A vehicle must be parked with all of its wheels inside the parked stall unless, due to overall length as provided in subsection (a)(2) of this section, the vehicle's overall length is greater than the overall length of the provided stall.
 - (4) Only two vehicles shall be parked within a single stall at any one time.
 - a. When the stall is metered parking, only a single meter fee is required; however, both occupants shall be responsible to ensure that the meter fee is paid.
 - b. This subsection shall apply to both parallel and diagonal parking stalls.
 - (5) The city manager may waive the restrictions of this section in order to allow permitted special events or under such other circumstances as are deemed appropriate in the sole discretion of the city manager.
- (b) Exceptions. The city maintains a municipal boatramp situated at West Maritana and Casablanca, in the area between 30th and 35th Avenues, where the city has marked single vehicle parking stalls and installed metered parking. The restrictions provided in subsection (a) of this section shall not be applicable to metered stalls situated in this area for vehicles towing an attached boat trailer. One vehicle with attached boat trailer may occupy two marked parking stalls and pay only a single meter fee subject to the following:
 - (1) The vehicle and trailer are physically connected in the manner normally used for towing.
 - (2) The vehicle and the trailer occupy no more than two adjacent parking stalls.
 - (3) The regular meter fee shall be paid into the meter installed where the motor vehicle is parked. When the owner or operator of a motor vehicle with a boat trailer in tow complies with subsections (b)(1) and (2) of this section, no additional simultaneous meter fee would be required for the meter serving the stall occupied by the boat trailer.
 - (4) This exception shall apply only to parallel parking stalls.

(Code 1983, § 21-30; Ord. No. 84-60, §§ 1, 2, 12-18-84; Ord. No. 90-11, § 1, 6-19-90)

Sec. 82-135. - Parking in commercial district.

- (a) For the purpose of this section, the commercial business area is defined as Eighth Avenue in its entirety, east to west.
- (b) It shall be unlawful to park any vehicle between the hours of 8:00 a.m. and 8:00 p.m. on any day in any commercial business area for a period of longer than two hours where signs are officially posted. However, the city manager shall be authorized to further limit, restrict or prohibit parking within this area by the posting of official signs. The changing of the parked position of a vehicle from one parking space directly to another parking space within either side of the same street or roadway shall be deemed one continuous parking period. Vehicles displaying a valid "D" pursuant to section 82-239 of this chapter, city code permits are exempt from the limit of two hours.
- (c) The parking of any vehicle longer than the legal period of time as posted on official signs shall be unlawful and a violation of this section. No person shall cause, allow, permit or suffer any motor vehicle to be parked beyond the lawful or legal period of time permitted by subsection (a) of this section.

(Code 1983, § 21-31; Ord. No. 87-25, § 1, 7-21-87; Ord. No. 12-08, § 1, 5-22-12)

Sec. 82-136. - Parking of boats, campers and recreational and commercial vehicles on city rights-of-way.

The parking of boats, trailers, campers, recreational vehicles, commercial vehicles and trucks in excess of one ton cab weight shall be prohibited on any city rights-of-way between the hours of 12:00 midnight and 6:00 a.m. The city manager may waive this prohibition on a temporary basis where it is determined that such waiver is necessary.

(Code 1983, § 21-31; Ord. No. 95-34, § 1, 8-15-95; Ord. No. 03-14, § 1, 8-19-03)

Sec. 82-137. - Posted restricted parking zones.

- (a) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every on one side of the street, as designated on the city parking maps:

1st Avenue between Gulf Way and Pass A Grille Way;

12th Avenue thru 14th Avenue between Gulf Way and Pass A Grille Way;

17th Avenue thru 20th Avenue between Gulf way and Pass A Grille Way;

22nd Avenue between Gulf Way and Pass A Grille Way;

25th Avenue between Sunset Way and Pass A Grille Way;

27th Avenue thru 30th Avenue between Sunset way and Pass A Grille Way;

37th Avenue between Gulf Blvd. and El Centro;

Sunset Way between 23rd Avenue and 24th Avenue;

Sunset Way between 28th Avenue and 30th Avenue;

1st Avenue West between 31st Avenue and 32nd Avenue;

32nd Avenue between Sunset Way and the beach;

Casablanca Avenue at Cabrillo Avenue;

West Maritana Drive between Alahambra Street and South Maritana Drive;

South Maritana Drive between West Maritana Drive and Granada Street;

Alahambra Street between West Maritana and West Debazan Avenue;

West Debazen Avenue between East Debazen and South Maritana;

Debazen Avenue between Casablanca and Alahambra Street;

East Debazen between Alahambra Street and South Debazen Avenue;

Alfanzo Street between West Maritana Drive and West Debazen Avenue;

Granada Street between East Debazen Avenue and East Maritana Drive;

Barcelona Street between Debazen Avenue and East Maritana Drive;

Beach Plaza between 70th Avenue and 71st Avenue; and

Pass-A-Grille Way between 7th Avenue and 3rd Avenue;

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (b) The following city streets shall require a "D" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:

2nd Avenue to 5th Avenue;

Sunset Way between 24th Avenue and 25th Avenue;

Sunset Way between 22nd Avenue and 23rd Avenue;

32nd Avenue between 1st Street West and the beach; and

One parking space on the west side of Casablanca Avenue at Cabrillo Avenue.

- (c) The following city streets shall require a "D" permit for parking at any time every day on one side of the street, as designated on the city parking maps:

10th Avenue between Gulf Way and the alley before Pass-A-Grille Way;

11th Avenue between Gulf Way and Pass-A-Grille Way;

21st Avenue between Gulf Way and Pass-A-Grille Way;

23rd Avenue between Sunset Way and Pass-A-Grille Way; and

4 parking spaces on the south side of West Maritana Drive east of Casablanca Avenue;

36th Avenue between Gulf Boulevard and East Maritana Drive;

Casablanca Avenue between 37th Avenue and Pinellas Bayway;

East Maritana Drive between 37th Avenue and Pinellas Bayway.

- (d) The following city streets shall require a "D" permit for parking at any time every day on each side of the street, as designated on the city parking maps:

6th Avenue between Gulf Way and Pass-A-Grille Way; and

7th Avenue between Gulf Way and Pass-A-Grille Way.

- (e) The following city streets shall require a "B" permit for parking at any time every day on each side of the street, as designated on the city parking maps:

42nd Avenue between Belle Vista Drive and Poinsettia Drive; and

43rd Avenue between Belle Vista Drive and Moody Street.

- (f) The following city streets shall require a "B" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (g) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on one side of the street, as designated on the city parking maps:

67th Avenue between Beach Plaza and Sunset Way; and

70th Avenue between Gulf Boulevard and Sunset Way; and

18 parking spaces on the west side of Beach Plaza between 70th Avenue and 71st Avenue.

- (h) The following city streets shall require an "E" permit for parking from 8:00 a.m. to 8:00 p.m. every day on each side of the street, as designated on the city parking maps:

68th Avenue to 70th Avenue between Beach Plaza and Sunset Way.

Beach Plaza between 70th Avenue and 71st Avenue

- (i) Parking in the locations designated on the following city streets shall be limited to thirty (30) minutes, as designated on the city parking maps:

3 parking spaces on the west side Pass-A-Grille Way south from 9th Avenue;

3 parking spaces on the north side of 10th Avenue west from Pass-A-Grille Way;

1 parking space on the east side of the 800 block of Gulf Way;

1 parking space on the east side of 1300 block of Gulf Way;

1 parking space on the south side of 26th Avenue west of Pass-A-Grille Way;

3 parking spaces on the north side of 32nd Avenue west of Pass-A-Grille Way; and the north side of the Don Vista Center.

- (j) Parking on each side of the following city street shall be limited to two (2) hours, between the hours of 8:00 a.m. and 6:00 p.m. every day, as designated on the city parking maps:

8th Avenue between Gulf Way and Pass-A-Grille Way. Vehicles displaying a valid "D" Permit are exempt from the limit of two hours.

- (k) Parking in the main Don Vista Center parking lot shall be prohibited unless an event is scheduled by the City at the Don Vista Center.

- (l) Parking on the west side of Gulf Way between 9th Avenue and 10th Avenue shall be limited to employees of the public concession stand at the beach.

- (m) Parking on one side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

1st Avenue between Gulf Way and Pass-A-Grille Way;

10th Avenue to 22nd Avenue between Gulf Way and Pass-A-Grille Way;

23rd Avenue to 30th Avenue between Sunset Way and Pass-A-Grille Way;

32nd Avenue between 1st Street West and Pass-A-Grille Way;

El Centro at the Don Vista Center;

West Maritana Drive between Alahambra Street and South Maritana Drive;

South Maritana Drive between West Maritana Drive and Granada Street;

Alahambra Street between West Maritana and West Debazen Avenue;

West Debazen Avenue between East Debazen and South Maritana;

Debazen Avenue between Casablanca and Alahambra Street;

East Debazen between Alahambra Street and South Debazen Avenue;

Alfonzo Street between West Maritana Drive and West Debazen Avenue;

Granada Street between East Debazen Avenue and East Maritana Drive;

Barcelona Street between Debazen Avenue and East Maritana Drive;

Casablanca Avenue between 37th Avenue and Pinellas Bayway;

East Maritana Drive between 37th Avenue and Pinellas Bayway;

Belle Vista Drive between 41st Avenue and Belle Vista Drive East;

Lido Drive between 1st Street East and Plaza Way;

36th Avenue between El Centro and East Maritana Drive;

41st Avenue between Belle Vista Drive and Poinsettia Drive;

46th Avenue between Gulf Boulevard and the east end of Lido Park;

49th Avenue;

51st Avenue between Gulf Boulevard and the beach;

51st Avenue between Gulf Boulevard and the east end;

55th Avenue between Aloha Drive and Leilani Drive;

Boca Ciega Isle Drive at the entrance;

58th Avenue between Gulf Boulevard and 2nd Street East;

64th Avenue between Gulf Winds Drive and 430 64th Avenue;

Gulf Winds Drive between 2nd St. East and 71st Avenue;

64th Avenue to 73rd Avenue between Sunset Way and Gulf Boulevard;
Sunset Way between 23rd Avenue and 24th Avenue;
Sunset Way between 25th Avenue and 26th Avenue;
Sunset Way between 29th Avenue and 30th Avenue;
Sunset Way between 64th Avenue and 67th Avenue;
1st Street West between 31st Avenue and 32nd Avenue;
Casablanca Avenue between 37th Avenue and Cabrillo Avenue;
78th Avenue to 87th Avenue between Blind Pass Road and Boca Ciega Drive; and Corey Circle.

- (n) Parking on each side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

Pass-A-Grille Way between 13th Avenue and 32nd Avenue;
14th Avenue to 20th Avenue between Pass-A-Grille Way and the east end;
30th Avenue between Sunset Way and the beach;
31st Avenue between Sunset Way and Pass-A-Grille Way;
2nd Street West;
Cabrillo Avenue;
West Maritana Drive between Casablanca Avenue and Alahambra Street;
Belle Vista Drive between 44th Avenue and 41st Avenue;
37th Avenue between Gulf Blvd. and east Maritana;
44th Avenue between Gulf Boulevard and Moody Street;
45th Avenue between Gulf Boulevard and 2nd Street East;
Punta Vista Drive;
Boca Ciega Isle Drive between Plaza Way and 520 Boca Ciega Isle Drive;
52nd Avenue between Gulf Boulevard and the beach;
55th Avenue between Gulf Boulevard and Aloha Drive;
Aloha Drive;
59th Avenue between Gulf Boulevard and Bimini Way;
Gulf Winds Drive between 2nd St. East and Gulf Blvd.;
64th Avenue between 1st Palm Point Street and 425 64th Avenue;
64th Avenue between Gulf Blvd. and Gulf Winds Drive;
67th Avenue between Gulf Blvd. and Gulf Winds Drive;

Sunset Way between 70th Avenue and 71st Avenue;

1st Street East between Lido Drive and 45th Avenue;

2nd St. East between Lido Drive and 45th Avenue;

2nd St. East between 60th Avenue and Gulf Winds Drive.

- (o) Parking on one side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Pass-A-Grille Way between 1st Avenue and 7th Avenue;

Casablanca Avenue between Pinellas Bayway and Cabrillo Avenue;

51st Avenue between Gulf Boulevard and the beach;

67th Avenue between Beach Plaza and Sunset Way;

Sunset Way between 68th Avenue and 70th Avenue;

Gulf Winds Drive between 64th Avenue and 2nd St. East;

64th Avenue between Gulf Blvd. and Sunset Way;

Sunset Way between 64th Avenue and 66th Avenue;

66th Avenue between Gulf Blvd. and Sunset Way.

- (p) Parking on each side of the following city streets shall be limited to the time for which payment of the parking fee has been made, between the hours of 8:00 a.m. and 8:00 p.m. every day, as designated on the city parking maps:

Gulf Way;

Pass-A-Grille Way between 7th Avenue and 12th Avenue unless otherwise posted; and

Beach Plaza between 67th Avenue and 70th Avenue.

- (q) Parking on the north side of 10th Avenue between Gulf Way and Pass-A-Grille Way shall require a "D" permit for parking at any time every day, or shall be limited to patrons of the museum, unless otherwise posted, as designated on the city parking maps.

- (r) Parking on the following city streets and parking lots shall be limited as hereafter designated, as shown on the city parking maps:

Lazarillo Park-Parking shall be for park users only;

Lido Park-45th Avenue Lot-Parking shall be for park users only;

Lido Park-46th Avenue Lot-Parking shall be for park users only, with the exception of four parking spaces designated "B" Permit Required from 8:00 a.m. to 8:00 p.m.;

Don Boat Ramp-"D" Permit or "B" Permit required with attached boat trailer, or any vehicle with attached boat trailer subject to payment of designated parking fee from 8:00 a.m. to 8:00 p.m.;

County Park-Parking is subject to payment of designated parking fee at any time.

44th Avenue Parking Lot-Five parking spaces designated "B", "D", or "E" Permit required; Two parking spaces designated "B" Permit Required "3" hour limit; One parking space designated "3" hour limit.

Ron McKenney Park-Parking shall be for park users only;

Sunset Park - "B" Permit required from 8:00 a.m. to 8:00 p.m. on the waterfront side;

Egan Park/Captiva Circle

North side: No parking

East side: Two waterfront parking spaces designated "Car parking only 24 hour limit"; 16 waterfront parking spaces designated "Vehicle with attached boat trailer only" and subject to payment of designated parking fee at anytime. Parking fee and vehicle with boat trailer attached restriction waived during adult softball games for the six southernmost waterfront spaces.

South Side-East end of Captiva Circle: Four parking spaces designated "No vehicle with boat trailer attached parking at anytime." South Side of Captiva Circle-Designated "No Parking Anytime."

Egan Park gravel parking lot-"B" permit required for Vehicle with attached boat trailer."

Don Vista Parking Lot

South side: Don Vista parking only, and

North side: 15 spaces, Don Vista parking only.

- (s) Parking in the locations designated on the following city streets shall be limited to 15 minutes, as designated on the city parking maps:

Corey Avenue parking spaces directly in front of the Post Office.

- (t) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 5:00 p.m. Saturdays, Sundays and holidays on one side of the street, as designated on the city parking maps:

Gulf Winds Drive between 64th Avenue and Bay St;

64th Avenue between Gulf Winds Drive and First Palm Point.

- (u) The following city streets shall require a "B" permit for parking from 9:00 a.m. to 9:00 p.m. Saturdays, Sundays and holidays on each side of the street, as designated on the city parking maps:

64th Avenue between 425 64th Avenue and the east end of 64th Avenue;

67th Avenue between Gulf Winds Drive and Bay St;

Bay St. between Gulf Winds Drive and 64th Avenue;

First through Fourth Palm Points Streets.

(Ord. No. 07-18, § 1, 6-12-07; Ord. No. 07-35, §§ 1—8, 10-23-07; Ord. No. 08-43, §§ 1—3, 12-16-08; Ord. No. 09-08, §§ 1, 2, 5-26-09; Ord. No. 10-07, §§ 1—5, 5-25-10; Ord. No. 10-19, §§ 1—3, 7-27-10; Ord. No. 11-02, § 1, 1-25-11; Ord. No. 11-11, § 1, 4-26-11; Ord. No. 12-07, §§ 1—7, 5-22-12; Ord. No. 12-09, § 1, 6-26-12; Ord. No. 14-03, § 1, 4-22-14; Ord. 14-07, §§ 1—4, 9-10-14; Ord. No. 15-03, § 11, 5-26-15)

Secs. 82-138—82-165. - Reserved.

DIVISION 2. - ENFORCEMENT

Sec. 82-166. - Separate offenses for overtime or prohibited parking.

Any overtime parking or parking prohibited violation shall constitute a separate offense for every two hours that the motor vehicle remains in violation of such parking regulation. Any officer may ticket a motor vehicle parked in violation of this article or other city parking ordinances for each successive two-hour violation.

