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COMMISSION MEETING CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

Tuesday, September 11, 2018
6:00 PM

Call to Order
Pledge of Allegiance
Moment of Silence
Roll Call

REGULAR MEETING

1. **Presentations** - Presentations shall be limited to 5 minutes for non-city government related items.
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. **Consent**
 - a. **Approval of minutes from the August 14, 2018 City Commission meeting.**
 - b. **Authorization for street closures on Sundays from Oct 7, 2018 – June 9, 2019 of the 200 to the 400 block of Corey Ave for the Corey Area Business Association Sunday Market.**

- c. Request approval of the special event application and street closure for Gulf Beaches Elementary Fall Festival. Closures would be 85th Avenue between Blind Pass Rd and Boca Ciega Dr. Closures would be in effect on Saturday, October 6 from 12-8 pm.**
- d. Request approval of the special event application for Vina Beer Fest and wet zone on October 20, 2018.**
- e. Interlocal Agreement with the Pinellas Public Library Cooperative for library services from October 1, 2018 through September 30, 2023.**
- f. Request approval of Amendment No. 1 to the Blind Pass Road Stormwater Redesign grant agreement with the Florida Department of Environmental Protection.**
- g. Request approval of Change Order #1 to the purchase agreement with Morelli Landscaping, Inc. in the amount of \$10,855.25 for Landscaping of Blind Pass Road (SR 699) from 75th Ave to 82nd Ave.**
- h. Request approval of an Easement dedicated to Duke Energy Florida, LLC for the existing pad mounted transformer and proposed associated underground conduit at 375 73rd Avenue.**

5. Action Items

- a. Request approval of an updated agreement for cabana services at Pass-a-Grille and Upham Beach with Sand Dunes Beach Services, LLC.**
- b. Request approval for the Suntan Art Center Inc., to manage weekend art markets on the Pass-A-Grille Beach patio**
- c. Authorize the City Manager to execute the Second Amendment to the Pinellas Suncoast Transit Authority Funding Agreement for Fiscal Year 2019 transit service.**
- d. Request approval of the purchase of Envirosight CCTV Camera Inspection Equipment from Environmental Products Florida in the amount of \$76,793.31.**
- e. Request approval of an Underground Conversion Agreement based on a binding cost estimate of \$492,065.29 and Utility Reimbursement Agreement from Duke Energy for the Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard.**

6. Ordinances – No items submitted at this time.

7. Resolutions

- a. Resolution 2018-12: Authorizing and directing execution and delivery of a joinder to agreement and declaration of trust creating and establishing the Florida Local Government Investment Trust; and providing an effective date.**

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

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

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

11. Adjournment

APPEAL: In accordance with 286.0105, Florida Statute (Notices of meetings and hearings must advise that a record is required to appeal), if a person decides to appeal any decision made by this committee, board, agency, or commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AMERICANS WITH DISABILITIES ACT (ADA): In accordance with the Americans with Disabilities Act and Florida Statutes, if any person with a disability defined by the ADA needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact City Hall at (727) 367-2735.

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

CITY COMMISSION MEETING

MINUTES

AUGUST 14, 2018

6:00 P.M.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

PRESENT:

Al Johnson, Mayor
Melinda Pletcher, Vice Mayor
Terri Finnerty, Commissioner
Rick Falkenstein, Commissioner
Ward Friszolowski, Commissioner

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Rebecca C. Haynes, City Clerk
Mike Clarke, Public Works Director
Vince Tenaglia, Administrative Services Director
Jennifer McMahon, Recreation Director
Wesley Wright, Community Development Director

1. Presentations

There were no presentations.

2. Changes to the Agenda

City Manager Saunders requested to move Item 5(e) to immediately following Item 6(a).

3. Audience Comments

Jeffrey Bonnell, 80th Avenue, commented on customary beach use and signage on the sand beach near Silver Sands Condominiums.

City Attorney Dickman will provide a detailed explanation of the recently passed legislation during the August 28, 2018 Commission meeting.

Megan Donahue, Gulf Winds Drive, commented on public participation in decisions made at the Commission level.

Ted Mitchell, no address provided, spoke in support of Michael Janecek retaining the management of Paradise Grille.

Carol Hakenswith, 55th Avenue, commented on the change of ownership and use of business at the former Silas Dent site.

John Barkette, 55th Avenue, commented on the property use at the former Silas Dent site.

4. Consent

- a. Request authorization for the City to apply for two upcoming Florida Department of Environmental Protection (FRDAP) grants.
- b. Request approval to authorize expenditures in the excess of \$10,000.00 with Pinellas County for professional building services.
- c. Request authorization to utilize Goodwill Industries - Suncoast, Inc., for temporary staffing services on an as needed basis in excess of \$10,000.00.
- d. Request approval of Addendum No. 1 to the purchase agreement with Rowland, Inc., for Wastewater System Manhole Rehabilitation.
- e. Request approval of Addendum No. 1 to the purchase agreement with Rowland, Inc., for Wastewater System Point Repairs.
- f. Request approval of Addendum No. 1 to the purchase agreement with Insituform Technologies, LLC for Wastewater System Pipe Lining.
- g. Request approval of the quote from Toter in the amount of \$12,488.55 for the purchase of Beach Trash and Recycling Carts.

Commissioner Friszolowski moved to approve the Consent Items 4(a), (b), (c), (d), (e), (f), and (g) as presented. The motion was seconded by Commissioner Falkenstein and unanimously approved by an individual roll call vote.