(Code 1960, § 24-28(d); Ord. No. 216, § 4; Ord. No. 275, § 1; Ord. No. 399, § 2; Code 1983, § 21-24)

Sec. 82-167. - Notice on illegally parked vehicle.

- (a) Whenever any motor vehicle without driver is found parked, stopped or standing in violation of any of the restrictions imposed by ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user. The officer shall conspicuously affix to such vehicle a traffic citation or notice in writing for the driver to answer the charge within such time specified on the traffic citation or notice and at such place as designated on the traffic citation or notice.
- (b) Any person issued a parking ticket by an officer shall be deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. A civil penalty in the amount set forth in section 82-171 of this chapter shall be imposed against the person issued the ticket. If payment is not received or a response to the ticket is not made within the time period specified on the ticket, the city shall notify the registered owner of the vehicle which was cited, by mail to the address given on the motor vehicle registration, of the ticket. Mailing the notice to this address shall constitute notification. Upon notification, the registered owner shall comply with the city's directive. Any person who fails to satisfy the city's directive shall be deemed to waive the right to pay the applicable civil penalty. Notwithstanding the foregoing, the city may take any action deemed necessary to collect any outstanding civil penalties against any person, in any manner allowed by law. The city manager or his/her designee may dismiss parking citations under certain extenuating circumstances. These circumstances may include, but are not limited to, an improperly displayed permit or meter receipt when a valid permit or receipt is later produced, disabled vehicle, verified official city business, ambulance transport, Sheriff's department undercover vehicles, utility service providers, or verified meter malfunction.
- (c) Any person who elects to appear before a designated official to present evidence shall be deemed to have waived his right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100.00 plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court shall be deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

(Code 1960, §§ 24-28(c), 24-29; Ord. No. 216, §§ 4, 5; Ord. No. 275, § 1; Ord. No. 399, § 2; Ord. No. 80-35, § 1; Code 1983, § 21-25; Ord. No. 85-25, § 1, 5-7-85; Ord. No. 2004-27, § 1, 11-23-04)

State Law reference— Parking tickets, F.S. §§ 316.1967, 316.650.

Sec. 82-168. - Evidentiary presumption.

- (a) In any prosecution charging a violation of any section of this article or any ordinance governing the stopping, standing, parking or operating of a vehicle, proof that the particular vehicle described in the complaint was parked or operated in violation of any such ordinance or regulation, together with proof that the defendant named in the complaint was at the time of such parking or operating the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who stopped, stood, parked or operated such vehicle at the point where and for the time during which such violation occurred.
- (b) The owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the city an affidavit setting forth the name, address, and driver's license number of the person who leased, rented or otherwise had the care, custody or control of the vehicle. The affidavit submitted pursuant to this subsection shall be admissible in a proceeding charging a parking ticket violation and shall raise the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen or in the care, custody or control of some person who did not have permission of the owner to use the vehicle.

(Code 1960, § 24-30; Ord. No. 216, § 6; Code 1983, § 21-26)

State Law reference— Similar provisions, F.S. § 316.1967(1).

Sec. 82-169. - Parking violation hearings.

- (a) A hearing may be requested by the person receiving a citation under this division of the cited vehicle's registered owner for the purpose of presenting evidence before a traffic hearing officer concerning an alleged parking violation. Any person requesting a hearing shall execute a statement on a form prepared by the city indicating his or her willingness to appear at such hearing at a time and place specified thereon. If a hearing is not requested, in writing, within 15 days of the issuance of the citation, the right to a hearing shall be deemed waived and no further hearing on the violation shall be required. The city commission shall designate one or more hearing officers from time to time to conduct hearings as provided herein. Said hearing officers shall be attorneys, members in good standing of the Florida Bar and shall have been practicing law in the State of Florida for at least five years.
- (b) All hearings under this section shall be conducted insofar as practical in accordance with the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner. All irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. Any interested party or person may make application and upon good cause shown may be allowed by the hearing officer, in the reasonable exercise of such officer's discretion, to intervene in a pending proceeding. At the conclusion of the hearing, the hearing officer may dismiss the citation or issue an appropriate fine in accordance with this division. All orders shall be in writing and shall be signed and dated by the hearing officer. Such fine may be collected by the city in any manner allowable by law. An order of the hearing officer may be appealed by any party receiving an adverse ruling by filing a petition for writ of certiorari in the circuit court within 30 calendar days from the date the order was issued.

(Code 1960, § 24-31; Ord. No. 216, § 7; Code 1983, § 21-28; Ord. No. 04-27, § 2, 11-23-04)

Sec. 82-170. - Notice of excessive parking violations to state.

The clerk of the court or the traffic violations bureau shall supply the state department of highway safety and motor vehicles with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations, including violations of F.S. § 316.1955 or F.S. § 316.1956. The state department of highway safety and motor vehicles shall mark the appropriate registration records of persons so reported. The provisions of F.S. § 320.03(8) shall apply to each person whose name appears on such list.

State Law reference— Authority to adopt, F.S. § 316.1967(6).

Sec. 82-171. - Fines for violations.

The following fines shall be charged for certain parking violations:

		After 15 days
(1) Overtime parking	\$30.00	\$45.00
(2) Improper parking	\$30.00	\$45.00
(3) Double parking	\$40.00	\$55.00
(4) No parking zone	\$30.00	\$45.00
(5) Motor running, unattended	\$30.00	\$45.00
(6) Keys in ignition	\$30.00	\$45.00
(7) Other	\$30.00	\$45.00
(8) Parking for space reserved for disabled persons:	\$255.00	\$270.00
(9) Parking in front of fire hydrant:	\$100.00	\$115.00
(10) Parking on streets or lots restricted to specific permit parking:	\$40.00	\$55.00

(Code 1960, § 24-28.1; Ord. No. 409, § 1; Ord. No. 82-43, § 1; Code 1983, § 21-27; Ord. No. 84-41, § 1, 9-5-84; Ord. No. 84-59, § 1, 12-4-84; Ord. No. 85-35, § 1, 8-6-85; Ord. No. 86-14, § 1, 6-3-86; Ord. No. 86-49, § 1, 10-21-86; Ord. No. 99-45, § 1, 8-17-99; Ord. No. 01-40, § 1, 11-20-01; Ord. No. 09-27, § 1, 10-27-09; Ord. No. 11-27, § 1, 9-27-11)

State Law reference— Parking in space reserved for disabled person, F.S. §§ 316.1955, 316.1956.

Secs. 82-172—82-200. - Reserved.

DIVISION 3. - METERED PARKING

Sec. 82-201. - Time limits.

When parking meters are erected on any public thoroughfare giving notice thereof, no person shall stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by the parking meters upon the deposit of a coin of United States currency of the designated denomination.

(Code 1960, § 24-27; Ord. No. 216, § 3; Code 1983, § 21-41(a); Ord. No. 85-47, § 1, 9-17-85)

Sec. 82-202. – “B” parking decals.

- (a) “B” parking decals, exempting the holder from parking meter fees, may be issued to the following persons:
- (1) Any resident of the city, as defined in Sec. 82-1, or nonresident owning property within the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) Any nonresident of the city may purchase a parking decal for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (3) City employees, board members and volunteers shall be provided with one free parking decal for their personal use by the city manager. Non-resident city employees may purchase one additional decal at the resident rate.
- (b) Not more than two parking decals shall be issued per dwelling, as defined in Sec. 82-1, for any class of persons described in subsection (a) of this section. Decals shall not be transferrable.
- (c) Parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.
- (d) The city manager shall establish rules and regulations regarding the use of parking decals.
- (e) Each owner and full-time or part-time employee of on-premise businesses located on a street south of 31st Avenue or located on Beach Plaza shall be permitted to purchase one (1) parking decal with valid proof of employment or ownership in a form listed in Sec. 82-2.

(Ord. No. 82-32, §§ 1—4; Ord. No. 83-15; Code 1983, § 21-43; Ord. No. 85-60, § 1, 12-3-85; Ord. No. 95-42, § 1, 10-17-95; Ord. No. 03-05, § 1, 2-18-03)

State Law reference— User fee authorized, F.S. § 166.201.

Sec. 82-203. - Parking permits.

(a) Gulf Way and Eighth Avenue. "A" hang tag permits may be issued for Gulf Way and Eighth Avenue as follows:

- (1) Each owner of real property legally used as a residence or lodging in Pass-a-Grille, which abuts a street upon which the city has installed parking meters along the frontage of that real property or Eighth Avenue is entitled to purchase a permit exempting the holder thereof from the payment of parking meter fees anywhere within the Pass-a-Grille area.
- (2) Incorporated by reference in this subsection is exhibit B to this section, which is on file in the city clerk's office, which is a survey of "permits needed" for houses and apartments having street addresses on Gulf Way from First Avenue to 22nd Avenue and Eighth Avenue. Each owner of real property as set forth in exhibit B shall be entitled to purchase, at a cost established by resolution of the city and listed in appendix A to this Code, the following:
 - a. A number of permits equal to one-half of the number of the indicated "permits needed" per house or apartment.
 - b. Additional permits up to the total number of units.
 - c. If a street address has only one unit, a permit may be purchased for that unit.
 - d. Notwithstanding the provisions of exhibit B as cited above, each property on Gulf Way is entitled to a minimum of two permits.
- (3) Each property that qualifies under this subsection shall be authorized to receive as many permits as are necessary to meet the off-street parking requirements required by Division 23 of the Land Development Code.
- (4) These permits shall be controlled in such a way to restrict their use only to the property owners and bona fide guests residing on the property subject to receipt of the permits.
- (5) Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Permits shall be renewed annually, and the city official administering this subsection shall maintain books and records on the collection of fees and issuance of permits.
- (6) Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees in the areas designated by this subsection. Vehicles displaying the permits issued under this subsection shall be entitled to park without payment of meter fees at parking metered spaces within Pass-a-Grille only.
- (7) The city may adopt reasonable rules and regulations necessary for the administration and enforcement of this subsection and may amend the survey referred to in subsection (a)(2) of this section from time to time as may be necessary or appropriate.
- (b) Vehicles utilized by persons attending services at the Pass-a-Grille Community Church shall be exempt from parking meter fees on 16th Avenue in Pass-a-Grille on Sundays between the hours of 7:00 a.m. and 1:00 p.m., and at such other times as specifically authorized by the city manager.

The Pass-a-Grille Community Church may also purchase temporary "B" hang tags at the cost of \$2.00 per permit. These permits shall exempt persons attending services at the Pass-a-Grille Community Church from parking fees at meters on Sundays between the hours of 7:00 a.m. and 1:00 p.m.

Permits shall be valid for the period from January 1 through December 31 of each year or any part thereof. Only vehicles displaying a permit obtained under this subsection shall be exempt from parking meter fees at metered spaces and shall be valid at parking meters between First Avenue and Twenty-First Avenue.

- (c) "B" Hang Tag Permits for watersport businesses at Merry Pier. Operators of commercial watersports business, who possess a current and valid occupational license for such business at the Merry Pier, may purchase one-day parking permits from the city for resale at the same price to their legitimate customers. The cost of the permits shall be established by resolution of the city commission and is listed in appendix A to this Code. Proper display of such permit will only exempt the permit holder from payment of parking meter fees in Pass-a-Grille when engaged in a commercial watersport through a vendor at the Merry Pier for the date which appears on the face of the permit. The parking permit must be properly displayed.
- (d) "E" Hang Tag Permits for Gulfwinds Condominium, Friendly Native Condominium and Ramar Apartments and Starlight Towers Condominium. Parking permits for Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments and Starlight Towers Condominium shall be obtained as follows:
 - (1) Issuance of permits shall be subject to the following:
 - a. The record title owner of a condominium unit at the Gulfwinds Condominium or Friendly Native Condominium or the lessee under written lease with a term of not less than one year for a unit at the Gulfwinds Condominium, Friendly Native Condominium, Ramar Apartments, or Starlite Towers Condominium may purchase one permit per each bedroom of the unit exempting the holder thereof from the payment of parking meter fees within the Upham Beach Area and shall allow the holder to park within spaces marked "B permit parking only" anywhere within the Upham Beach area, defined as the following: 6700-6900 Sunset Way; 6700-7000 Beach Plaza; 67th, 68th, 69th & 70th Avenues.
 - (2) The record title owner of a unit entitled to issuance of permits under this subsection may purchase permits at a cost established by resolution of the city commission and listed in appendix A to this Code.
 - (3) The holder of a permit shall allow it to be used only by himself or by his bona fide guests.
 - (4) Permits shall be valid for the period from January 1 through December 31 of each year. The purchase price shall not be prorated.
 - (5) The city may adopt reasonable rules and regulations deemed necessary for the administration and the enforcement of this subsection.
 - (6) The parking spaces which are marked 'B permit parking only' shall be restricted to the use by appropriate holders of the permits issued under this subsection between the hours of 8:00 a.m. and 8:00 p.m. every day.
 - (7) Any person who violates this subsection shall be penalized pursuant to section 1-14 relating to violations of city ordinances and relating to violations of persons illegally parked. Additionally, vehicles improperly parked may be towed and stored at the expense of the owner.
- (e) "B" Hang Tag Permits for Pass-a-Grille businesses: Business owners with valid occupational licenses in the Pass-a-Grille area will be permitted to purchase two hang tag permits per year. These permits will be used by patrons of the businesses only during actual business hours. Fees for such permits are provided for in Appendix A Fee Schedule.

(Code 1960, § 2-27.1; Ord. No. 427, §§ 1—4; Code 1983, § 21-44; Ord. No. 84-38, §§ 1—3, 9-18-84; Ord. No. 85-3, §§ 1—3, 2-5-85; Ord. No. 85-18, §§ 1—3, 4-16-85; Ord. No. 85-41, § 1, 8-20-85; Ord. No. 85-58, § 1, 12-3-85; Ord. No. 86-3, § 1, 3-4-86; Ord. No. 86-17, § 1, 6-17-86; Ord. No. 86-32, § 1, 8-19-86; Ord. No. 87-6, § 1, 3-3-87; Ord. No. 88-28, § 1, 7-19-88; Ord. No.

90-23, § 1, 9-18-90; Ord. No. 91-14, § 1, 6-4-91; Ord. No. 94-36, § 1, 9-6-94; Ord. No. 97-24, § 1, 9-16-97; Ord. No. 03-05, § 2, 2-18-03; Ord. No. 09-28, § 1, 10-27-09)

State Law reference— User fees authorized, F.S. § 166.201.

Sec. 82-204. - Waiver on Gulf Way and west side of Beach Plaza.

The city manager is authorized to waive the prohibition against parking at meters between 9:00 p.m. and 7:00 a.m. along Gulf Way and the west side of Beach Plaza when the city manager determines that such waiver is necessary to carry out a nonprofit civic or charitable event.

(Code 1983, § 21-45; Ord. No. 85-38, § 1, 8-20-85)

Sec. 82-205. - Rates generally.

Parking meter rates charged at all city parking meters shall be established by resolution of the city commission and are listed in appendix A to this Code.

(Code 1960, § 24-26; Ord. No. 80-36, § 2; Code 1983, § 21-42; Ord. No. 85-19, § 1, 5-7-85; Ord. No. 90-23, § 1, 9-18-90)

State Law reference— User fees authorized. F.S. § 166.201; exemption for certain vehicles transporting handicapped persons, F.S. § 316.1964.

Sec. 82-206. - Use of U.S. coins; damaging meters.

It is unlawful for any person to deposit or attempt to deposit in any parking meter anything other than a lawful coin of the United States or any coin that is bent, cut, torn, battered or otherwise misshaped. It is unlawful for any unauthorized person to remove, deface, tamper with, open, willfully break, destroy or damage any parking meter, and no person shall willfully manipulate any parking meter in such a manner that the indicator will fail to show the correct amount of unexpired time before a violation.

(Code 1960, § 24-27; Ord. No. 216, § 3; Code 1983, § 21-41(c); Ord. No. 85-47, § 1, 9-17-85)

Sec. 82-207. - Manner of parking vehicle.

Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted and with the front end of such vehicle immediately opposite the parking meter for such space.

(Code 1960, § 24-27; Ord. No. 216, § 3; Code 1983, § 21-41(b); Ord. No. 85-47, § 1, 9-17-85)

Sec. 82-208. - Free parking for special events.

The city commission may, by resolution, allow free parking at any or all of the metered parking spaces during special events or special occasions. The allowing of free parking for one special event or special occasion shall not constitute precedence for allowing free parking at any other time or for any other reason.

(Code 1960, § 24-27; Ord. No. 216, § 3; Code 1983, § 21-41(d); Ord. No. 85-47, § 1, 9-17-85)

Secs. 82-209—82-235. - Reserved.

DIVISION 4. - RESIDENTIAL PARKING PERMITS

(Code 1983, § 21-47; Ord. No. 84-44, § 2, 9-5-84; Ord. No. 95-41, § 1, 10-17-95)

Sec. 82-237. - Findings of fact; declaration of public interest.