5. Action Items

- a. Request to approve the Memorandum of Understanding Creating the Tampa Bay Regional Resiliency Coalition and authorize the City Manager to execute the associated documents for the City to join the coalition.

Commissioner Friszolowski, who serves as the City's representative on the Tampa Bay Regional Planning Council (TBRPC), introduced Sean Sullivan, Executive Director of TBRPC.

Mr. Sullivan explained that the organization is requesting support from local communities to create a group that will commit to work together on a regional level to identify and address the effects of sea-level rise and climate change.

Commissioner Friszolowski moved to approve Item 5(a), to approve the Memorandum of Understanding creating the Tampa Bay Regional Resiliency Coalition and authorize the City Manager to execute the associated documents for the City to join the coalition. The motion was seconded by Vice Mayor Pletcher and unanimously approved by an individual roll call vote.

- b. Request approval for the City Manager to negotiate an agreement for the operation of the Pass-a-Grille and Upham Beach concession facilities with (insert name) and bring back a proposed agreement to the Commission for final consideration.

City Manager Saunders noted the negotiations with United Park Services were discontinued and requested Commission consideration of the remaining two vendors.

Michael Janecek, current manager at the concession stands, reiterated his continuing interest in remaining as the operator of the Paradise Grille at both the Pass-a-Grille and Upham Beach locations.

The following individuals spoke in support of retaining the current management:

Megan Donahue, Gulf Winds Drive
Tom Arnold, St. Petersburg
Mark Hansen, St. Petersburg
Ted Mitchell, Paradise Grille employee

Commissioner Falkenstein moved to approve Item 5(b), to authorize the City Manager to negotiate an agreement for the operation of the Pass-A-Grille and Upham Beach concession facilities with Michael Janecek and bring back a proposed agreement to the Commission for final consideration. The motion was seconded by Vice Mayor Pletcher.

Commissioner Falkenstein moved to amend the motion to approve Item 5(b), to authorize the City Manager to negotiate an agreement for the

operation of the Pass-A-Grille and Upham Beach concession facilities with Michael Janecek and bring back a proposed agreement to the Commission for final consideration, and if the applicant withdraws, the City will automatically start negotiations with the other proposal. The amended motion was seconded by Vice Mayor Pletcher and unanimously approved by an individual roll call vote.

- c. Request approval for the City Manager to enter into an agreement for cabana services at Pass-a-Grille and Upham Beach with Sand Dunes Beach Services, LLC.

Three proposals were received in response to the advertised Request for Proposals for beach concession services to include chair, umbrella, paddle sport and cabana rentals.

City Attorney Dickman recommended the following changes:

- Page 97 (of the agenda packet), Requested Motion: delete 'approve' and insert 'authorize'
- Page 01 (of the agreement), Paragraph 4: amend to read, 'Vendor shall deliver services for a term of five (5) years from the effective date of this agreement. A second five-year renewal term may be awarded by mutual consent of the parties.'
- Page 02 (of the agreement), Paragraphs 8 and 10: delete.

Commissioner Falkenstein moved to approve Item 5(c), to authorize the City Manager to enter into an agreement for cabana services at Pass-a-Grille and Upham Beach with Sand Dunes Beach Services, LLC, as amended. The motion was seconded by Commissioner Finnerty and unanimously approved by an individual roll call vote.

- d. Request approval of the proposal under the Continuing Engineering Services Contract with George F. Young, Inc., in the amount of \$27,570.00 for the development of the GIS Integration System for Community Development.

City Manager Saunders noted that the GIS will consolidate existing data on the current software system to improve building permitting, code enforcement, planning land development and alternative workflow.

Commissioner Friszolowski moved to approve Item 5(d), to approve the proposal under the continuing engineering services contract with George F. Young, Inc., in the amount of \$27,570.00 for the development of the GIS Integration System for the Community Development Department. The motion was seconded by Commissioner Finnerty and unanimously approved by an individual roll call vote.

6. Ordinances

- a. Ordinance 2018-09: Final Reading and Public Hearing, an ordinance of the City of St. Pete Beach, Florida providing for supplemental appropriations to the Capital Improvement Projects Fund, Wastewater Fund, Stormwater Fund, Reclaimed Water Fund, and General Fund

Item 6(a) was moved during Changes to the Agenda to address prior to Item 5(e).

Mr. Saunders noted it was necessary to provide for funding through the supplemental appropriations prior to approving Item 5(e), which grants approval for the Blind Pass Road reconstruction project.

Commissioner Finnerty moved to approve Item 6(a), Ordinance 2018-09, upon final reading, an ordinance of the City of St. Pete Beach, Florida, providing for supplemental appropriations to the Capital Improvement Projects Fund, Wastewater Fund, Stormwater Fund, Reclaimed Water Fund, and General Fund; providing for conflicts, severability, construction, publication, and an effective date. The motion was seconded by Commissioner Falkenstein and unanimously approved by an individual roll call vote.

5. Action Items

- e. Request approval of the bid from Gibbs & Register, Inc., in the amount of \$8,999,756.35 for Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard

Two bids were received in response to the Request for Bids for the reconstruction of Blind Pass Road which will include installation of new stormwater infrastructure, potable water mains, reclaimed water mains, utility conduit, and streetscape.

Public Works Director Clarke explained that a pre-construction conference will be held on August 23rd and a public information meeting on August 24th in the Commission Chambers.

Commissioner Finnerty moved to approve Item 5(e), to approve the bid from Gibbs & Register, Inc., in the amount of \$8,999,756.35 for Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard. The motion was seconded by Commission Falkenstein and unanimously approved by an individual roll call vote.