The city commission finds and declares that:

- (1) It is in the best interests of the residents of the city to reduce vehicular congestion on residential streets and to facilitate the efficient movement of traffic by providing for residential parking preference during certain hours of the day, within certain areas of the city which meet the criteria set forth in this division;
- (2) Residential permit parking regulation is necessary to promote the health, safety and welfare of the residents of the city by providing adequate parking spaces adjacent to or close by the places of residence of such residents;
- (3) It is in the public interest to:
 - a. Reduce hazardous traffic conditions resulting from the use of streets located within congested residential areas for the parking of vehicles by persons using such residential areas to gain access primarily to the sand beaches, but also to other places;
 - b. Protect those areas from excessive noise;
 - c. Protect the residents of those areas from unreasonable burdens in gaining access to their residences;
 - d. Preserve the character of those areas as residential districts;
 - e. Promote efficiency in the maintenance of these streets in a clean and safe condition;
 - f. Preserve the value of the property in those areas;
 - g. Preserve the safety of children and other pedestrians; and
 - h. Promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the city.

(Code 1983, § 21-46; Ord. No. 84-44, § 1, 9-5-84)

Sec. 82-238. - Penalties.

Whoever violates this division shall be penalized pursuant to section 1-14 relating to violation of city ordinances, and persons illegally parked pursuant this division shall be fined in the manner provided in this chapter for illegal parking and their vehicles may be towed and stored at the owner's expense.

(Code 1983, § 21-53; Ord. No. 84-44, § 8, 9-5-84)

Sec. 82-239. - Designation of controlled parking residential areas.

The city manager is authorized to designate "controlled parking residential areas" by appropriate signs and the recording thereof on an appropriate city map or plat in which the parking of vehicles may be restricted on public streets at certain times during the day only to vehicles bearing a valid residential parking permit issued pursuant to this division. This authority shall be in addition to any other authority of the city to regulate the times and conditions of motor vehicles parking on public streets.

(Code 1983, § 21-48; Ord. No. 84-44, § 3, 9-5-84)

Sec. 82-240. - Eligibility and criteria for establishment of controlled parking residential areas.

- (a) A residentially zoned area shall be deemed eligible for designation as a controlled parking residential area for residential permit parking if parking therein is impacted by commuter vehicles during any hours of any day.
- (b) The following objective criteria are established to be used in evaluating the need for restricted parking in a residentially zoned area in accordance with this section. For an area, however big or small, to be eligible for residential permit parking, that area must meet the following criteria:
 - (1) During any period of the day, the number of vehicles legally or illegally parked or standing on the streets in the area is equal to 50 percent or more of the legal on-street parking capacity of the area. For purposes of this criterion, a legal parking space shall be 20 linear feet, measured parallel to the curb or pavement edge.
 - (2) During the same period as in subsection (b)(1) of this section, 25 percent or more of the vehicles parking or standing on the streets in the area are not registered in the name of persons residing in the area. For purposes of this criterion, the latest available information from the state department of highway safety and motor vehicles regarding registration of motor vehicles shall be used.
 - (3) In determining whether an area identified as impacted and eligible for residential permit parking shall be designated as a controlled parking residential area, the following factors shall be considered:
 - a. The local needs with respect to clean air and environment in residential areas.
 - b. The possibility of a reduction in total vehicle miles driven in the city.
 - c. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
 - d. The proximity of public transportation to the residential area.
 - e. The desire and need of the residents for residential permit parking.
 - f. The need for parking regulation to maintain the residential character of the neighborhoods.

(Code 1983, § 21-49; Ord. No. 84-44, § 4, 9-5-84; Ord. No. 91-10, § 1, 5-7-91)

Sec. 82-241. - Procedure for determining controlled parking residential areas.

- (a) In order to determine whether a particular area should be designated as a controlled parking residential area, the city commission can request or the city manager may conduct, upon his own initiative or upon a petition of a majority of the households on a proposed residential block addressed to the city manager, a study to determine if the proposed area meets the criteria set forth in section 82-240. Following the study, the city manager shall determine whether to designate the proposed area under consideration as a controlled parking residential area or to remove the designation of a

previously established controlled parking residential area. The city commission may also request the city manager to designate an area as a controlled parking residential area based upon a study previously conducted, if the criteria set forth in section 82-240 are met.

- (b) If the city manager finds the criteria to designate have been met in a controlled parking residential area during the hours between 9:00 a.m. and 5:00 p.m., he shall cause the regulation to be recorded upon an appropriate map of the city and retained permanently in the office of the city clerk. If the city manager finds the criteria to designate have been met in a controlled parking residential area between the hours of 5:00 p.m. and 9:00 a.m., the findings shall be submitted to the city commission for approval by resolution, and the city manager shall then cause the regulation to be recorded upon an appropriate map of the city and retained permanently in the office of the city clerk. In addition, the city manager shall cause parking signs to be erected upon public streets in the area, indicating the times, locations and conditions upon which parking shall be by permit only. When an area has been approved, designated and posted as a controlled parking residential area, it shall be unlawful and a violation of this section to park a vehicle in an area restricted to decal parking only, without having a valid residential parking permit displayed according to the administrative regulations.

(Code 1983, § 21-50; Ord. No. 84-44, § 5, 9-5-84; Ord. No. 85-59, § 1, 12-3-85; Ord. No. 91-10, § 1, 5-7-91)

Sec. 82-242. - Special parking permits.

- (a) Following the official designation of a controlled parking residential area, the city, through the Sheriff's department, shall issue appropriate residential parking permits. A permit shall be issued only to the owner or operator of a motor vehicle who resides in the controlled parking residential area.

(Code 1983, § 21-51; Ord. No. 84-44, § 6, 9-5-84; Ord. No. 87-23, § 1, 7-7-87)

Sec. 82-243. - Privileges and restrictions on permits.

- (a) The holder of a residential parking permit shall be permitted to stand or park a motor vehicle displaying the permit and operated by him in any designated residential controlled parking area during such times and places as the parking of motor vehicles therein is permitted. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be permanently affixed on the left rear bumper of the vehicle. A residential parking permit shall not guarantee or reserve to the holder of the permit a parking space within a designated controlled parking residential area.
- (b) A residential parking permit shall not authorize the holder to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking of a motor vehicle is prohibited or set aside for specified types of vehicles, nor shall it exempt the holder from the observance of any traffic regulation within the controlled parking residential area.
- (c) No person, other than the permittee named on the permit, shall use the residential parking permit or display it on a vehicle operated or parked, and any such use or display by a person other than the permittee shall constitute a violation of this division by the permittee and by the person who so used or displayed such parking permit.
- (d) It shall constitute a violation of this division for any person to falsely represent himself as eligible for a residential parking permit or to furnish any false information to obtain a residential parking permit.
- (e) The city, is authorized to revoke the residential parking permit of any permittee found to be in violation of this division and, upon written notification thereof, the permittee shall surrender such permit to the city. Failure, when so requested, to surrender a residential parking permit so revoked shall constitute a violation of this division.

- (f) Any permit issued under this division is nontransferable to another person or another vehicle.
- (g) The city, is authorized to adopt rules for the issuance of temporary parking permits to bona fide visitors and commercial service vehicles of residents of a designated controlled parking residential area. The fee for a temporary parking permit shall be established by resolution of the city commission and is listed in appendix A to this Code.
- (h) The city shall be authorized to adopt all reasonable rules and regulations necessary for the enforcement and administration of this division, including rules and regulations providing for specific time and day parking restrictions.

(Code 1983, § 21-52; Ord. No. 84-44, § 7, 9-5-84)

Sec. 82-244. – “D” residential parking permits.

- (a) A controlled parking residential area is hereby established, to include the streets listed in Sec. 82-137, generally described as the residential side streets in Pass-a-Grille and the surrounding area.
 - (1) Any resident of the city, as defined in Sec. 82-1, who resides on and who has a vehicle registered to a “D” street as defined in Sec. 82-137 shall be allowed to purchase a “D” parking permit, in the form of a decal, for a fee established by resolution of the city commission and listed in appendix A to this Code.
 - (2) Each dwelling shall also be allowed to purchase two temporary “D” hang tags per month for their visitors, not to exceed 3 consecutive months.
 - (3) “D” hang tags shall be valid from the date of purchase to the same date of the next succeeding month, and shall not be purchased more than three months in advance. The date of purchase shall be plainly stamped on each permit.
 - (4) “D” parking decals shall be valid from January 1 through December 31 of each year. The purchase price of a parking decal shall not be prorated or reduced if the parking decal is purchased after January 1.

Secs. 82-245—82-259. - Reserved.

DIVISION 5. - GENERAL PARKING PERMITS

Sec. 82-260. - Metered and non metered parking space permits.

The city manager shall be authorized to issue daily or monthly parking permits, which shall authorize the parking of a motor vehicle without the payment of meter fees at any city metered parking space except the "county beach access lot" or any non metered city parking space requiring the display of a "B" permit on the date(s) indicated on the permit. A "metered parking space" means any parking space for which payment is required by a parking meter or parking pay station. In order for the permit to be valid, it must be displayed prominently in the driver-side front window and be visible to the city enforcement officer. The fee for said permit shall be as provided in appendix A to this Code.

(Ord. No. 99-48, § 1, 9-7-99; Ord. No. 12-11, § 1, 7-24-12)

Editor's note— Ord. No. 12-11, § 1, adopted July 24, 2012, changed the title of § 82-260 from day parking permits to Metered and non metered parking space permits.

Secs. 82-261—82-270. - Reserved.

ARTICLE IV. - IMPOUNDMENT OF CERTAIN VEHICLES

Sec. 82-271. - Authorized.

- (a) Members of the Sheriff's department are authorized to remove a vehicle from the public property or a right-of-way to a place of impoundment maintained or contracted by the city when:
 - (1) Any illegally parked vehicle is left unattended and constitutes an obstruction to traffic or a hazard to the public.
 - (2) Any illegally parked vehicle constitutes an obstruction to traffic or a hazard to the public and the person in charge of the vehicle, being present, refuses or fails to reasonably correct the situation by safely moving or having the vehicle safely moved.
 - (3) Any vehicle is illegally parked in an area clearly posted "tow away zone" in such a way that it is clear that the penalty for illegal parking is towing and impoundment of the vehicle.
 - (4) A vehicle is found in unsafe condition or without current registration tag or license plate.
 - (5) Removal is necessary in the interest of public safety because of fire, flood, storm or other emergency.
 - (6) The operator of any vehicle is taken into custody by the Sheriff's department and such vehicle would thereby be left unattended.
 - (7) The person in charge of any vehicle is incapacitated to such an extent as to be unable to provide for its custody or removal.
 - (8) Any vehicle is wrecked, dismantled, or inoperative.
- (b) When any vehicle has been left continuously parked and unmoved for a period of seven days, it may be presumed that such vehicle is being stored on public property, provided that such vehicle does not bear a current vehicle registration and valid city parking permit, showing an address immediately adjacent to the location where the vehicle is parked. Such storage is prohibited, and the vehicle may be impounded. The Sheriff's department shall place a parking citation charging "vehicle stored on public property—will be impounded after 24 hours," on the vehicle for a period of 24 hours prior to actual impoundment.

(Code 1960, § 24-32(a); Ord. No. 216, § 8; Ord. No. 276, § 1; Ord. No. 398, § 1; Ord. No. 80-14, § 1; Ord. No. 83-37, § 1; Code 1983, § 21-56; Ord. No. 88-2, 2-2-88; Ord. No. 91-44, § 1, 1-7-92)

State Law reference— Similar provisions, F.S. § 316.194.

Sec. 82-272. - Notice.

- (a) Whenever an officer removes a vehicle as authorized in this article and the officer knows or is able to ascertain the name and address of the owner of the vehicle, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. If any such vehicle is stored in an authorized garage, a copy of such notice shall be given to the proprietor of such garage.
- (b) Whenever an officer removes a vehicle under this article, the officer shall within 24 hours send or cause to be sent a report of such removal by electronic communication to the department of highway safety and motor vehicles and shall notify the proprietor of any authorized garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time

and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(Code 1960, § 24-33; Ord. No. 216, § 9; Code 1983, § 21-57)

Cross reference— Streets and sidewalks, ch. 74.

State Law reference— Reporting of unclaimed vehicles, F.S. § 715.05.

Sec. 82-273. - Fees.

There shall be levied a storage charge upon all motor vehicles impounded by the city and stored by the city on city-owned property. The fee shall be in an amount established by resolution of the city commission and listed in appendix A to this Code. In addition, a towing charge shall be levied on such vehicle.

(Code 1960, § 24-34(a); Ord. No. 268, § 1; Code 1983, § 21-58)

Sec. 82-274. - Release.

No vehicle impounded in an authorized garage as provided in this article shall be released therefrom until the charges for towing such vehicle into the garage and storage charges have been paid. The charge for towing or removal of any such vehicle and storage charges shall be fixed by the city commission. Such charges shall be based upon a computation of all actual expenses entering into the current cost of such services. Such charges shall be posted for public inspection in the traffic violations bureau and in any authorized garage.

(Code 1960, § 24-32(b); Ord. No. 216, § 8; Ord. No. 276, § 1; Ord. No. 398, § 1; Ord. No. 80-14, § 1; Code 1983, § 21-59)

Editor's note— The towing charge is established pursuant to a contract between the city and a private wrecker company.

Sec. 82-275. - Sale of impounded vehicles.

- (a) If the owner of a motor vehicle impounded pursuant to this article fails or refuses to pay the towing or storage charge within 30 days of making claim to such property, title to such property shall vest in the city. The city may, after giving public notice, hold an auction in front of a municipal building. The city shall sell the motor vehicle to the highest bidder and thereafter shall apply the proceeds of the sale toward the indebtedness due to the city.
- (b) The city shall be entitled to hold a public auction in order to sell the motor vehicle at any time after 90 days has passed from the date that the motor vehicle was first impounded and stored on city-owned property as provided in F.S. § 705.104.

(Code 1960, § 24-34; Ord. No. 268, §§ 2, 3; Code 1983, § 21-60; Ord. No. 85-23, § 1, 5-7-85)

State Law reference— Procedure for abandoned or lost property, F.S. §§ 705.103, 705.104.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Resolution 2016-03, Re-adoption of a Defined Contribution Plan for the City Employees, adopting the ICMA 401 Governmental Money Purchase Plan and Trust, providing for execution of Trust Agreement and all other necessary documents incidental to administration of the defined contribution plan, providing for acknowledgement regarding assets, providing for administration of the plan, providing for full force and effectiveness, providing for repeal of conflicting resolutions, and providing for effective date.

Date: April 12, 2016

Prepared By: Colette Graston, Human Resources Administrator

Through: Wayne Saunders, City Manager

Summary of Issue: The Internal Revenue Service has a six-year review schedule for the type of 401 plan document we have through ICMA-RC. This review period the IRS is requiring each plan sponsor to execute a new adoption agreement by April 30, 2016. Resolution 2016-03 provides for this adoption.

Funding: N/A

Requested Motion: "I move to approve Resolution 2016-03, Re-adoption of a Defined Contribution Plan for the City Employees, adopting the ICMA 401 Governmental Money Purchase Plan and Trust, providing for execution of Trust Agreement and all other necessary document incidental to administration of the defined contribution plan, providing for acknowledgement regarding assets, providing for administration of the plan, providing for full force and effectiveness, providing for repeal of conflicting resolutions, and providing for effective date.

Attachments: Resolution 2016-03
ICMA-RC correspondence
ICMA-RC Governmental Money Purchase Plan & Trust

**Reviewed by
City Manager:** WS

RESOLUTION 2016-03

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, RELATING TO THE RE-ADOPTION OF A DEFINED CONTRIBUTION RETIREMENT PLAN FOR THE CITY EMPLOYEES; ADOPTING THE ICMA 401 GOVERNMENTAL MONEY PURCHASE PLAN AND TRUST; PROVIDING FOR EXECUTION OF TRUST AGREEMENT AND ALL OTHER NECESSARY DOCUMENTS INCIDENTAL TO ADMINISTRATION OF THE DEFINED CONTRIBUTION PLAN; PROVIDING FOR ACKNOWLEDGEMENT REGARDING ASSETS; PROVIDING FOR ADMINISTRATION OF THE PLAN; PROVIDING FOR FULL FORCE AND EFFECTIVENESS; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Internal Revenue Service has reviewed and approved the updated plan document and is requiring each plan sponsor to execute a new adoption agreement; and

WHEREAS, the City Commission of the City of St. Pete Beach has determined that it is advisable and appropriate to execute a new adoption agreement; and

NOW THEREFORE, the City Commission of the City of St. Pete Beach, Florida hereby resolves:

Section 1. Adoption of Plan. The City hereby adopts the City of St. Pete Beach Defined Contribution Retirement Plan (the "Plan") in the form of the ICMA RC 401 Governmental Money Purchase Plan and Trust, pursuant to the specific provisions of the Adoption Agreement attached hereto as Exhibit "A":

- A. The Plan shall be maintained for the exclusive benefit of eligible City employees and their beneficiaries.
- B. The Plan shall be administered by the ICMA Retirement Corporation.
- C. The City Commission hereby authorizes the City Manager to serve as a trustee under the Plan and execute all necessary agreements with ICMA incidental to the administration of the Plan.

Section 2. Plan Coordinator. The Human Resources Director shall be the coordinator of the Plan; shall receive reports, notice, etc. from the administrator of the Trust; shall cast, on behalf of the City, any required votes under the Trust; may delegate any administrative duties relating to the Plan to appropriate personnel; and is authorized to execute all necessary documents incidental to the administration of the Plan.

Section 3. If any section, sentence, clause or phrase of this resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 4. This Resolution shall remain in full force and effect until supplemented, amended, repealed or otherwise altered. The City reserves the right to terminate the Plan at any time.

Section 5. This Resolution hereby repeals all resolutions in conflict herewith.

Section 6. This Resolution shall become effective immediately upon its adoption.

INTRODUCED AND PASSED by the City Commission of St. Pete Beach, Pinellas County,
Florida on this _____ day of _____ 2016.

MAYOR

ATTEST:

CITY CLERK



September 2015

Re: 401 Plan Document Adoption — Action Required by April 30, 2016

Dear Plan Sponsor:

ICMA-RC is pleased to announce that our 401 plan document has been reviewed and approved by the Internal Revenue Service (IRS) and is available online for your review and adoption. A summary of the document and the adoption process is provided below and additional details are available within EZLink (www.icmarc.org/ezlink).

Six-Year IRS Review Schedule

The IRS has a six-year review schedule for the type of 401 plan documents ICMA-RC makes available. Following the IRS schedule, we submitted our updated plan documents for review and approval in 2012 and received favorable opinion letters last year. The documents incorporate amendments for legislative and regulatory changes enacted since the prior restatement in 2006 and are effective as of 2012.

Plan sponsors using the ICMA-RC document must execute a new adoption agreement by April 30, 2016.

Taking action to adopt the restated plan document will ensure your plan is updated in accordance with current IRS regulations.

Plan Document Adoption — New Adoption Agreement Needed

In the past, we have utilized a negative election adoption process, in an effort to make the plan document adoption process as easy as possible. This time around, per instructions from the IRS, each plan sponsor using the ICMA-RC plan document will be required to execute a new adoption agreement by April 30, 2016. We have partially pre-populated the agreement for your plan, and you will need to fill in the blanks and execute the agreement.

Online Access to Plan Documents via EZLink

Everything you need is available in EZLink. You may access ICMA-RC's plan documents, adoption agreement, and related materials online by following these steps:

1. Log in to EZLink at www.icmarc.org/ezlink.
2. Under the My Plan tab, select the **View/Request Publications** link on the left.
3. Click the **Plan Documents** button on the right, in the Plan Document Materials box.

(Continued)

Please review the materials to ensure you are familiar with all of your options. **If your plan uses the ICMA-RC document, be sure to execute the adoption agreement prior to April 30, 2016.**

Individually-Designed Plan Documents

If your plan uses an individually-designed plan document, please check with your plan's legal counsel to ensure your document is updated in accordance with IRS regulations. You may find value in reviewing the ICMA-RC documents, as the information may be helpful as you consider future amendments to your individually-designed plan document. Now may also be a good time to consider adopting ICMA-RC's model plan documents.

Please contact your ICMA-RC Plan Sponsor Services team if you have any questions about the plan document adoption process and the action required on your part.

Thank you for allowing us to serve you.

Sincerely,

A handwritten signature in black ink that reads "Renee Briggs". The signature is written in a cursive, flowing style.

Renee Briggs
Vice President, Client Services

ICMA RETIREMENT CORPORATION

GOVERNMENTAL MONEY PURCHASE PLAN & TRUST



ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST

TABLE OF CONTENTS

I. PURPOSE	1
II. DEFINITIONS	1
2.01 Account	1
2.02 Accounting Date	1
2.03 Adoption Agreement	1
2.04 Beneficiary	1
2.05 Break in Service	1
2.06 Code	1
2.07 Covered Employment Classification	1
2.08 Disability	2
2.09 Earnings	2
2.10 Effective Date	3
2.11 Employee	3
2.12 Employer	3
2.13 Hour of Service	3
2.14 Nonforfeitable Interest	3
2.15 Normal Retirement Age	3
2.16 Participant	3
2.17 Period of Service	4
2.18 Period of Severance	4
2.19 Plan	4
2.20 Plan Administrator	4
2.21 Plan Year	4
2.22 Trust	4
III. ELIGIBILITY	4
3.01 Service	4
3.02 Age	4
3.03 Return to Covered Employment Classification	4
3.04 Service Before a Break in Service	5
IV. CONTRIBUTIONS	5
4.01 Employer Contributions	5
4.02 Forfeitures	5
4.03 Mandatory Participant Contributions	5
4.04 Employer Matching Contributions of Voluntary Participant Contributions	5
4.05 Voluntary Participant Contributions	5
4.06 Deductible Employee Contributions	6
4.07 Final Pay Contributions	6
4.08 Accrued Leave Contributions	6
4.09 Military Service Contributions	6
4.10 Accrual of Additional Benefits for Qualified Military Service	6
4.11 Changes in Participant Election	6
4.12 Portability of Benefits	7
4.13 Return of Employer Contributions	7
V. LIMITATION ON ALLOCATIONS	8
5.01 Participants Only in This Plan	8

5.02	Participants in Another Defined Contribution Plan	8
5.03	Definitions	9
5.04	Aggregation and Disaggregation of Plans	13
5.05	Effective Date	13
VI. TRUST AND INVESTMENT OF ACCOUNTS		14
6.01	Trust	14
6.02	Investment Powers	14
6.03	Taxes and Expenses	15
6.04	Payment of Benefits	15
6.05	Investment Funds	15
6.06	Valuation of Accounts	15
6.07	Participant Loan Accounts	15
6.08	Deemed IRAs	15
VII. VESTING		16
7.01	Vesting Schedule	16
7.02	Crediting Periods of Service	16
7.03	Service After Break in Service	16
7.04	Vesting Upon Normal Retirement Age	16
7.05	Vesting Upon Death or Disability	16
7.06	Forfeitures	17
7.07	Reinstatement of Forfeitures	17
VIII. BENEFITS CLAIM		17
8.01	Claim of Benefits	17
8.02	Appeal Procedure	17
IX. COMMENCEMENT OF BENEFITS		17
9.01	Normal and Elective Commencement of Benefits	17
9.02	Restrictions on Immediate Distributions	17
9.03	Transfer to Another Plan	18
9.04	De Minimis Accounts	20
9.05	Withdrawal of Voluntary Contributions	20
9.06	Withdrawal of Deductible Employee Contributions	20
9.07	In-Service Distribution from Rollover Account	20
9.08	In-Service Distributions	20
9.09	Latest Commencement of Benefits	21
9.10	Spousal Consent	21
9.11	Deemed Severance from Employment	21
9.12	Distributions for Health and Long-Term Care Insurance for Public Safety Officers	21
X. DISTRIBUTION REQUIREMENTS		22
10.01	General Rules	22
10.02	Time and Manner of Distribution	23
10.03	Required Minimum Distributions During Participant's Lifetime	23
10.04	Required Minimum Distributions After Participant's Death	24
10.05	Definitions	25
10.06	Application of Minimum Distribution Requirements	25
10.07	Special Rule for Scheduled Installment Payments	25
XI. MODES OF DISTRIBUTION OF BENEFITS		26
11.01	Normal Mode of Distribution	26
11.02	Elective Mode of Distribution	26
11.03	Election of Mode	26
11.04	Death Benefits	26

XII. SPOUSAL DEATH BENEFIT REQUIREMENTS	26
12.01 Application	26
12.02 Spousal Death Benefit	27
12.03 Waiver of Spousal Death Benefit	27
12.04 Definitions	27
XIII. LOANS TO PARTICIPANTS	28
13.01 Availability of Loans to Participants	28
13.02 Terms and Conditions of Loans to Participants	28
13.03 Participant Loan Accounts	30
XIV. PLAN AMENDMENT, TERMINATION AND OPTIONAL PROVISIONS	30
14.01 Amendment by Employer	30
14.02 Amendment of Vesting Schedule	31
14.03 Termination by Employer	32
14.04 Discontinuance of Contributions	32
14.05 Amendment by Plan Administrator	32
14.06 Optional Provisions	32
14.07 Failure of Qualification	32
XV. ADMINISTRATION	32
15.01 Powers of the Employer	33
15.02 Duties of the Plan Administrator	33
15.03 Protection of the Employer	33
15.04 Protection of the Plan Administrator	33
15.05 Resignation or Removal of Plan Administrator	34
15.06 No Termination Penalty	34
15.07 Decisions of the Plan Administrator	34
XVI. MISCELLANEOUS	34
16.01 Nonguarantee of Employment	34
16.02 Rights to Trust Assets	34
16.03 Nonalienation of Benefits	34
16.04 Qualified Domestic Relations Order	34
16.05 Nonforfeitability of Benefits	34
16.06 Incompetency of Payee	35
16.07 Inability to Locate Payee	35
16.08 Mergers, Consolidations, and Transfer of Assets	35
16.09 Employer Records	35
16.10 Gender and Number	35
16.11 Applicable Law	35
16.12 Electronic Communication and Consent	36
XVII. SPOUSAL BENEFIT REQUIREMENTS	36
17.01 Application	36
17.02 Qualified Joint and Survivor Annuity	36
17.03 Qualified Optional Survivor Annuity	36
17.04 Qualified Preretirement Survivor Annuity	36
17.05 Notice Requirements	36
17.06 Definitions	38
17.07 Annuity Contracts	39

XVIII. FINAL PAY CONTRIBUTIONS	39
18.01 Eligibility.....	39
18.02 Contribution Amount.....	39
18.03 Equivalencies.....	40
18.04 Excess Contributions	40
XIX. ACCRUED LEAVE CONTRIBUTIONS	40
19.01 Eligibility.....	40
19.02 Contribution Amount.....	40
19.03 Equivalencies.....	40
19.04 Excess Contributions	40
DECLARATION OF TRUST.....	41
IRS OPINON LETTER.....	42

ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST

I. PURPOSE

The Employer hereby adopts this Plan and Trust to provide funds for its Employees' retirement, and to provide funds for their Beneficiaries in the event of death. The benefits provided in this Plan shall be paid from the Trust. The Plan and the Trust forming a part hereof are adopted and shall be maintained for the exclusive benefit of eligible Employees and their Beneficiaries. Except as provided in Sections 4.13 and 14.03, no part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

II. DEFINITIONS

- 2.01 Account.** A separate record which shall be established and maintained under the Trust for each Participant, and which shall include all Participant subaccounts created pursuant to Article IV, plus any Participant Loan Account created pursuant to Section 13.03. Each subaccount created pursuant to Article IV shall include any earnings of the Trust and adjustments for withdrawals, and realized and unrealized gains and losses allocable thereto. The term "Account" may also refer to any of such separate subaccounts.
- 2.02 Accounting Date.** Each day that the New York Stock Exchange is open for trading, and such other dates as may be determined by the Plan Administrator, as provided in Section 6.06 for valuing the Trust's assets.
- 2.03 Adoption Agreement.** The separate agreement executed by the Employer through which the Employer adopts the Plan and elects among the various alternatives provided thereunder, and which upon execution, becomes an integral part of the Plan.
- 2.04 Beneficiary.** The person or persons (including a trust) designated by the Participant who shall receive any benefits payable hereunder in the event of the Participant's death. The designation of such Beneficiary shall be in writing to the Plan Administrator. A Participant may designate primary and contingent Beneficiaries. Where no designated Beneficiary survives the Participant or no Beneficiary is otherwise designated by the Participant, the Participant's Beneficiary shall be his/her surviving spouse or, if none, his/her estate.
- Notwithstanding the foregoing, the Beneficiary designation is subject to the requirements of Article XII unless the Employer elects otherwise in the Adoption Agreement. Notwithstanding the foregoing, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the Beneficiary designation is subject to the requirements of Article XVII. Notwithstanding the foregoing, to the extent permitted by the Employer, a Beneficiary receiving required minimum distributions in accordance with Article X and not in a benefit form elected under Article XI or XII, may designate a Beneficiary to receive the required minimum distributions that would have otherwise been payable to the initial Beneficiary but for his or her death.
- 2.05 Break in Service.** A Period of Severance of at least twelve (12) consecutive months. In the case of an individual who is absent from work for maternity or paternity reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.
- 2.06 Code.** The Internal Revenue Code of 1986, as amended from time to time.
- 2.07 Covered Employment Classification.** The group or groups of Employees eligible to make and/or have contributions to this Plan made on their behalf, as specified by the Employer in the Adoption Agreement.

2.08 Disability. A physical or mental impairment which is of such permanence and degree that, as determined by the Employer, a Participant is unable because of such impairment to perform any substantial gainful activity for which he/she is suited by virtue of his/her experience, training, or education and that has lasted, or can be expected to last, for a continuous period of not less than twelve (12) months, or can be expected to result in death. The permanence and degree of such impairment shall be supported by medical evidence. If the Employer maintains a long-term disability plan, the definition of Disability shall be the same as the definition of disability in the long-term disability plan.

2.09 Earnings.

- (a) **General Rule.** Earnings, which form the basis for computing Employer Contributions, are all of each Participant's W-2 earnings which are actually paid to the Participant during the Plan Year, plus any contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Employee under section 125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2), 457(b), or, effective January 1, 2001, 132(f)(4) of the Code. Earnings shall include any pre-tax contributions (excluding direct employer contributions) to an integral part trust of the Employer providing retiree health care benefits. Earnings shall also include any other earnings as defined and elected by the Employer in the Adoption Agreement. Unless the Employer elects otherwise in the Adoption Agreement, Earnings shall exclude overtime compensation and bonuses.
- (b) **Limitation on Earnings.** For any Plan Year beginning after December 31, 2001, the annual Earnings of each Participant taken into account in determining allocations shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the Plan Year or such other consecutive 12-month period over which Earnings is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

If a determination period consists of fewer than twelve (12) months, the annual Earnings limit is an amount equal to the otherwise applicable annual Earnings limit multiplied by the fraction, the numerator of which is the number of months in the short Plan Year and the denominator of which is twelve (12).

If Earnings for any prior determination period are taken into account in determining a Participant's allocations for the current Plan Year, the Earnings for such prior year are subject to the applicable annual Earnings limit in effect for that prior year.

- (c) **Limitations for Governmental Plans.** In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Code), the dollar limitation shall not apply to the extent the Earnings which are allowed to be taken into account under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For purposes of this Section, an eligible participant is an individual who first became a Participant in the Plan during a Plan Year beginning before the first Plan Year beginning after December 31, 1993.
- (d) **Earnings Paid After Severance from Employment.** Earnings for purposes of allocations under the Plan shall not include amounts paid after a Participant's severance from Employment with the Employer except as provided in this Section 2.09(d).
 - (1) **Leave Cashouts.** Earnings shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, and (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

(2) **Regular Pay.** Earnings shall include regular pay after severance from employment if:

- (a) The payment is included in the Participant's W-2 earnings;
- (b) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and
- (c) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

Notwithstanding anything to the contrary in this subsection (b), unless the Employer has specifically elected to include overtime compensation and bonuses in Earnings, Earnings shall exclude overtime compensation and bonuses paid after severance from employment.

(3) **Effective Date.** This Section 2.09(d) is effective for Plan Years beginning on or after January 1, 2009. For Plan Years beginning before January 1, 2009, the amounts specified in subsections (a) and (b) must be paid within 2½ months after severance from employment with the Employer maintaining the Plan.

- 2.10 Effective Date.** The first day of the Plan Year during which the Employer adopts the Plan, unless the Employer elects in the Adoption Agreement an alternate date as the Effective Date of the Plan.
- 2.11 Employee.** Any individual who has applied for and been hired in an employment position and who is employed by the Employer as a common law employee; provided, however, that Employee shall not include any individual who is not so recorded on the payroll records of the Employer, including any such person who is subsequently reclassified by a court of law or regulatory body as a common law employee of the Employer. For purposes of clarification only and not to imply that the preceding sentence would otherwise cover such person, the term Employee does not include any individual who performs services for the Employer as an independent contractor, or under any other non-employee classification.
- 2.12 Employer.** The unit of state or local government or an agency or instrumentality of one (1) or more states or local governments that executes the Adoption Agreement.
- 2.13 Hour of Service.** Each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer.
- 2.14 Nonforfeitable Interest.** The nonforfeitable interest of the Participant or his/her Beneficiary (whichever is applicable) is that percentage of his/her Employer Contribution Account balance, which has vested pursuant to Article VII. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in his/her Participant Contribution, Rollover, and Voluntary Contribution Accounts.
- 2.15 Normal Retirement Age.** The age which the Employer specifies in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.
- 2.16 Participant.** An Employee or former Employee for whom contributions have been made under the Plan and who has not yet received all of the payments of benefits to which he/she is entitled under the Plan. A Participant is treated as benefiting under the Plan for any Plan Year during which the participant received or is deemed to receive an allocation in accordance with Treas. Reg. section 1.410(b)-3(a).