6. Ordinances

- b. Ordinance 2018-10, First Reading and Public Hearing, an ordinance of the City of St Pete Beach, Florida providing for addition to Appendix A (Fee Schedule) Code of Ordinances.

Mr. Saunders noted that the fee schedule amendment will add patio rental fees.

Mayor Johnson moved to table Item 6(b) to the August 28, 2018 meeting. The motion was seconded by Commissioner Finnerty and unanimously approved by an individual roll call vote.

7. Resolutions

- a. Resolution 2018-11, a resolution of the City of St. Pete Beach, Florida declaring as surplus certain City owned vehicles, assets and equipment, authorization for the City Manager to dispose of same in the manner required by law.

In accordance with the Code of Ordinances, vehicles, assets and equipment must be declared surplus before being either sold or destroyed.

Commissioner Finnerty moved to approve Item 7(a), Resolution 2018-11, a resolution of the City of St. Pete Beach, Pinellas County, Florida declaring as surplus certain City-owned vehicles, assets and equipment and authorizing the City Manager to dispose of said assets in the manner required by law. The motion was seconded by Commissioner Friszolowski and unanimously approved by an individual roll call vote.

8. Items for Discussion

There were no items for discussion.

9. Audience Comments 2

There were no audience comments.

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

City Clerk Haynes reported on the following item:

- Florida League of Cities Annual Conference beginning Wednesday, August 15th through Saturday, August 18, 2018

City Manager Saunders reported on the following item:

- Update on Red Tide

City Attorney Dickman did not provide a report.

Vice Mayor Pletcher reported on the following item:

- Increased homeless population

Commissioner Finnerty reported on the following items:

- Pinellas County earned the top recycling honor in Florida
- Suncoast League of Cities conference
- Attended opening day of Gulf Beaches Elementary School
- Update on the Beach Theatre

Commissioner Falkenstein reported on the following items:

- Update on Red Tide
- Upham Beach coastal management update
- Current Library events

Mayor Johnson reported on the following item:

- Request for non-resident, disabled veterans parking passes

11. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:20 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Alan Johnson, Mayor

Minutes approved on: _____

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

Issue Considered: Request approval for street closures on Sundays from Oct 7, 2018 – June 9, 2019 of the 200 to the 400 block of Corey Ave for the Corey Area Business Association Sunday Market.

Date: September 11, 2018

Prepared By: Jennifer McMahon, Recreation Director

Through: Wayne Saunders, City Manager

Summary of Issue: The Corey Area Business Association requests permission for street closure on Sundays for the Sunday Market that includes the 200 block (on occasion) to the 400 block of Corey Ave just west of the bank from Oct. 7, 2018 – June 9, 2019, 6am – 4pm each Sunday. City staff and the Sheriff's office reviewed the application. The Fire Marshal is requiring the market organizers provide a 12 ft. clear lane on the blocked off street for fire truck access. All exposed electrical cords need to be covered as well as the exhaust hole (port hole) for any generator on premise. All food vendors must have fire extinguishers on site. All street closures need the permission of the commission.

Requested Motion: "I move to approve street closure of Corey Ave from the 200 block to the 400 block for the Corey Ave Sunday Market."

Funding: N/A

Attachments: Event Application and diagram

**Reviewed by
City Manager:** WS

Event Application

ApplicantName of Applicant: YVONNE MARCUS Title (if applicable): PRESIDENTName of Organization (if applicable): COREY AREA BUSINESS ASSOCIATIONTax Exempt? ☒ Yes ☐ No Non-Profit? ☒ Yes ☐ NO If yes on either, please provide documentationMailing Address: P.O. Box 67393, ST PETE BEACH FL 33736Cell Phone: 727 580-8331 Email: artexpogallery@tampabay.rr.com
BEST - 360-2953Event InformationEvent Title: COREY SUNDAY FRESH MARKET Event/Organization Web Address: www.coreyave.comEvent Location(s): 300 + partial 400 blk COREY AVE + OCCASIONALLY the 1200 Block
If location is private property, a letter giving permission for the event to take place on the property must be included with the application.Event Date(s) & Time(s)

Date

Day of the Week

Start Time

End Time

OCT 7 - 2018 -SUNDAY10 AM2 PM.MAY 25 2019+ possibly JUNE 2-9 2019.10 AM3 PM.Set Up Date(s): SAME DAY Time(s) toCleanup Date(s): SAME DAY Time(s) toDescription of Event: FARMERS MARKET, OUTDOOR COOKING
LIVE MUSIC, HANDCRAFTED ITEM.Will this be an Annual Event? ☒ Yes ☐ No If yes, next year's date(s):Event Logistics

Estimated Attendance

(includes event crew, participants, and spectators)

2000 per week
This Year2000 per week
Last Year (if Applicable)List all event activities: MARKET - SEE ATTACHED LIST OF VENDORS.Electricity Needed ☒ Yes ☐ No Source: INDIVIDUAL BUSINESS.Will portable restrooms be used? ☒ Yes ☐ NO If yes (include on site plan): One ADA compliant toilet for every 10 per locationWill Dumpsters be used? ☒ Yes ☐ No If yes (include on site plan)How Many? / Size: N/A Installation Date: N/A Removal Date: N/A

Entertainment (Detail type, bands, DJs, dancers, clowns, etc) LIVE MUSIC.

Parking Plan (please be detailed and include on site map): ON STREET PARKING

Food and Beverage:

Will alcohol be served or sold?

☐ Served
☒ Yes

☐ Sold
☒ No

☒ No Alcohol
ON OCCASION

Will there be food trucks?

All food trucks must be registered with the city.

If yes, please list the truck/trailer vendors

1. _____ St Pete Beach Food Truck Permit # _____
2. _____ St Pete Beach Food Truck Permit # _____
3. _____ St Pete Beach Food Truck Permit # _____
4. _____ St Pete Beach Food Truck Permit # _____
5. _____ St Pete Beach Food Truck Permit # _____

If you need additional space to list more food trucks please attached an additional sheet listing name of truck and the permit number.

Other Food Vendors that are not a truck or trailer:

See attached

List all other vendors (art, crafts, clothes, etc) See attached

Event Equipment – All equipment below other than a 10x10 tent requires a temporary structure permit. Please include the temporary structure permit for each piece of equipment listed below with the event application.

Tents

PRODUCE TENT OVERSIZED

Stage/Platforms: Please list dimensions, scaffolding, etc and include location on the site plan

N/A

Vehicle on the Beach Permits

Do you need to have a vehicle on the beach for your event?

☐ Yes

☒ No

Street Closures

Does Event require any Road or Sidewalk Closures?

☐

Yes

☐

No

If yes, you must include **all the details** in the **site plan** including streets and times

Road	Start Intersection	End Intersection	Date	Times
Corey Ave	200	partial 400	10/7/18-10/9/18	6AM-4pm

Signage/Banners – Please list number, size and placement of each banner that you plan to use to promote the event. If requesting to hang a banner over 75th Ave, a FDOT permit is required and request must be made at least 90 days before the event.See attached samples**City Equipment** – Please indicate the number needed for your event, if none, please put a zero (0).

Barricades

☐ Cones☐ Trash Bins

As the Applicant, I hereby accept and understand the responsibility to oversee all contractors, vendors, or parties affiliated with the event and to insure compliance with the special event guide, the event rules guidelines, requirements for tents and all policies, rules, regulations, and code provisions of the City of St. Pete Beach. I understand that any violations may result in immediate cancellation and revocation of the Event permits. I further certify that all the facts contained in this request are accurate.

No advertising for the event shall occur until this Special Event permit has been approved by City staff and Commission.

If any information is found to be false, incomplete or misrepresented, such fact is just cause for the immediate revocation of any permit issued. In addition, failure to correct any on-site conditions or code violation as identified by City Staff will result in revocation of the permit and/or code enforcement fines.

For events on Public property, I agree to obtain and furnish the City of St. Pete Beach with a certificate of general liability insurance in the amount of at least one million dollars (\$1,000,000) or greater as deemed satisfactory by the city. The insurance must name the City of St. Pete Beach as an additional insured.

I understand incomplete application or any outstanding financial obligations with any department with in the City of St. Pete Beach may result in a denial of my request.

Yvonne Marcus

Print Name

CABA

Corporation Name (if applicable)

Signature

8/23/18

Date

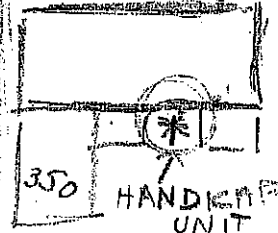
200 Block
CLOSED IF
NECESSARY

BOCA CIE 6A

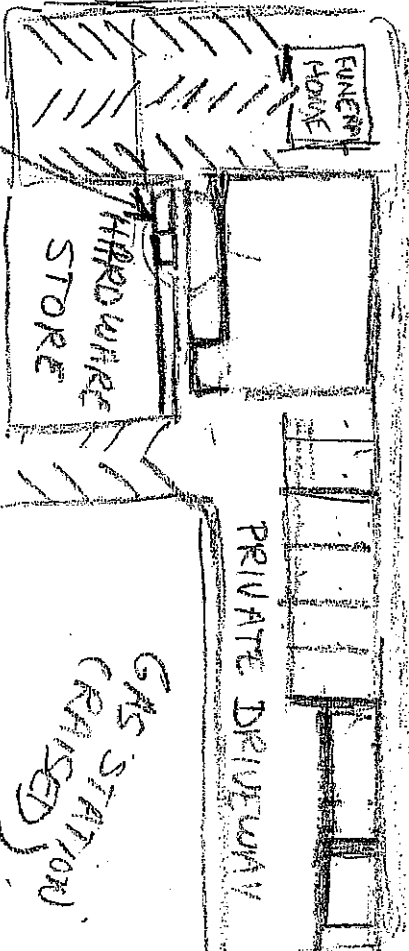
COREY, AVENUE
300 Block
CLOSED

PUBLIC ALLEY

LIBRARY



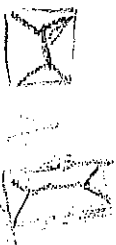
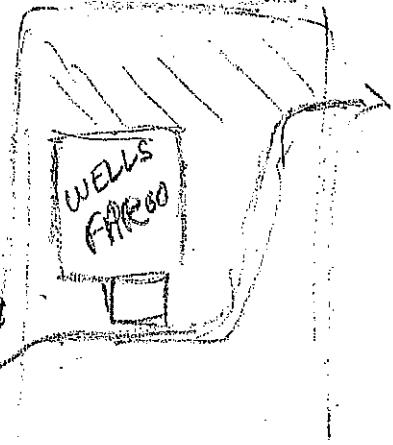
LOCATED AGAINST
WALL OF BLDG.
BTWN SHED + TRASH