2.17 Period of Service. For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the Nonforfeitable Interest in the Participant's Account balance derived from Employer Contributions, an Employee will receive credit for the aggregate of all time period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any Period of Severance of less than twelve (12) consecutive months. Fractional periods of a year will be expressed in terms of days.

Notwithstanding anything to the contrary herein, if the Plan is an amendment and restatement of a plan that previously calculated service under the hours of service method, service shall be credited in a manner that is at least as generous as that provided under Treas. Regs. section 1.410(a)-7(g).

2.18 Period of Severance. A continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

2.19 Plan. This Plan, as established by the Employer, including any elected provisions pursuant to the Adoption Agreement.

2.20 Plan Administrator. The person(s) or entity named to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described, which is the ICMA Retirement Corporation or any successor Plan Administrator. Unless otherwise provided in the Plan, the Plan Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction.

2.21 Plan Year. The twelve (12) consecutive month period designated by the Employer in the Adoption Agreement.

2.22 Trust. The Trust created under Article VI of the Plan which shall consist of all of the assets of the Plan derived from Employer and Participant contributions under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

III. ELIGIBILITY

3.01 Service. Except as provided in Sections 3.02 and 3.03 of the Plan, an Employee within the Covered Employment Classification who has completed a twelve (12) month Period of Service shall be eligible to participate in the Plan at the beginning of the payroll period next commencing thereafter. The Employer may elect in the Adoption Agreement to waive or reduce the twelve (12) month Period of Service.

If the Employer maintains the plan of a predecessor employer, service with such employer shall be treated as Service for the Employer.

3.02 Age. The Employer may designate a minimum age requirement, not to exceed age twenty-one (21), for participation. Such age, if any, shall be declared in the Adoption Agreement.

3.03 Return to Covered Employment Classification. In the event a Participant is no longer a member of Covered Employment Classification and becomes ineligible to make contributions and/or have contributions made on his/her behalf, such Employee will become eligible for contributions immediately upon returning to a Covered Employment Classification. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.

In the event an Employee who is not a member of a Covered Employment Classification becomes a member, such Employee will be eligible to participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

- 3.04 Service Before a Break in Service.** All Periods of Service with the Employer are counted toward eligibility, including Periods of Service before a Break in Service.

IV. CONTRIBUTIONS

- 4.01 Employer Contributions.** For each Plan Year, the Employer will contribute to the Trust an amount as specified in the Adoption Agreement. The Employer's full contribution for any Plan Year shall be due and paid not later than thirty (30) working days after the close of the Plan Year. Each Participant will share in Employer Contributions for the period beginning on the date the Participant commences participation under the Plan and ending on the date on which such Employee severs employment with the Employer or is no longer a member of a Covered Employment Classification, and such contributions shall be accounted for separately in his Employer Contribution Account. Notwithstanding anything to the contrary herein, if so elected by the Employer in the Adoption Agreement, an Employee shall be required to make contributions as provided pursuant to Section 4.03 or 4.04 in order to be eligible for Employer Contributions to be made on his/her behalf to the Plan.
- 4.02 Forfeitures.** All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.
- 4.03 Mandatory Participant Contributions.** If the Employer so elects in the Adoption Agreement, each eligible Employee shall make contributions at a rate prescribed by the Employer or at any of a range of specified rates, as set forth by the Employer in the Adoption Agreement, as a requirement for his/her participation (1) in the Plan or (2) in this portion of the Plan. Once an eligible Employee becomes a Participant and makes an election hereunder, he/she shall not thereafter have the right to discontinue or vary the rate of such Mandatory Participant Contributions. Such contributions shall be accounted for separately in the Participant Contribution Account. Such Account shall be at all times nonforfeitable by the Participant.

If the Employer so elects in the Adoption Agreement, the Mandatory Participant Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). Any contribution picked-up under this Section shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

To constitute a Pick-Up Contribution, (1) the Employer must specify in a contemporaneous written document by a person duly authorized by the Employer that the contributions are being paid by the Employer in lieu of contributions by the Employee, and (2) the Employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan.

- 4.04 Employer Matching Contributions of Voluntary Participant Contributions.** If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an eligible Employee for a Plan Year only if the Employee agrees to make Voluntary Participant Contributions for that Plan Year. The rate of Employer Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which Voluntary Participant Contributions are made for that Plan Year. Employer Matching Contributions shall be accounted for separately in the Employer Contribution Account.
- 4.05 Voluntary Participant Contributions.** If the Employer so elects in the Adoption Agreement, an eligible Employee may make after-tax voluntary (unmatched) contributions under the Plan for any Plan Year in any amount up to twenty-five percent (25%) of his/her Earnings for such Plan Year. Matched and unmatched contributions shall be accounted for separately in the Participant's Voluntary Contribution Account. Such Account shall be at all times nonforfeitable by the Participant.

- 4.06 Deductible Employee Contributions.** The Plan will not accept deductible employee contributions which are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a Deductible Employee Contribution Account. The Account will share in the gains and losses under the Plan in the same manner as described in Section 6.06 of the Plan. Such Account shall be at all times nonforfeitable by the Participant. No part of the deductible voluntary contribution account will be used to purchase life insurance.
- 4.07 Final Pay Contributions.** If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Final Pay Contributions under this Plan in accordance with Article XVIII. This election may be made even if the Employer does not elect to make contributions under Section 4.01.
- 4.08 Accrued Leave Contributions.** If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Accrued Leave Contributions under this Plan in accordance with Article XIX. This election may be made even if the Employer does not elect to make contributions under Section 4.01.
- 4.09 Military Service Contributions.** Notwithstanding any provision of the Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.

Effective December 12, 1994, if the Employer has elected in the Adoption Agreement to make loans available to Participants, loan repayments shall be suspended under the Plan as permitted under section 414(u)(4) of the Code.

4.10 Accrual of Additional Benefits for Qualified Military Service.

- (a) **Death Benefits with Respect to Qualified Military Service.** In the case of a Participant who dies on or after January 1, 2007, while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer, his/her Beneficiary shall have a Nonforfeitable Interest in the Participant's entire Employer Contribution Account to the extent that he/she would have had had the Participant resumed and then terminated employment on account of death.
- (b) **Benefit Accruals with Respect to Differential Wage Payments.** If the Employer so elects in the Adoption Agreement, effective as elected by the Employer but no earlier than January 1, 2009, Plan contributions shall be made based on differential wage payments (as such term is defined in Code section 3401(h)(2)). Solely for purposes of applying the limits of Code section 415, differential wage payments shall be treated as compensation.
- (c) **Benefit Accruals with Respect to Qualified Military Service.** Notwithstanding any provision of the Plan to the contrary, effective as elected by the Employer but no earlier than January 1, 2007, if the Employer so elects in the Adoption Agreement, Participants who die or become Disabled while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code section 414(u)(9).

- 4.11 Changes in Participant Election.** A Participant may elect to change his/her rate of Voluntary Participant Contributions at any time or during an election period as designated by the Employer. A Participant may discontinue such contributions at any time or during an election period as designated by the Employer.

4.12 Portability of Benefits.

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, the Plan will accept Participant (which shall include, for purposes of this subsection, an Employee within the Covered Employment Classification whether or not he/she has satisfied the minimum age and service requirements of Article III) rollover contributions and/or direct rollovers of distributions (including after-tax contributions) made after December 31, 2001 that are eligible for rollover in accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), or 457(e)(16) of the Code, from all of the following types of plans:
 - (1) A qualified plan described in Section 401(a) or 403(a) of the Code;
 - (2) An annuity contract described in Section 403(b) of the Code;
 - (3) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and
 - (4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Code (including SEPs, and SIMPLE IRAs after two years of participating in the SIMPLE IRA).
- (b) Notwithstanding the foregoing, the Employer may reject the rollover contribution if it determines, in its discretion, that the form and nature of the distribution from the other plan does not satisfy the applicable requirements under the Code to make the transfer or rollover a nontaxable transaction to the Participant;
- (c) For indirect rollover contributions, the amount distributed from such plan must be rolled over to this Plan no later than the sixtieth (60th) day after the distribution was made from the plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3) of the Code.
- (d) The amount transferred shall be deposited in the Trust and shall be credited to a Rollover Account. Such Account shall be one hundred percent (100%) vested in the Participant.
- (e) The Plan will accept accumulated deductible employee contributions as defined in section 72(o)(5) of the Code that were distributed from a qualified retirement plan and transferred (rolled over) pursuant to section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of the Code. Notwithstanding the above, this transferred (rolled over) amount shall be deposited to the Trust and shall be credited to a Deductible Employee Contributions Account. Such Account shall be one-hundred percent (100%) vested in the Participant.
- (f) A Participant may, upon approval by the Employer and the Plan Administrator, transfer his/her interest in another plan maintained by the Employer that is qualified under section 401(a) of the Code to this Plan, provided the transfer is effected through a one-time irrevocable written election made by the Participant. The amount transferred shall be deposited in the Trust and shall be credited to sources that maintain the same attributes as the plan from which they are transferred. Such transfer shall not reduce the accrued years or service credited to the Participant for purposes of vesting or eligibility for any Plan benefits or features.

4.13 Return of Employer Contributions. Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the date of contribution.

V. LIMITATION ON ALLOCATIONS

5.01 Participants Only in This Plan.

- (a) If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.
- (b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.
- (c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

5.02 Participants in Another Defined Contribution Plan.

- (a) Unless the Employer provides other limitations in the Adoption Agreement, this Section applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's Account under the other plans and welfare benefit funds for the same Limitation Year. If the Annual Additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.
- (b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 5.01(b).
- (c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

- (d) If, pursuant to Subsection (c) or as a result of the allocation of forfeitures, a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.
- (e) If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will be the product of,
 - (1) The total Excess Amount allocated as of such date, multiplied by
 - (2) The ratio of (i) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (ii) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all the other qualified prototype defined contribution plans.

5.03 Definitions. For the purposes of this Article, the following definitions shall apply:

- (a) Annual Additions. The sum of the following amounts credited to a Participant's account for the Limitation Year:
 - (1) Employer Contributions (including contributions "picked up" by the Employer under Section 4.03);
 - (2) Forfeitures;
 - (3) Employee contributions (including after-tax Voluntary Contributions under Section 4.05 and Mandatory Participant Contributions under Section 4.03 not "picked up" by the Employer); and
 - (4) Allocations under a simplified employee pension. Amounts allocated, after March 31, 1984, to an individual medical account, as defined in section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer, are treated as Annual Additions to a defined contribution plan.
 - (5) Notwithstanding the above, the term Annual Additions does not include the following:
 - (a) Restorative Payments. Annual Additions for purposes of Code section 415 shall not include restorative payments. For this purpose, restorative payments are payments made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments to a defined contribution plan are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). Payments made to a plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that give rise to Annual Additions.

- (b) Other Amounts. Annual Additions for purposes of Code section 415 shall not include (i) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (iii) repayments of loans made to a Participant from the Plan; (iv) repayments of amounts described in Code section 411(a)(7)(B) (in accordance with Code sections 411(a)(7)(C)) and 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code section 414(d)) as described in Code section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments; (v) Employee Contributions to a qualified cost of living arrangement within the meaning of Code section 415(k)(2)(B); (vi) catch-up contributions made in accordance with section 414(v) and §1.414(v)-1 and (vii) excess deferrals that are distributed in accordance with §1.402(g)-1(e)(2) or (3).
- (c) Date of Employer Contributions. Notwithstanding anything in the Plan to the contrary, Employer Contributions are treated as credited to a Participant's account for a particular Limitation Year only if the contributions are actually made to the plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.
- (b) Compensation. Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. section 1.62-2(c).
- (1) Notwithstanding the foregoing, Compensation does not include:
- (i) Contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered as Compensation for Code section 415 purposes, regardless of whether such amounts are includible in the gross income of the Participant when distributed; and
 - (ii) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code section 125).
 - (iii) Other items of remuneration that are similar to the items listed in subparagraph (i) or (ii) of this subsection (b).
- (2) Compensation Paid After Severance or Deemed Severance from Employment. Compensation shall be adjusted as set forth herein for the following types of compensation paid after a Participant's severance from employment (as determined under section 415 of the Code and the regulations thereunder) with the Employer. Any payment that is not described in subsection (i), (ii), (iii), or (iv) of this Section is not considered Compensation within the meaning of section 415 of the Code if paid after severance from employment with the Employer.

(i) Regular Pay.

- (A) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;
- (B) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and
- (C) Such amounts are paid:
 - 1. for Limitation Years beginning before January 1, 2009, within 2½ months after severance from employment with the Employer maintaining the Plan; and
 - 2. for Limitation Years beginning on or after January 1, 2009, by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.
- (D) The date January 1, 2009 in subsections (b)(2)(i)(C)(1) and (2) of this Section shall be substituted for an earlier effective date if provided in Article II of the Adoption Agreement but no earlier than July 1, 2007.

(ii) Leave Cashouts.

- (A) For Limitation Years beginning before January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid within 2½ months after severance from employment with the Employer maintaining the Plan, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.
- (B) For Limitation Years beginning on or after January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.
- (C) The date January 1, 2009 in subsections (b)(2)(ii)(A) and (B) of this Section shall be substituted for an earlier effective date if provided in Article II of the Adoption Agreement but no earlier than July 1, 2007.

(iii) Salary Continuation Payments for Military Service Participants.

- (A) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u) (1)) to the extent:
 - 1. Those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service; and

2. Those payments would be included in Compensation if the individual had continued to perform services for the Employer rather than entering qualified military service.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)).

(iv) Salary Continuation Payments for Disabled Participants.

(A) Compensation includes amounts paid to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) to the extent:

1. Salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period or the Participant was not a highly compensated employee (as defined in Code section 414(q)) immediately before becoming disabled.
2. Those amounts would be included in Compensation if the Participant had continued to perform services for the Employer.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)).

For purposes of applying the limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or made available during such year. Compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

(c) Defined Contribution Dollar Limitation: \$40,000, as adjusted for increases in the cost of-living in accordance with section 415(d) of the Code.

(d) Employer: The Employer that adopts this Plan.

(e) Excess Amount: The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount. Any Excess Amount shall include allocable income. The income allocable to an Excess Amount is equal to the sum of allocable gain or loss for the Plan Year and the allocable gain or loss for the period between the end of the Plan Year and the date of distribution (the gap period). The Plan may use any reasonable method for computing the income allocable to an Excess Amount, provided that the method is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating income to Participants' Accounts.

(f) Limitation Year: A calendar year, or the twelve (12) consecutive month period elected by the Employer in section IX. 2 of the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year and the maximum permissible amount shall be prorated for the resulting short Limitation Year.

- (g) Maximum Permissible Amount: The maximum Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:

- (1) The Defined Contribution Dollar Limitation, or
- (2) One hundred percent (100%) of the Participant's Compensation for the Limitation Year.

The compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

Number of months in the short Limitation Year

12

5.04 Aggregation and Disaggregation of Plans.

- (a) Generally. For purposes of applying the limitations of Code section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives Annual Additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and any other entity which the Employer determines, based on a reasonable, good faith interpretation of existing law in accordance with Notice 89-23, 1989-1 C.B. 654, as modified by Notice 96-64, 1996-2 C.B. 229, should be aggregated for purposes of applying the limitations of Code section 415. For purposes of this Section:
- (1) A former employer is a "predecessor employer" with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treas. Reg. section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.
 - (2) With respect to an Employer, a former entity that antedates the Employer is a "predecessor employer" with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.
- (b) Midyear Aggregation. Two or more defined contribution plans that are not required to be aggregated pursuant to Code section 415(f) and the Treasury Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code section 415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's account after the date on which the plans are required to be aggregated.

- 5.05 Effective Date.** Except as otherwise provided in Section 5.03(b)(2), this Article shall apply to limitation years beginning on or after July 1, 2007. The Employer may elect a delayed effective date for this Article in Section IX. 3 of the Adoption Agreement, however, such effective date must apply to limitation years that begin on or after the date that is 90 days after the close of the first legislative session of the legislative body with authority to amend the plan that begins on or after July 1, 2007.