SINGLE
PORTABLE TOILET
LOCATED ON HARDWARE STORE
PROPERTY TO ONE SIDE OF
UTILITY EASEMENT

BLIND PASS

400 Block
PARTIAL CLOSURE
w/ACCESS THROUGH
WELLS FAREGO
PARKING LOT

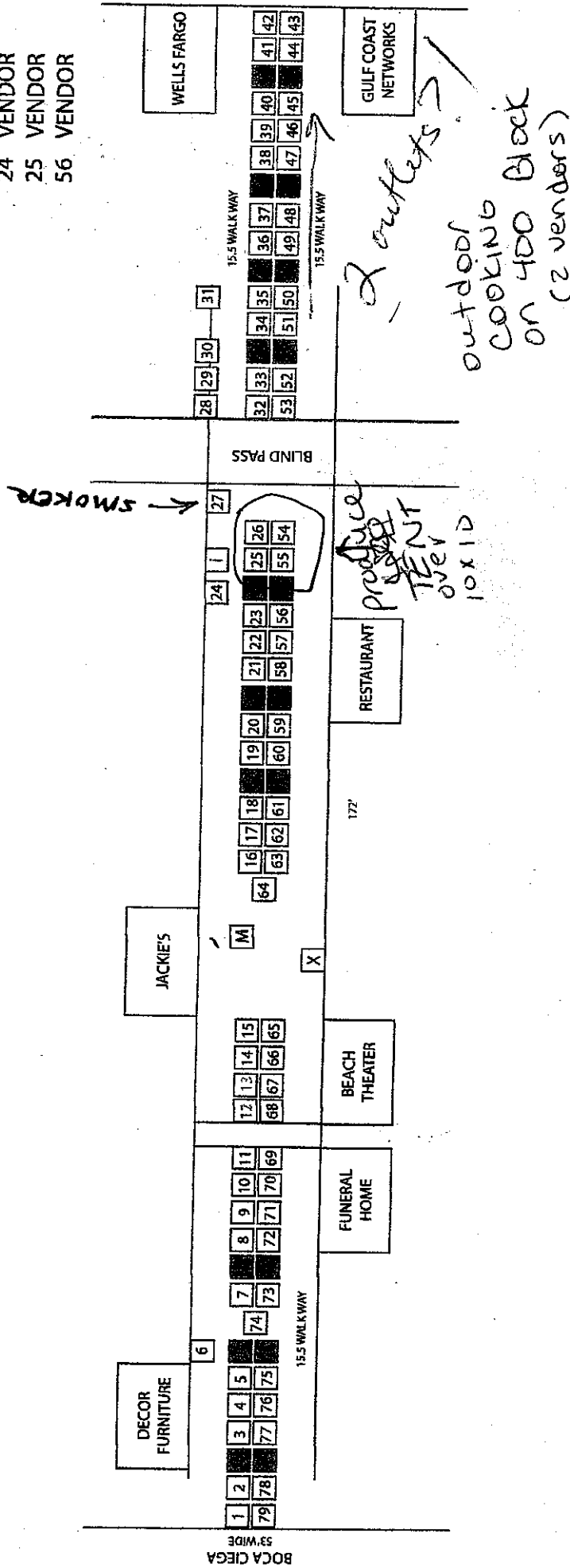


APPROVED ZONING

DATE 1/19/17 ML

COREY AVENUE SUNDAY MARKET ON ST. PETE BEACH / 79 TENTS

- ELECTRIC NEEDS
 X LIVE MUSIC
 79 PRODUCE
 8 VENDOR
 15 VENDOR
 65 VENDOR
 24 VENDOR
 25 VENDOR
 56 VENDOR



VENDORS

As requested following please find our vendor list, which contains vendor name and category.

These vendors have been with us regularly at the Corey Avenue Sunday Market on St Pete Beach and we do expect them to return.

We are in the midst of returning vendor registrations and will be launching new vendor registrations in the next couple of weeks.

Vendor/Category:

ana-hob Hand Crafts *80% is made by me or is locally produced
Aurora's Fresh Produce Agriculture: Produce, Plants, Farm Products
Black Crow Coffee Co.
Black Moth Candle Company Hand Crafts *80% is made by me or is locally produced
Bodhi Basics Hand Crafts *80% is made by me or is locally produced, Eco Friendly / Fair Trade / Wellness
BratsSensation Ready To Eat Lunch Bites
Canine Caricatures
Collar Me Yours with love Hand Crafts *80% is made by me or is locally produced
Conover Cutlery Service Eco Friendly
Dancing Buffalo Hand Crafts *80% is made by me or is locally produced
Deblie Designs Hand Crafts *80% is made by me or is locally produced
DSO Soapery and Such LLC Hand Crafts *80% is made by me or is locally produced
Eden's Nectar Agriculture: Produce, Plants, Farm Products
Enchanted Sunshine Eco Friendly / Fair Trade / Wellness
Florida Fresh Live Herbs Agriculture: Produce, Plants, Farm Products
Frivolous Fruit Products Take Home Foods, Packaged Foods
Glenn Family Bakery Take Home Foods, Packaged Foods
Gopali Imports Eco Friendly / Fair Trade / Wellness
GULFCOAST SEAFOOD Agriculture: Produce, Plants, Farm Products
Gulf Coast Sourdough Take Home Foods, Packaged Foods
Healthy Heritage Grassfed Beef
HeWhoMetals Hand Crafts *80% is made by me or is locally produced
Immune solution Eco Friendly / Wellness
International "B" zar / Fair Trade /
It's Our Nature
J and J's Creations, LLC Hand Crafts *80% is made by me or is locally produced
Jays Olive Salad -
Jewelry by Mouse Hand Crafts *80% is made by me or is locally produced
Joy of Garlic Take Home Foods, Packaged Foods
JoyPurse Hand Crafts *80% is made by me or is locally produced
Julia's Garden Mosaics Hand Crafts *80% is made by me or is locally produced
KALAMAZOO OLIVE CO - Take Home Foods, Packaged Foods
KateKreates Hand Crafts *80% is made by me or is locally produced
Knit Wit Hand Crafts *80% is made by me or is locally produced
La Florida Photo Artists Hand Crafts *80% is made by me or is locally produced
Local Boy Portraits by Dennis Hand Crafts *80% is made by me or is locally produced
Lotus Beads Hand Crafts *80% is made by me or is locally produced
Love 2 name it Hand Crafts *80% is made by me or is locally produced