VI. TRUST AND INVESTMENT OF ACCOUNTS

- 6.01 Trust.** A Trust is hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The trustee shall be the Employer or such other person which agrees to act in that capacity hereunder.
- 6.02 Investment Powers.** The trustee or the Plan Administrator, acting as agent for the trustee, shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is controlled by Participants, pursuant to Sections 6.05 and 13.03.
- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, notes, debentures, mortgages, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period of time.
 - (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to Employee plans qualified under section 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plan, the declaration of trust of such common, collective, or commingled trust fund shall constitute a part of this Plan.
 - (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled or collective basis with the assets of any other plan or trust qualified under section 401(a) of the Code or any other plan described in section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Plan Administrator, or such custodian as the Plan Administrator may appoint, as agent and nominee for the Employer. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.
 - (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.
 - (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan, the Employer, or any nominee or agent of any of the foregoing, including the Plan Administrator, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
 - (f) Upon such terms as may be deemed advisable by the Employer or the Plan Administrator, as the case may be, for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any

claim or right in favor of or against the Plan, to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefor, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Plan in all suits or legal proceedings in any court of law or equity or before any body or tribunal.

- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Plan.
- (h) To open and maintain any bank account or accounts in the name of the Plan, the Employer, or any nominee or agent of the foregoing, including the Plan Administrator, in any bank or banks.
- (i) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.

6.03 Taxes and Expenses. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of the Plan Administrator, as may be agreed upon from time to time by the Employer and the Plan Administrator, and reimbursement for reasonable expenses incurred by the Plan Administrator in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust. However, no person who is a fiduciary within the meaning of section 3(21)(A) of ERISA and regulations promulgated thereunder, and who receives full-time pay from the Employer may receive compensation from the Trust, except for expenses properly and actually incurred.

6.04 Payment of Benefits. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Plan Administrator, or by any custodian or other person so authorized by the Employer to make such disbursement. Benefits under this Plan shall be paid only if the Plan Administrator, custodian or other person, or the Employer if directing such person, decides in his/her discretion that the applicant is entitled to them. The Plan Administrator, custodian or other person shall not be liable with respect to any distribution of Trust assets made at the direction of the Employer.

6.05 Investment Funds. In accordance with uniform and nondiscriminatory rules established by the Employer and the Plan Administrator, the Participant may direct his/her Accounts to be invested in one (1) or more investment funds available under the Plan; provided, however, that the Participant's investment directions shall not violate any investment restrictions established by the Employer and shall not include any investment in collectibles, as defined in section 408(m) of the Code.

6.06 Valuation of Accounts. As of each Accounting Date, the Plan assets held in each investment fund offered shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account balance as of the immediately preceding Accounting Date bears to the total of all such Account balances, as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and Beneficiaries.

6.07 Participant Loan Accounts. Participant Loan Accounts shall be invested in accordance with Section 13.03 of the Plan. Such Accounts shall not share in any investment income and gains or losses of the investment funds described in Section 6.05.

6.08 Deemed IRAs. If deemed IRAs are available pursuant to section 408(q) of the Code, the assets of such deemed IRAs may be commingled with the Plan assets for investment purposes but, if held in the same trust, the trustee shall maintain a separate account for each deemed IRA.

VII. VESTING

7.01 Vesting Schedule. The portion of a Participant's Account attributable to Mandatory Participant Contributions and Voluntary Participant Contributions, and the earnings thereon, shall be at all times nonforfeitable by the Participant. A Participant shall have a Nonforfeitable Interest in the percentage of his/her Employer Contribution Account established under Section 4.01, 4.04, 18.02(a) and 19.02(a) determined pursuant to the schedule elected by the Employer in the Adoption Agreement.

7.02 Crediting Periods of Service. Except as provided in Section 7.03, all of an Employee's Periods of Service with the Employer are counted to determine the nonforfeitable percentage in the Employee's Account balance derived from Employer Contributions. If the Employer maintains the plan of a predecessor employer, service with such employer will be treated as service for the Employer.

For purposes of determining years of service and Breaks in Service for the purposes of computing a Participant's nonforfeitable right to the Account balance derived from Employer Contributions, the twelve (12) consecutive month period will commence on the date the Employee first performs an Hour of Service and each subsequent twelve (12) consecutive month period will commence on the anniversary of such date.

7.03 Service After Break in Service. In the case of a Participant who has a Break in Service of at least five (5) years, all Periods of Service after such Breaks in Service will be disregarded for the purpose of determining the nonforfeitable percentage of the Employer-derived Account balance that accrued before such Break, but both pre-Break and post-Break service will count for the purposes of vesting the Employer-derived Account balance that accrues after such Break. Both Accounts will share in the earnings and losses of the fund.

In the case of a Participant who does not have a Break in Service of at least five (5) years, both the pre-Break and post-Break service will count in vesting both the pre-Break and post-Break Employer-derived Account balance.

In the case of a Participant who does not have any nonforfeitable right to the Account balance derived from Employer Contributions, years of service before a period of consecutive one (1) year Breaks in Service will not be taken into account in computing eligibility service if the number of consecutive one (1) year Breaks in Service in such period equals or exceeds the greater of five (5) or the aggregate number of years of service. Such aggregate number of years of service will not include any years of service disregarded under the preceding sentence by reason of prior Breaks in Service.

If a Participant's years of service are disregarded pursuant to the preceding paragraph, such Participant will be treated as a new Employee for eligibility purposes. If a Participant's years of service may not be disregarded pursuant to the preceding paragraph, such Participant shall continue to participate in the Plan, or, if terminated, shall participate immediately upon reemployment.

7.04 Vesting Upon Normal Retirement Age. Notwithstanding Section 7.01 of the Plan, a Participant shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan, if he/she is employed on or after his/her Normal Retirement Age.

7.05 Vesting Upon Death or Disability. Notwithstanding Section 7.01 of the Plan, in the event of Disability or death, a Participant or his/her Beneficiary shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan.

- 7.06 Forfeitures.** Except as provided in Sections 7.04 and 7.05 of the Plan or as otherwise provided in this Section 7.06, a Participant who separates from service prior to obtaining full vesting shall forfeit that percentage of his/her Employer Contribution Account balance which has not vested as of the date such Participant incurs a Break in Service of five (5) consecutive years or, if earlier, the date such Participant receives, or is deemed under the provisions of Section 9.04 to have received, distribution of the entire Nonforfeitable Interest in his/her Employer Contribution Account. No forfeiture will occur solely as a result of a Participant's withdrawal of Employee Contributions. Forfeitures shall be allocated in the manner described in Section 4.02.
- 7.07 Reinstatement of Forfeitures.** If the Participant returns to the employment of the Employer before incurring a Break in Service of five (5) consecutive years, any amounts forfeited pursuant to Section 7.06 shall be reinstated to the Participant's Employer Contribution Account on the date of repayment by the Participant of the amount distributed to such Participant from his/her Employer Contribution Account; provided, however, that if such Participant forfeited his/her Account balance by reason of a deemed distribution, pursuant to Section 9.04, such amounts shall be automatically restored upon the reemployment of such Participant. Such repayment must be made before the earlier of five (5) years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs a Break in Service of five (5) consecutive years.

VIII. BENEFITS CLAIM

- 8.01 Claim of Benefits.** A Participant or Beneficiary shall notify the Plan Administrator in writing of a claim of benefits under the Plan. The Plan Administrator shall take such steps as may be necessary to facilitate the payment of such benefits to the Participant or Beneficiary.
- 8.02 Appeal Procedure.** If any claim for benefits is initially denied by the Plan Administrator, the claimant shall file the appeal with the Employer, whose decision shall be final, to the extent provided by Section 15.07.

IX. COMMENCEMENT OF BENEFITS

- 9.01 Normal and Elective Commencement of Benefits.** A Participant who retires, becomes Disabled or incurs a severance from employment for any other reason may elect by written notice to the Plan Administrator to have his or her vested Account balance benefits commence on any date, provided that such distribution complies with Section 9.02. Such election must be made in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. A Participant's election shall be revocable and may be amended by the Participant.

The failure of a Participant to consent to a distribution while a benefit is immediately distributable, within the meaning of section 9.02 of the Plan, shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

- 9.02 Restrictions on Immediate Distributions.** Notwithstanding anything to the contrary contained in Section 9.01 of the Plan, if the value of a Participant's vested Account balance is at least \$1,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The Participant's consent shall be obtained in writing during the one-hundred eighty (180) day period (ninety (90) day period for Plan Years beginning before January 1, 2007) ending on the date as of which benefit payments are to commence. No consent shall be required, however, to the extent that a distribution is required to satisfy section 401(a)(9) or 415 of the Code.

The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available

under the Plan in a manner that would satisfy section 417(a)(3) of the Code, and shall be provided no less than thirty (30) and no more than one-hundred eighty (180) days (ninety (90) days for Plan Years beginning before January 1, 2007) before the date as of which benefit payments are to commence. However, distribution may commence less than thirty (30) days after the notice described in the preceding sentence is given, provided (i) the distribution is one to which sections 401(a)(11) and 417 of the Code do not apply or, if the QJSA Election is made by the Employer in the Adoption Agreement, the waiver requirements of Section 17.05(a) are met; (ii) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and (iii) the Participant, after receiving the notice, affirmatively elects a distribution.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider) and if the Employer does not maintain another 401(a) defined contribution plan, the Participant's Account balance will, without the Participant's consent, be distributed to the Participant in a lump sum. However, if the Employer maintains another 401(a) defined contribution plan, the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

An Account balance is immediately distributable if any part of the Account balance could be distributed to the Participant (or surviving spouse) before the Participant attains or would have attained (if not deceased) the later of Normal Retirement Age or age sixty-two (62).

For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first plan year beginning after December 31, 1988, the Participant's vested Account balance shall not include amounts attributable to accumulated deductible employee contributions within the meaning of section 72(o)(5)(B) of the Code.

9.03 Transfer to Another Plan.

- (a) If a Participant becomes eligible to participate in another plan maintained by the Employer that is qualified under section 401(a) of the Code, the Plan Administrator shall, at the written election of such Participant, transfer all or part of such Participant's Account to such plan, provided the Plan Administrator for such plan certifies to the Plan Administrator that its plan provides for the acceptance of such a transfer. Such transfers shall include those transfers of the nonforfeitable interest of a Participant's Account made for the purchase of service credit in defined benefit plans maintained by the Employer. For purposes of this Plan, any such transfer shall not be considered a distribution to the Participant subject to spousal consent as described in Section 9.10.
- (b) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (c) Definitions. For the purposes of Subsection (b), the following definitions shall apply:
 - (1) Eligible Rollover Distribution. Any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:
 - (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

- (ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and
- (iii) the portion of any other distribution(s) that is not includible in gross income.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or, for distributions occurring after December 31, 2007, to a Roth IRA described in § 408A of the Code, or to a qualified defined contribution plan described in section 401(a) or a qualified annuity contract described in section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible Retirement Plan.

- (i) an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code (collectively, an “IRA”);
- (ii) an annuity plan described in section 403(a) of the Code;
- (iii) an annuity contract described in section 403(b) of the Code;
- (iv) an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan;
- (v) a qualified plan described in section 401(a) of the Code, that accepts the Distributee’s Eligible Rollover Distribution; or
- (vi) for distributions occurring after December 31, 2007, a Roth IRA described in Code section 408A. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

- (3) Distributee. Participant; in addition, the Participant’s surviving spouse and the spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006 (unless a later date is elected by the Employer pursuant to subsection (d)(1) below, but no later than Plan Years beginning after December 31, 2009), a distributee includes the Employee’s or former Employee’s nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated Beneficiary for the purpose of receiving the distribution.

- (4) Direct Rollover. A payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(d) Rollover by a Non-Spouse Designated Beneficiary.

- (1) Unless otherwise elected by the Employer in the Adoption Agreement, for distributions beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan

that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (2) Notwithstanding paragraph (1), for Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a "designated beneficiary" under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (3) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).
- (e) Rollover by a Surviving Spouse Distributee. If any distribution attributable to a Participant is paid to the Participant's surviving spouse, section 402(c) applies to the distribution in the same manner as if the spouse were the Participant. However, a qualified plan (as defined in Treasury Regulation section 1.402(c)-2 Q&A-2) is not treated as an eligible retirement plan with respect to a surviving spouse. Only an individual retirement plan is treated as an eligible retirement plan with respect to an eligible rollover distribution to a surviving spouse.

9.04 De Minimis Accounts. Notwithstanding the foregoing provisions of this Article, if a Participant terminates service, and the value of his/her Nonforfeitable Interest in his/her Account is less than \$1,000, the Participant's benefit shall be paid as soon as practicable to the Participant in a single lump sum distribution. If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under section 411(a)(11) (A) of the Code, the Participant may elect to receive his/her Nonforfeitable Interest in his/her Account. Such distribution shall be made as soon as practicable following the request, in a lump sum.

For purposes of this Section, if a Participant's Nonforfeitable Interest in his/her Account is zero, the Participant shall be deemed to have received a distribution of such Nonforfeitable Interest in his/her Account.

9.05 Withdrawal of Voluntary Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Voluntary Contribution Account. Such withdrawals may be made at any time, provided that no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.06 Withdrawal of Deductible Employee Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Deductible Employee Contribution Account. Such withdrawals may be made at any time, provided that no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.07 In-Service Distribution from Rollover Account. Where elected by the Employer in the Adoption Agreement, a Participant that has a separate account attributable to rollover contributions to the Plan, may at any time elect to receive a distribution of all or any portion of the amount held in the Rollover Account.

9.08 In-Service Distributions.

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, a Participant who has reached age 70½ regardless of his Nonforfeitable Interest in his/her entire Employer Contribution Account, shall, upon written request, receive a distribution of a part of or the full amount of the balance in any or all of his vested Accounts.

- (b) If elected by the Employer, in-service distributions may be made beginning after June 1, 2009 to a Participant who has attained Normal Retirement Age or an alternate age (after Normal Retirement Age) elected by the Employer, and who has not yet incurred a severance from employment.
- (c) A Participant's benefit under the Plan may not be distributed before the Participant attains age 62 or, if earlier, the Participant separates from employment (or has a deemed separation), attains Normal Retirement Age under the plan, dies, or becomes disabled, or upon termination of the Plan.
- (d) Distributions under Section 9.08 may be requested at any time, provided that no more than two (2) such distributions may be made during any calendar year.

9.09 Latest Commencement of Benefits. Notwithstanding anything to the contrary in this Article, benefits shall begin no later than the Participant's Required Beginning Date, as defined under Section 10.05, or as otherwise provided in Section 10.04.

9.10 Spousal Consent. Notwithstanding the foregoing, if the Employer elected the QJSA Election in the Adoption Agreement, a married Participant must first obtain his or her spouse's notarized consent to request a distribution (other than a Qualified Joint and Survivor Annuity), withdrawal, or rollover under this Article IX.

9.11 Deemed Severance from Employment.

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than 30 days.
- (b) If a Participant receives a distribution pursuant to subsection (a), then the Participant shall not be permitted to make an after-tax voluntary contribution during the six-month period beginning on the date of the distribution.
- (c) If a Participant receives a distribution which could be attributable to:
 - (i) a deemed severance from employment described in subsection (a); or
 - (ii) another distribution event under the Plan,
 then the distribution shall be considered made pursuant to the distribution event referenced in paragraph (ii), and the Participant shall not be subject to the limitation on after-tax voluntary contributions set forth in subsection (b).

9.12 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. The term "Public Safety Officer" has the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.

- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code section 7702(B)).

X. DISTRIBUTION REQUIREMENTS

10.01 General Rules.

- (a) Generally. Subject to the provisions of Article XII or XVII if so elected by the Employer in the Adoption Agreement, the requirements of this Article shall apply to any distribution of a Participant’s interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Article X apply to calendar years beginning after December 31, 2002. With respect to distributions under the Plan made in or for Plan Years beginning on or after January 1, 2002 and prior to January 1, 2003, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary.
- (b) Distributions in Accordance with 401(a)(9). All distributions required under this Article shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code, and the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.
- (c) Limits on Distribution Periods. As of the first Distribution Calendar Year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods:
- (1) The life of the Participant,
 - (2) The joint lives of the Participant and a designated Beneficiary,
 - (3) A period certain not extending beyond the life expectancy of the Participant, or
 - (4) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article X, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.
- (e) EESA Provisions. The provisions relating to qualified disaster recovery assistance distributions for Participants affected by certain 2008 severe storms, flooding, and tornadoes and repayment thereof, and relating to repayment of prior qualified distributions for home purchases, set forth in section 702 of the Emergency Economic Stabilization Act of 2008 (“EESA”) shall apply to the Plan.
- (f) KETRA and GOZA Provisions. The provisions relating to qualified hurricane distributions and repayment thereof set forth in section 1400Q(a) of the Code, and relating to repayment of prior qualified distributions for home purchases set forth in Code section 1400Q(b), shall apply to the Plan. These provisions added to the Code by the Katrina Emergency Tax Relief Act of 2005 (“KETRA”) and the Gulf Opportunity Zone Act of 2005 (GOZA), permit plans to allow repayments of certain prior qualified distributions for home purchases for Participants affected by Hurricanes Katrina, Rita, and Wilma.