Magic Circle Crepes Ready To Eat Lunch Bites
 Main Street Boys Ready To Eat Lunch Bites
 Marna Ninfa's Agua Frescas
 Morningstar specialty foods Take Home Foods, Packaged Foods
 Mr I Got Em Ready To Eat Lunch Bites
 Noelle & Lola Hand Crafts *80% is made by me or is locally produced
 Orchids and More Agriculture: Produce, Plants, Farm Products
 Palmhillsurf46 Hand Crafts *80% is made by me or is locally produced
 Paws Dog Bakery
 Red Fishberger LLC Take Home Foods, Packaged Foods
 Riddle in the Griddle Grilled Cheese Ready To Eat Lunch Bites
 Ras Rody
 Royal Brand Inc. Hand Crafts *80% is made by me or is locally produced
 S'more Marshmallows Take Home Foods, Packaged Foods
 Sassy Girls Salsa Take Home Foods, Packaged Foods
 Soap-a-licious
 Spiffcloth LLC Eco Friendly
 St. Pete Ferments Take Home Foods, Packaged Foods
 SUNSHINE BAKESHOP
 Sunshine_beads Hand Crafts *80% is made by me or is locally produced
 Sweet Divas Take Home Foods, Packaged Foods, Ready To Eat Lunch Bites
 Talk to the Paw Hand Crafts *80% is made by me or is locally produced
 The Cheese Lodge Take Home Foods, Packaged Foods
 The Fouta Spa Eco Friendly / Fair Trade / Wellness
 The White Green Cloth Eco Friendly
 Touch Massage Eco Friendly / Fair Trade / Wellness
 Tropical Sea Sponges Hand Crafts *80% is made by me or is locally produced, Eco
 Friendly / Fair Trade / Wellness
 Unique Artisans Hand Crafts *80% is made by me or is locally produced
 Wooden crafts by john Hand Crafts *80% is made by me or is locally produced
 Skyway Vertical Farms LLC Agriculture: Produce, Plants, Farm Products
 Sonnengarten Urban Farm Agriculture: Produce, Plants, Farm Products

SIGNS

Following please find a breakdown of the signage and placement used for the Corey Avenue Sunday Market on St. Pete Beach
October 2018-May 2019 Season.

Market Banner - Placed week of September 25th, remains all season and is removed end of market Sunday May 27th, 2018 ~~June 10, 2019~~
Located: on the 1st set of metal poles as you head W on 75th on the N side of the street.
Banner size is 2' high x 5' long.

Market signs will be placed each Sunday Morning at approx. 7:30am and will be removed between 2:30-3:00 pm

Twelve (12) 27"x18" SIGNS AS PER PHOTO ATTACHED

The approximate locations of these signs are as follows:

75th & Boca Ciega - approx 6' East of NE Corner on 75th
75th & Boca Ciega - approx 3' North of NW Corner on Boca Ciega
75th & Boca Ciega - approx 5' West of SW corner on 75th
75th & Boca Ciega - approx 5' East of SE corner on 75th
75th & Blind Pass - approx 3' East of SE corner on 75th
East Side of Gulf Blvd between Corey Ave & 75th Ave
West Side of Gulf Blvd., just south of 75th
West Side of Gulf Blvd at Corey Ave
East Side of Gulf Blvd., just N of 73rd - vicinity of Fire Stn.
East Side of Blind Pass Road between Corey Ave & 73rd Ave
East Side of Boca Ciega Dr Between Corey Ave & 73rd Ave
NE Corner of Corey & Boca Ciega

FLAGS - approx 10' high Fresh/Farmers Market Flags

Total Flags - Five (5)

Placed at approx 9:00 am and removed by 3:00 pm

Placed as follows:

On the Island at Corey Avenue & Gulf Blvd at entrance wall 'Historic Corey Ave.
On the S side of 75th Ave approx 6' West of Boca Ciega Ave.
On the East side of Blind Pass approx 6' South of Corey Ave.
Within the market usually one at the main produce stand and one at our organic produce stand.

6 - Port-o-let' signs - (Supplied by CABA -New ones to be ordered for this season- please get any artwork from Yvonne)

We place one in the grassy area by the theater parking that directs towards back of theater and another by the fence and continues the direction behind the theatre.

One is placed in front of the big cement pole at corner of Corey and Blind Pass that points customers to turn

north on Blind Pass from Corey and then another is placed in grassy area behind law office pointing toward portolet. (2 spare signs)

4 Additional Parking Signs: Placed leading to library/shop between 73rd & the trail that runs between Blind Pass & Boca Ciega.