10.02 Time and Manner of Distribution

- (a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.02(b), other than Section 10.02(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 10.02(b) and Section 10.04, unless Section 10.02(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 10.02(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 10.03 and 10.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.

10.03 Required Minimum Distributions During Participant's Lifetime

- (a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Section 1.401(a)(9)-9, Q&A-2, of the Final Income Tax Regulations using the Participant's age as of the Participant's birthday in the distribution calendar year; or

- (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.03 beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the Participant's date of death.

10.04 Required Minimum Distributions After Participant's Death

(a) Death On or After Date Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (ii) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Required Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date required distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 10.04(a).

- (2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.02(b)(1), this Section 10.04(b) will apply as if the surviving spouse were the Participant.

10.05 Definitions

- (a) Designated Beneficiary. The individual who is designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the regulations.
- (b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.02(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the regulations.
- (d) Participant's Account Balance. The Account Balance as of the last Accounting Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (e) Required Beginning Date. The Required Beginning Date of a Participant is April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70½), or the calendar year in which the Participant retires.

10.06 Application of Minimum Distribution Requirements. The minimum distribution requirements of section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year. Pursuant to the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), required minimum distributions were suspended for 2009.

10.07 Special Rule for Scheduled Installment Payments. All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 10.07, the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

XI. MODES OF DISTRIBUTION OF BENEFITS

11.01 Normal Mode of Distribution. Unless an elective mode of distribution is elected as provided in Section 11.02, benefits shall be paid to the Participant in the form of a lump sum payment.

Notwithstanding the foregoing, where the Employer made the "QJSA Election" in the Adoption Agreement, unless an elective mode of distribution is elected in accordance with Article XVII, benefits shall be paid to the Participant in the form provided for in Article XVII.

11.02 Elective Mode of Distribution. Subject to the requirements of Articles X, XII and XVII, a Participant may revocably elect to have his/her Account distributed in any one (1) of the following modes in lieu of the mode described in Section 11.01:

- (a) Equal Payments. Equal monthly, quarterly, semi-annual, or annual payments in an amount chosen by the Participant continuing until the Account is exhausted.
- (b) Period Certain. Approximately equal monthly, quarterly, semi-annual, or annual payments, calculated to continue for a period certain chosen by the Participant.
- (c) Other. Any other sequence of payments requested by the Participant.
- (d) Lump Sum. Where the Employer did make the QJSA Election in the Adoption Agreement, a Participant may also elect a lump sum payment.

11.03 Election of Mode. A Participant's election of a payment option must be made in writing between thirty (30) and one-hundred eighty (180) days (ninety (90) days for Plan Years beginning before January 1, 2007) before the payment of benefits is to commence.

11.04 Death Benefits. Subject to Article X (and Article XII or XVII if so elected by the Employer in the Adoption Agreement),

- (a) In the case of a Participant who dies before he/she has begun receiving benefit payments, the Participant's entire Nonforfeitable Interest shall then be payable to his/ her Beneficiary within ninety (90) days of the Participant's death. A Beneficiary who is entitled to receive benefits under this Section may elect to have benefits commence at a later date, subject to the provisions of Article X. The Beneficiary may elect to receive the death benefit in any of the forms available to the Participant under Sections 11.01 and 11.02. If the Beneficiary is the Participant's surviving spouse, and such surviving spouse dies before payment commences, then this Section shall apply to the beneficiary of the surviving spouse as though such surviving spouse were the Participant.
- (b) Should the Participant die after he/she has begun receiving benefit payments, the Beneficiary shall receive the remaining benefits, if any, that are payable, under the payment schedule elected by the Participant. Notwithstanding the foregoing, the Beneficiary may elect to accelerate payments of the remaining balances, including but not limited to, a lump sum distribution.

XII. SPOUSAL DEATH BENEFIT REQUIREMENTS

12.01 Application. Unless otherwise elected by the Employer in the Adoption Agreement, on or after January 1, 2006, the provisions of this Article shall take precedence over any conflicting provision in this Plan. The provisions of this Article, known as the "Beneficiary Spousal Consent Election," shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 12.04.

12.02 Spousal Death Benefit.

- (a) On the death of a Participant, the Participant's Vested Account Balance will be paid to the Participant's Surviving Spouse. If there is no Surviving Spouse, or if the Participant has waived the spousal death benefit, as provided in Section 12.03, such Vested Account Balance will be paid to the Participant's designated Beneficiary.
- (b) The Surviving Spouse may elect to have distribution of the Vested Account Balance commence within the one-hundred eighty (180) day period following the date of the Participant's death, or as otherwise provided under Section 11.04. The Account balance shall be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of Account balances for other types of distributions.

12.03 Waiver of Spousal Death Benefit.

The Participant may waive the spousal death benefit described in Section 12.02 at any time; provided that no such waiver shall be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed to meet the requirements of this Section.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited.

12.04 Definitions. For the purposes of this Section, the following definitions shall apply:

- (a) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.
- (b) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee contributions (or both) at the time of death or distribution.

XIII. LOANS TO PARTICIPANTS

13.01 Availability of Loans to Participants.

- (a) If the Employer has elected in the Adoption Agreement to make loans available to Participants, a Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.
- (b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Plan Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

13.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 13.01 of the Plan shall satisfy the following requirements:

- (a) Availability. Loans shall be made available to all Participants who are active Employees on a reasonably equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.
- (b) Nondiscrimination. Loans shall not be made to highly compensated Employees in an amount greater than the amount made available to other Employees.
- (c) Interest Rate. Loans must be adequately secured and bear a reasonable interest rate.
- (d) Loan Limit. No Participant loan shall exceed the present value of the Participant's Nonforfeitable Interest in his/her Account.
- (e) Foreclosure. In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs in the Plan.
- (f) Reduction of Account. Notwithstanding any other provision of this Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's nonforfeitable Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account balance shall be adjusted by first reducing the nonforfeitable Account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.
- (g) Amount of Loan. At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant or Beneficiary from the Plan and from all other plans of the Employer that are qualified employer plans under section 72(p)(4) of the Code shall not exceed the lesser of:
 - (1) \$50,000, reduced by the excess (if any) of
 - (i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made, over
 - (ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or

- (2) One-half (1/2) of the value of the Participant's Nonforfeitable Interest in all of his/her Accounts under this Plan (or \$10,000, if greater, for loans prior to January 1, 2006).

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer, including 457(b) plans, under Code section 72(p)(4) are aggregated.

- (h) Application for Loan. The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant in any calendar year. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.
- (i) Length of Loan. The terms of any loan issued or renegotiated after December 31, 1993, shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least quarterly (except as otherwise provided in Treasury Regulation section 1.72(p)-1, Q&A-9 for certain leave of absence and military leave), over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this Subsection (i), with a revised payment schedule (within such term) instituted at the end of such period of suspension. If the Participant fails to make any installment payment, the Plan Administrator may, according to Treasury Regulation 1.72(p)-1, allow a cure period, which cure period cannot continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due.
- (j) Prepayment. The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.
- (k) Note. The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer. Unless waived by a Participant, any plan loan that is outstanding on the date that active duty military service begins will accrue interest at a rate of no more than 6% during the period of military service in accordance with the provisions of the Servicemembers Civil Relief Act (SCRA), 50 USC App. § 526 and subject to the notice requirements contained therein. This limitation applies even if loan payments are suspended during the period of military service as permitted under the Plan and Treasury regulations.
- (l) Security. The loan shall be secured by an assignment of that portion the Participant's right, title and interest in and to his/her Employer Contribution Account (to the extent vested), Participant Contribution Account, and Rollover Account that is equal to fifty percent (50%) of the Participant's Account (to the extent vested).
- (m) Assignment or Pledge. For the purposes of paragraphs (h) and (i), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.
- (n) Spousal Consent. If the Employer elected the QJSA Election in the Adoption Agreement, the Participant must first obtain his or her spouse's notarized consent to the loan. Spousal consent shall be obtained no earlier than the beginning of the one-hundred eighty (180) day period (ninety (90) day period for plan years beginning before January 1, 2007) that ends on the date on which the loan is to be so secured. The consent

must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the account balance is used for renegotiation, extension, renewal, or other revision of the loan.

- (o) Other Terms and Conditions. The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the qualification of the Plan and Trust under section 401(a) of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:
 - (1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect to loans issued after December 31, 2012, that the loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's account balance after termination of employment;
 - (2) rules relating to reamortization of loans; and
 - (3) rules relating to refinance of loans.

13.03 Participant Loan Accounts.

- (a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.05 of the Plan, to the Participant's Loan Account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.
- (b) The assets of a Participant's Loan Account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 13.01 of the Plan or in cash. Uninvested cash balances in a Participant's Loan Account shall not bear interest. No person who is otherwise a fiduciary of the Plan shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.
- (c) Repayment of principal and payment of interest shall be made by payroll deduction or Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one (1) or more other investment funds, in accordance with Section 6.05 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's Loan Account. A payment intended to be a Prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.
- (d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the provisions of the Plan, governing the establishment and maintenance of Participant Loan Accounts.

XIV. PLAN AMENDMENT, TERMINATION AND OPTIONAL PROVISIONS

14.01 Amendment by Employer. The Employer reserves the right, subject to Section 14.02 of the Plan, to amend the Plan from time to time by either:

- (a) Filing an amended Adoption Agreement to change, delete, or add any optional provision, or
- (b) Continuing the Plan in the form of an amended and restated Plan and Trust.

No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's Account balance may be reduced to the extent permitted under section 412(d)(2) of the Code. For purposes of this paragraph, a Plan amendment which has the effect of decreasing a Participant's Account balance or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Furthermore, if the vesting schedule of the Plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's right to his/her Employer-derived accrued benefit will not be less than his percentage computed under the plan without regard to such amendment.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his or her Account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

The Employer may (1) change the choice of options in the Adoption Agreement, (2) add overriding language in the Adoption Agreement when such language is necessary to satisfy sections 415 or 416 of the Code because of the required aggregation of multiple plans, (3) amend administrative provisions of the trust or custodial document in the case of a nonstandardized plan and make more limited amendments in the case of a standardized plan such as the name of the plan, employer, trustee or custodian, plan administrator and other fiduciaries, the trust year, and the name of any pooled trust in which the Plan's trust will participate, (4) add certain sample or model amendments published by the Internal Revenue Service or other required good faith amendments which specifically provide that their adoption will not cause the plan to be treated as individually designed, and (5) add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan and correct obvious and unambiguous typographical errors and/or cross-references that merely correct a reference but that do not in any way change the original intended meaning of the provisions. An Employer that amends the Plan for any other reason will be considered to have an individually designed plan.

14.02 Amendment of Vesting Schedule. If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage, each Participant may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

- (a) Sixty (60) days after the amendment is adopted;
- (b) Sixty (60) days after the amendment becomes effective; or
- (c) Sixty (60) days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

14.03 Termination by Employer. The Employer reserves the right to terminate this Plan. However, in the event of such termination no part of the Trust shall be used or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as provided in this Section.

Upon Plan termination or partial termination, all Account balances shall be valued at their fair market value and the Participant's right to his/her Employer Contribution Account shall be one hundred percent (100%) vested and nonforfeitable. Such amount and any other amounts held in the Participant's other Accounts shall be maintained for the Participant until paid pursuant to the terms of the Plan.

Any amounts held in a suspense account, after all liabilities of the Plan to Participants and Beneficiaries have been satisfied or provided for, shall be paid to the Employer in accordance with the Code and regulations thereunder.

In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made by the Employer incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

14.04 Discontinuance of Contributions. A permanent discontinuance of contributions to the Plan by the Employer, unless an amended and restated Plan is established, shall constitute a Plan termination. In the event of a complete discontinuance of contributions under the Plan, the Account balance of each affected Participant shall be nonforfeitable.

14.05 Amendment by Plan Administrator. The Plan Administrator may amend this Plan upon thirty (30) days written notification to the Employer; provided, however, that any such amendment must be for the express purpose of maintaining compliance with applicable federal laws and regulations, revenue rulings, other statements published by the Internal Revenue Service (including model and sample amendments that specifically provide that their adoption will not cause such Plan to be individually designed), or corrections of prior approved Plans may be applied to all Employers who have adopted the Plan. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator, in writing, that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

For purposes of reliance on the advisory letter, the Plan Administrator shall no longer have authority to amend the Plan on behalf of the Employer as of the date of the adoption of an Employer amendment to the Plan to incorporate a type of plan not allowable in the volume submitter program described in section 16.03 of Revenue Procedure 2011-49 (or successor guidance) or as of the date the Internal Revenue Service notifies the Plan Administrator that the Plan is being treated as an individually designed plan pursuant to section 24.03 of Revenue Procedure 2011-49 (or successor guidance).

14.06 Optional Provisions. Any provision which is optional under this Plan shall become effective if and only if elected by the Employer and agreed to by the Plan Administrator.

14.07 Failure of Qualification. If the Employer's plan fails to attain or retain qualification, such plan will no longer participate in this Plan and will be considered an individually designed plan.

XV. ADMINISTRATION

15.01 Powers of the Employer. The Employer shall have the following powers and duties:

- (a) To appoint and remove, with or without cause, the Plan Administrator;
- (b) To amend or terminate the Plan pursuant to the provisions of Article XIV;

- (c) To appoint a committee to facilitate administration of the Plan and communications to Participants;
- (d) To decide all questions of eligibility (1) for Plan participation, and (2) upon appeal by any Participant, Employee or Beneficiary, for the payment of benefits;
- (e) To engage an independent qualified public accountant, when required to do so by law, to prepare annually the audited financial statements of the Plan's operation;
- (f) To take all actions and to communicate to the Plan Administrator in writing all necessary information to carry out the terms of the Plan and Trust; and
- (g) To notify the Plan Administrator in writing of the termination of the Plan.

15.02 Duties of the Plan Administrator. The Plan Administrator shall have the following powers and duties, subject to the oversight by the Employer:

- (a) To construe and interpret the provisions of the Plan;
- (b) To maintain and provide such returns, reports, schedules, descriptions, and individual Account statements as are required by law within the times prescribed by law; and to furnish to the Employer, upon request, copies of any or all such materials, and further, to make copies of such instruments, reports, descriptions, and statements as are required by law available for examination by Participants and such of their Beneficiaries who are or may be entitled to benefits under the Plan in such places and in such manner as required by law;
- (c) To obtain from the Employer such information as shall be necessary for the proper administration of the Plan;
- (d) To determine the amount, manner, and time of payment of benefits hereunder;
- (e) To appoint and retain such agents, counsel, and accountants for the purpose of properly administering the Plan;
- (f) To distribute assets of the Trust to each Participant and Beneficiary in accordance with Article X of the Plan;
- (g) To pay expenses from the Trust pursuant to Section 6.03 of the Plan; and
- (h) To do such other acts reasonably required to administer the Plan in accordance with its provisions or as may be provided for or required by the Code.

15.03 Protection of the Employer. The Employer shall not be liable for the acts or omissions of the Plan Administrator, but only to the extent that such acts or omissions do not result from the Employer's failure to provide accurate or timely information as required or necessary for proper administration of the Plan.

15.04 Protection of the Plan Administrator. The Plan Administrator may rely upon any certificate, notice or direction purporting to have been signed on behalf of the Employer which the Plan Administrator believes to have been signed by a duly designated official of the Employer.

15.05 Resignation or Removal of Plan Administrator. The Plan Administrator may resign at any time effective upon sixty (60) days prior written notice to the Employer. The Plan Administrator may be removed by the Employer at any time upon sixty (60) days prior written notice to the Plan Administrator. Upon the resignation or removal of the Plan Administrator, the Employer may appoint a successor Plan Administrator; failing such appointment, the

Employer shall assume the powers and duties of Plan Administrator. Upon the resignation or removal of the Plan Administrator, any Trust assets invested by or held in the name of the Plan Administrator shall be transferred to the trustee in cash or property, at fair market value, except that the return of Trust assets invested in a contract issued by an insurance company shall be governed by the terms of that contract.

15.06 No Termination Penalty. The Plan Administrator shall have no authority or discretion to impose any termination penalty upon its removal.

15.07 Decisions of the Plan Administrator. All constructions, determinations, and interpretations made by the Plan Administrator pursuant to Section 15.02(a) or (d) or by the Employer pursuant to Section 15.01(d) shall be final and binding on all persons participating in the Plan, given deference in all courts of law to the greatest extent allowed by applicable law, and shall not be overturned or set aside by any court of law unless found to be arbitrary or capricious, or made in bad faith.

XVI. MISCELLANEOUS

16.01 Nonguarantee of Employment. Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of an Employee to be continued in the employment of the Employer, as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

16.02 Rights to Trust Assets. No Employee or Beneficiary shall have any right to, or interest in, any assets of the Trust upon termination of his/her employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary out of the assets of the Trust. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Trust and none of the fiduciaries shall be liable therefor in any manner.

16.03 Nonalienation of Benefits. Except as provided in Sections 16.04 and 16.06 of the Plan, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Trust shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

16.04 Qualified Domestic Relations Order. Notwithstanding Section 16.03 of the Plan, amounts may be paid with respect to a Participant pursuant to a domestic relations order, but if and only if the order is determined to be a qualified domestic relations order within the meaning of section 414(p) of the Code or any domestic relations order entered before January 1, 1985.

16.05 Nonforfeitability of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to deprive a Participant of his/her right to the Nonforfeitable Interest to which he/ she becomes entitled in accordance with the provisions of the Plan.

16.06 Incompetency of Payee. In the event any benefit is payable to a minor or incompetent, to a person otherwise under legal disability, or to a person who, in the sole judgment of the Employer, is by reason of advanced age, illness, or other physical or mental incapacity incapable of handling the disposition of his/her property, the Employer may apply the whole or any part of such benefit directly to the care, comfort, maintenance, support, education, or use of such person or pay or distribute the whole or any part of such benefit to:

- (a) The parent of such person;
- (b) The guardian, committee, or other legal representative, wherever appointed, of such person;
- (c) The person with whom such person resides;
- (d) Any person having the care and control of such person; or
- (e) Such person personally.

The receipt of the person to whom any such payment or distribution is so made shall be full and complete discharge therefor.

- 16.07 Inability to Locate Payee.** Anything to the contrary herein notwithstanding, if the Employer is unable, after reasonable effort, to locate any Participant or Beneficiary to whom an amount is payable hereunder, such amount shall be forfeited and held in the Trust for application against the next succeeding Employer Contribution or contributions required to be made hereunder. Notwithstanding the foregoing, however, such amount shall be reinstated, by means of an additional Employer contribution, if and when a claim for the forfeited amount is subsequently made by the Participant or Beneficiary or if the Employer receives proof of death of such person, satisfactory to the Employer. To the extent not inconsistent with applicable law, any benefits lost by reason of escheat under applicable state law shall be considered forfeited and shall not be reinstated.
- 16.08 Mergers, Consolidations, and Transfer of Assets.** The Plan shall not be merged into or consolidated with any other plan, nor shall any of its assets or liabilities be transferred into any such other plan, unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he/she would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).
- 16.09 Employer Records.** Records of the Employer as to an Employee's or Participant's Period of Service, termination of service and the reason therefor, leaves of absence, reemployment, Earnings, and Compensation will be conclusive on all persons, unless determined to be incorrect.
- 16.10 Gender and Number.** The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.
- 16.11 Applicable Law.** The Plan shall be construed under the laws of the State where the Employer is located, except to the extent superseded by federal law. The Plan is established with the intent that it meets the requirements under the Code. The provisions of this Plan shall be interpreted in conformity with these requirements.
- In the event of any conflict between the Plan and a policy or contract issued hereunder, the Plan provisions shall control; provided, however, no Plan amendment shall supersede an existing policy or contract unless such amendment is required to maintain qualification under section 401(a) and 414(d) of the Code.
- 16.12 Electronic Communication and Consent.** Unless expressly provided otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

XVII. SPOUSAL BENEFIT REQUIREMENTS

- 17.01 Application.** Effective as of January 1, 2006, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the provisions of this Article shall take precedence over any conflicting provision in this Plan. If elected, the provisions of this Article shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 17.06.
- 17.02 Qualified Joint and Survivor Annuity.** Unless an optional form of benefit is selected pursuant to a Qualified Election within the one-hundred eighty (180) day period ending on the Annuity Starting Date, a married Participant's Vested Account Balance will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's Vested Account Balance will be paid in the form of a Straight Life Annuity. The Participant may elect to have such annuity distributed upon the attainment of the Earliest Retirement Age under the Plan.
- 17.03 Qualified Optional Survivor Annuity.** For plan years beginning after December 31, 2007, if a married participant elects to waive the qualified joint and survivor annuity, the participant may elect the qualified optional survivor annuity at any time during the applicable election period, provided, however, that this Section shall apply only to the extent the Plan makes another survivor annuity available.
- 17.04 Qualified Preretirement Survivor Annuity.** If a Participant dies before the Annuity Starting Date, then fifty percent (50%) of the Participant's Vested Account Balance shall be applied toward the purchase of an annuity for the life of the Surviving Spouse; the remaining portion shall be paid to such Beneficiaries (which may include such Spouse) designated by the Participant. Notwithstanding the foregoing, the Participant may waive the spousal annuity by designating a different Beneficiary within the Election Period pursuant to a Qualified Election. To the extent that less than one hundred percent (100%) of the vested Account balance is paid to the Surviving Spouse, the amount of the Participant's Account derived from Employee contributions will be allocated to the Surviving Spouse in the same proportion as the amount of the Participant's Account derived from Employee contributions is to the Participant's total Vested Account Balance. The Surviving Spouse may elect to have such annuity distributed within a reasonable period after the Participant's death. Further, such Spouse may elect to receive any death benefit payable to him/her hereunder in any of the forms available to the Participant under Section 11.02.
- 17.05 Notice Requirements.**
- (a) In the case of a Qualified Joint and Survivor Annuity as described in Section 17.02, the Plan Administrator shall, no less than thirty (30) days and no more than one-hundred eighty (180) days (or ninety (90) days for notices given in Plan Years before January 1, 2007) prior to the Annuity Starting Date, provide each Participant a written explanation of: (i) the terms and conditions of a Qualified Joint and Survivor Annuity; (ii) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (iii) the rights of a Participant's Spouse; and (iv) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. However, if the Participant, after having received the written explanation, affirmatively elects a form of distribution and the Spouse consents to that form of distribution (if necessary), benefit payments may commence less than thirty (30) days after the written explanation was provided to the Participant, provided that the following requirements are met:
 - (1) The Plan Administrator provides information to the Participant clearly indicating that the Participant has a right to at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and consent to a form of distribution other than a Qualified Joint and Survivor Annuity;

- (2) The Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date, or if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant;
 - (3) The Annuity Starting Date is after the date that the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and
 - (4) Distribution in accordance with the affirmative election does not commence before the expiration of the 7-day period that begins after the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant.
- (b) In the case of a Qualified Preretirement Survivor Annuity as described in Section 17.04, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subsection (a) applicable to a Qualified Joint and Survivor Annuity.

The applicable period for a Participant is whichever of the following periods ends last:

- (i) the period beginning with the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35);
- (ii) a reasonable period ending after the individual becomes a Participant;
- (iii) a reasonable period ending after Subsection (c) ceases to apply to the Participant;
- (iv) a reasonable period ending after this Article first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age thirty-five (35).

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (ii), (iii) and (iv) is the end of the two (2) year period beginning one (1) year prior to the date the applicable event occurs, and ending one (1) year after that date. In the case of a Participant who separates from service before the Plan Year in which age thirty-five (35) is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending one (1) year after separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

- (c) Notwithstanding the other requirements of this Section, the respective notices prescribed by this Section need not be given to a Participant if (1) the Plan “fully subsidizes” the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity, and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and does not allow a married Participant to designate a non-Spouse Beneficiary. For purposes of this Subsection (c), a plan fully subsidizes the costs of a benefit if no increase in cost or decrease in benefits to the Participant may result from the Participant’s failure to elect another benefit.

17.06 Definitions. For the purposes of this Section, the following definitions shall apply:

- (a) Annuity Starting Date. The first day of the first period for which an amount is paid as an annuity or any other form.

- (b) Election Period. The period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age thirty-five (35) is attained, with respect to the Account balance as of the date of separation, the Election Period shall begin on the date of separation. Pre-age thirty-five (35) waiver: A Participant who will not yet attain age thirty-five (35) as of the end of any current Plan Year may make a special Qualified Election to waive the Qualified Preretirement Survivor Annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age thirty-five (35). Such election shall not be valid unless the Participant receives a written explanation of the Qualified Preretirement Survivor Annuity in such terms as are comparable to the explanation required under Section 17.05(a). Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age thirty-five (35). Any new waiver on or after such date shall be subject to the full requirements of this Article.
- (c) Earliest Retirement Age. The earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.
- (d) Qualified Election. A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further Spousal consent). If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed a Qualified Election.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 17.05.

- (e) Qualified Joint and Survivor Annuity. An immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Participant's Vested Account Balance.
- (f) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.
- (g) Straight Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

- (h) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee contributions (or both) at the time of death or distribution.

17.07 Annuity Contracts. Where benefits are to be paid in the form of a life annuity pursuant to the terms of this Article, a nontransferable annuity contract shall be purchased from a life insurance company and distributed to the Participant or Surviving Spouse, as applicable. The terms of any annuity contract purchased and distributed by the Plan shall comply with the requirements of this Plan and section 417 of the Code.

XVIII. FINAL PAY CONTRIBUTIONS

18.01 Eligibility. Effective as of January 1, 2006, if elected by the Employer in the Adoption Agreement, Final Pay Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid final pay, as defined in the Adoption Agreement ("Final Pay"), shall be contributed to the Plan. Eligibility for Final Pay Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

18.02 Contribution Amount. At the election of the Employer in the Adoption Agreement, the Final Pay Contributions may be made as either (a) Employer Final Pay Contributions, or (b) Employee Designated Final Pay Contributions, as described below.

- (a) Employer Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid final pay upon termination of employment of the Participant, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Final Pay Contributions shall be accounted for in the Employer Contribution Account.
- (b) Employee Designated Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Final Pay, as elected by the Participant. The Employer may limit the amount of Final Pay to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Final Pay Contributions shall be accounted for in the Participant Contribution Account, and are nonforfeitable by the Participant at all times.

The Employee Designated Final Pay Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Final Pay Contribution.

18.03 Equivalencies. The Final Pay Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

18.04 Excess Contributions. Final Pay Contributions are limited to the extent of applicable law and any Code limitation. No Final Pay Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

XIX. ACCRUED LEAVE CONTRIBUTIONS

- 19.01 Eligibility.** Effective as of January 1, 2006, if elected by the Employer in the Adoption Agreement, Accrued Leave Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid leave, as defined in the Adoption Agreement ("Accrued Leave"), shall be contributed to the Plan. Eligibility for Accrued Leave Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.
- 19.02 Contribution Amount.** At the election of the Employer in the Adoption Agreement, the Accrued Leave Contributions may be made as either (a) Employer Accrued Leave Contributions, or (b) Employee Designated Accrued Leave Contributions, as described below.
- (a) Employer Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid leave each year, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Accrued Leave Contributions shall be accounted for in the Employer Contribution Account.
- (b) Employee Designated Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Accrued Leave, as elected by the Participant. The Employer may limit the amount of Accrued Leave to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Accrued Leave Contributions shall be accounted for in the Participant Contribution Account, and are nonforfeitable by the Participant at all times.

The Employee Designated Accrued Leave Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Accrued Leave Contribution.

- 19.03 Equivalencies.** The Accrued Leave Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.
- 19.04 Excess Contributions.** Accrued Leave Contributions are limited to the extent of applicable law and any Code limitation. No Accrued Leave Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May, 2001, by Vantage Trust Company, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391.1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

- (a) *Incorporation of ICMA Declaration by Reference; ICMA By-Laws.* Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

1. any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
 2. all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
- (b) *Compliance with Revenue Procedure 81-100.* The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
1. Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
 2. Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.

3. In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
 4. In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
- (c) *Governing Law.* Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
- (d) *Judicial Proceedings.* The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

By:

Name: Paul F. Gallagher

Title: Assistant Secretary





TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Plan Description: Volume Submitter Money Purchase Pension Plan
FFN: 315D0880003-001 Case: 201200590 EIN: 23-7268394
Letter Serial No: J593644a
Date of Submission: 04/02/2012

ICMA RETIREMENT CORP
777 NORTH CAPITOL ST. NE, SUITE 600
WASHINGTON, DC 20002

Contact Person:
Janell Hayes
Telephone Number:
513-263-3602
In Reference To: TEGE:EP:7521
Date: 03/31/2014

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable under section 401 of the Internal Revenue Code for use by employers for the benefit of their employees. This opinion relates only to the acceptability of the form of the plan under the Internal Revenue Code. It is not an opinion of the effect of other Federal or local statutes.

You must furnish a copy of this letter, a copy of the approved plan, and copies of any subsequent amendments to adopting employers if the practitioner is authorized to amend the plan on their behalf, to each employer who adopts this plan. Effective on or after 10/31/2011, interim amendments adopted by the practitioner on behalf of employers must provide the date of adoption by the practitioner.

This letter considers the changes in qualification requirements contained in the 2010 Cumulative List of Notice 2010-90, 2010-52 I.R.B. 909.

Our opinion on the acceptability of the form of the plan is not a ruling or determination as to whether an employer's plan qualifies under Code section 401(a). However, an employer that adopts this plan may rely on this letter with respect to the qualification of its plan under Code section 401(a), as provided for in Rev. Proc. 2011-49, 2011-44 I.R.B. 608, and outlined below. The terms of the plan must be followed in operation.

Except as provided below, our opinion does not apply with respect to the requirements of Code sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion does not apply for purposes of Code section 401(a)(10)(B) and section 401(a)(16) if an employer ever maintained another qualified plan for one or more employees who are covered by this plan. For this purpose, the employer will not be considered to have maintained another plan merely because the employer has maintained another defined contribution plan(s), provided such other plan(s) has been terminated prior to the effective date of this plan and no annual additions have been credited to the account of any participant under such other plan(s) as of any date within the limitation year of this plan. Also, for this purpose, an employer is considered as maintaining another plan, to the extent that the employer maintains a welfare benefit fund defined in Code section 419(e), which provides postretirement medical benefits allocated to separate accounts for key employees as defined in Code section 419A(d)(3), or an individual medical account as defined in Code section 415(l)(2), which is part of a pension or annuity plan maintained by the employer, or a simplified employee pension plan.

Our opinion does not apply for purposes of the requirement of section 1.401(a)-1(b)(2) of the regulations applicable to a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Letter 4333

This is not a ruling or determination with respect to any language in the plan that reflects Section 3 of the Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (DOMA) or U.S. v. Windsor, 133 S. Ct. 2675 (2013), which invalidated that section.

This letter is not a ruling with respect to the tax treatment to be accorded contributions which are picked up by the governmental employing unit within the meaning of section 414(h)(2) of the Internal Revenue Code.

Our opinion applies with respect to the requirements of Code section 410(b) if 100 percent of all nonexcludable employees benefit under the plan. Employers that elect a safe harbor allocation formula and a safe harbor compensation definition can also rely on an advisory letter with respect to the nondiscriminatory amounts requirement under section 401(a)(4). If this plan includes a CODA or otherwise provides for contributions subject to sections 401(k) and/or 401(m), the advisory letter can be relied on with respect to the form of the nondiscrimination tests of 401(k)(3) and 401(m)(2) if the employer uses a safe harbor compensation definition. In the case of plans described in section 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may also rely on the advisory letter with respect to whether the form of the plan satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan.

The employer may request a determination (1) as to whether the plan, considered with all related qualified plans and, if appropriate, welfare benefit funds, individual medical benefit accounts, and simplified employee pension plans, satisfies the requirements of Code section 401(a)(16) as to limitations on benefits and contributions in Code section 415 and the requirements of Code section 401(a)(10)(B) as to the top-heavy plan requirements in Code section 416; (2) with respect to whether a money purchase or target benefit plan's normal retirement age which is earlier than age 62 satisfies the requirements of section 401(a)-1(b)(2) of the Income Tax Regulations; (3) that the plan is a multiple employer plan; (4) whether there has been a partial termination; and (5) to comply with published procedures of the Service (e.g. minimum funding waiver request). The employer may request a determination letter by filing an application with Employee Plans Determinations on Form 5307, with regard to item (1) above, and Form 5300, for items (2), (3), (4) and (5), without restating for the Cumulative List in effect when the application is filed.

If you, the volume submitter practitioner, have any questions concerning the IRS processing of this case, please call the above telephone number. This number is only for use of the practitioner. Individual participants and/or adopting employers with questions concerning the plan should contact the volume submitter practitioner. The plan's adoption agreement, if applicable, must include the practitioner's address and telephone number for inquiries by adopting employers.

If you write to the IRS regarding this plan, please provide your telephone number and the most convenient time for us to call in case we need more information. Whether you call or write, please refer to the Letter Serial Number and File Folder Number shown in the heading of this letter.

You should keep this letter as a permanent record. Please notify us if you modify or discontinue sponsorship of this plan.

Sincerely Yours,



Andrew E. Zuckerman
Director, Employee Plans Rulings and Agreements



ICMA RETIREMENT CORPORATION
777 NORTH CAPITOL STREET, NE | WASHINGTON, DC 20002-4240
800-669-7400
WWW.ICMARC.ORG
BRC000-212-21266-201405-W1371
REV 3/2015