3 Sandwich Board Signs placed where barricades close off street

NO OVERNIGHT PARKING SIGNS: Approx 20, 8.5" x 11" on orange paper and laminated.

Placed on poles on Corey Ave., at approx 3pm on Saturday afternoon and removed on Sunday morning.

ADDITIONAL SIGNAGE TO BE IMPLEMENTED THIS SEASON: Design in process:

8.5' x 11' Signage: Approx 10 pieces.. TBD

WILL SAY: THROUGH TRAFFIC | USE CAUTION | CROSS WITH LIGHT

We will be placing these on the light poles at Corey/Blind Pass and Corey/Boca Ciega so visible to all pedestrians.

We begin closing off the street at approx. 6 am and it is open by approx. 4 pm.

The market barricades and cones are placed as follows:

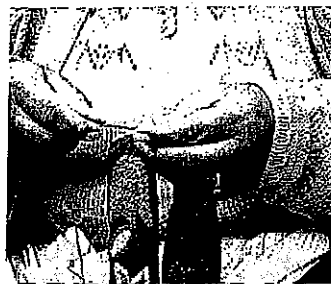
Across Corey Avenue on the east side of the west driveway entrance to Wells Fargo

Across Corey Avenue on both sides at Blind Pass

Across Corey Avenue - west side at Boca Ciega



Local Produce



Hand Crafts



Plants & Herbs



Live Music

COREY AVENUE

*Sunday
Market*



ST. PETE BEACH

Every Sunday  October-May
10am - 2pm

www.tampabaymarkets.com

**Corey Avenue
Sunday
Market
Today 10am - 2pm**



SPECIAL EVENT OUTDOOR COOKING PERMIT APPLICATION

COMPLETE AND RETURN TO: St. Pete Beach Fire Department
7301 Gulf Blvd.
St. Pete Beach, FL 33706
(727) 363-9206 FAX: (727) 360-6744

Name of Event: COREY SUNDAY FRESH MARKET
Date of Event: SUNDAYS - OCT THRU MAY Hours: 9 AM (AM-PM) to 3 PM (AM-PM)
Event Location: COREY AVENUE

(Authorization is required from the property owner)

Event Coordinator/Applicant: YVONNE MARCUS, V.P. CABA Phone: 727 360 2953

Organization: COREY AREA BUSINESS ASSOC

Summary of Event Activities: FARMERS MARKET - LIVE MUSIC - VENDORS

Estimated Attendance: 1000-2000

What cooking source will be used? Propane ☒ Charcoal ☒ Electrical ☒

GUIDELINES:

Charcoal:

- 1 If pit is used for cooking, a maximum of four (4) foot diameter is required
- 2 Approved metal containers shall be provided for the disposal of coals and ashes.

Propane:

- 1 Listed outdoor cooking appliances shall be installed in accordance with their listing and the manufacturer's instructions.
- 2 Unlisted units shall be installed outdoors with clearances to combustible material of not less than 36 inches at the sides and back, and not less than 48 inches at the front.
- 3 Installation, testing, and replacement of gas piping, gas utilization equipment, or accessories shall be performed by only a qualified agency. Total product for the event shall be provided with an approved centrally located tank. (No portable tanks.)
- 4 Propane cookware must be inspected prior to approval
- 5 Dry powder extinguisher (2A10BC) must be readily available at all times.

Electrical:

- 1 Approved main disconnect panels and all circuit breakers must comply with the National Electrical Code.

Plans and necessary permit applications shall be submitted to the building department for electrical or gas installation. Permits shall be issued only to licensed contractors and limited to one of each per event. *NOTE: Some companies offer these services at no cost to non-profit charity events.*

One EMS unit and one Fire Inspector may be required on site when 1,000 or more are expected to attend. (Costs for these services will be billed to the sponsoring organization or promoter.)

APPROVALS:

Building Department: _____ Date: _____

Zoning Department: _____ Date: _____

DO YOU HAVE PROOF OF LIABILITY INSURANCE FOR THIS EVENT? Yes ☐ No ☐ If this event is to be held on Public Property, the City may require that a liability bond be posted to insure that no damage is done; the amount of which is to be determined by the City's Risk Management Officer according to the intensity of the event.

I HEREBY CERTIFY THAT I/WE WILL BE RESPONSIBLE FOR THE PRESERVATION, SANITATION, AND CLEANUP OF THE AREAS USED FOR THE EVENT. ADDITIONALLY, I/WE CERTIFY THAT THERE ARE NO MISREPRESENTATION IN THE FOREGOING STATEMENTS AND ANSWERS.

Yvonne MARCUS - Ynnmarcus 355 COREY AVE (727) 360-2953
(Applicant) (Address) (Phone)

(Signature of Fire Marshal, Fire Chief, or his/her designee)

(Date)

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

Issue Considered: Request approval of the special event application and street closure for Gulf Beaches Elementary Fall Festival. Closures would be 85th Avenue between Blind Pass Rd and Boca Ciega Dr. Closures would be in effect on Saturday, October 6 from 12-8 pm.

Date: September 11, 2018

Prepared By: Jennifer McMahon, Recreation Director

Through: Wayne Saunders, City Manager

Summary of Issue: Gulf Beaches Elementary Fall Festival and Carnival is an event held as a fundraiser for the school. This year a request is made to close 85th Avenue between Blind Pass Road and Boca Ciega Dr from 12-8pm. A variety of activities are planned for the event on Gulf Beaches Elementary school site.

Funding: N/A

Requested Motion: “I move to approve special event application and street closure for Gulf Beaches Elementary Fall Festival on Saturday, October 6, 2018 from 12-8pm.”

Attachments: Event application and street map

**Reviewed by
City Manager:** WS



City of St. Pete Beach Recreation Department

Event Application

Applicant

Taryn Cash on behalf of: Fundraising Event
 Name of Applicant: Gulf Beaches Elem. Magnet Title (if applicable): Fall Festival/Fish Brawl
 Name of Organization (if applicable): Gulf Beaches Elementary Magnet PTA
 Tax Exempt? ☐ Yes ☐ No Non-Profit? ☐ Yes ☐ NO If yes on either, please provide documentation
 Mailing Address: 8600 Boca Ciega Dr., St Pete Beach, FL 33706
 Cell Phone: 727 641 4989 Email: TarynECash@gmail.com

Event Information

Event Title: Fall Festival & Fish Brawl Event/Organization Web Address: PCSB.org
 Event Location(s): 8600 Boca Ciega Dr., St Pete Beach, FL 33706
 If location is private property, a letter giving permission for the event to take place on the property must be included with the application.

Event Date(s) & Time(s)

Date: 10/6/18 Day of the Week: Saturday Start Time: 4pm End Time: 7pm
 Will Set up in AM

Set Up Date(s): 10/6/18 Time(s): Noon to 4pm
 Cleanup Date(s): 10/6/18 Time(s): 7pm to 8pm

Description of Event: Festival/Carnival w/ bounce houses, games, dunk tank, snow cones, cookout & silent auction

Will this be an Annual Event? ☒ Yes ☐ No If yes, next year's date(s): N/A

Event Logistics

Estimated Attendance: 1,000 This Year 1,000 Last Year (if Applicable)
 (includes event crew, participants, and spectators)

List all event activities: Arts/crafts/Bounce houses/grilling/music/games/silent auction

Electricity Needed ☒ Yes ☐ No Source: _____

Will portable restrooms be used? ☐ Yes ☒ No If yes (include on site plan): One ADA compliant toilet for every 10 per location

Will Dumpsters be used? ☐ Yes ☒ No If yes (include on site plan)
 How Many? _____ Size: _____ Installation Date: _____ Removal Date: _____

Entertainment (Detail type, bands, DJs, dancers, clowns, etc)

Live band, Ronald McDonald

Parking Plan (please be detailed and include on site map):

St. Albans parking**Food and Beverage:**

Will alcohol be served or sold?

☐ Served☐ Sold☒ No Alcohol

Will there be food trucks?

☐ Yes☒ No

All food trucks must be registered with the city.

If yes, please list the truck/trailer vendors

1. _____ St Pete Beach Food Truck Permit # _____
2. _____ St Pete Beach Food Truck Permit # _____
3. _____ St Pete Beach Food Truck Permit # _____
4. _____ St Pete Beach Food Truck Permit # _____
5. _____ St Pete Beach Food Truck Permit # _____

If you need additional space to list more food trucks please attached an additional sheet listing name of truck and the permit number.

Other Food Vendors that are not a truck or trailer: an outdoor cooking permit is required for those listed below. Please include the outdoor cooking permit application/s with the event permit

N/A

List all other vendors (art, crafts, clothes, etc)

Kona Ice
Snow Cone truck, Cola-Cola
Coke trailer

Event Equipment – All equipment below other than a 10x10 tent requires a temporary structure permit. Please include the temporary structure permit for each piece of equipment listed below with the event application.

Tents: Please list number of tents and size of each and include location on the site plan.

N/A - Tables, chairs, 10x10 tents, dunk tank, bounce
houses, slide, Coca-Cola trailer, Snow Cone trailer

Stage/Platforms: Please list dimensions, scaffolding, etc and include location on the site plan

N/A**Vehicle on the Beach Permits**

Do you need to have a vehicle on the beach for your event?

☐ Yes☒ No

If Yes, please include a vehicle on the beach permit application with the event application

Street Closures

Does Event require any Road or Sidewalk Closures?



Yes



No

If yes, you must include **all the details** in the **site plan** including streets and times

Road	Start Intersection	End Intersection	Date	Times
85th	Boca Ciega Dr	Blind Pass Rd	10/16/18	12-8pm

Signage/Banners

– Please list number, size and placement of each banner that you plan to use to promote the event. If requesting to hang a banner over 75th Ave, a FDOT permit is required and request must be made at least 90 days before the event.

N/A

City Equipment

– Please indicate the number needed for your event, if none, please put a zero (0).

___ Barricades

___ Cones

___ Trash Bins

Not sure what was used for previous event -
Need same as last year's 10/14/17.

As the Applicant, I hereby accept and understand the responsibility to oversee all contractors, vendors, or parties affiliated with the event and to insure compliance with the special event guide, the event rules guidelines, requirements for tents and all policies, rules, regulations, and code provisions of the City of St. Pete Beach. I understand that any violations may result in immediate cancellation and revocation of the Event permits. I further certify that all the facts contained in this request are accurate.

No advertising for the event shall occur until this Special Event permit has been approved by City staff and Commission.

If any information is found to be false, incomplete or misrepresented, such fact is just cause for the immediate revocation of any permit issued. In addition, failure to correct any on-site conditions or code violation as identified by City Staff will result in revocation of the permit and/or code enforcement fines.

For events on Public property, I agree to obtain and furnish the City of St. Pete Beach with a certificate of general liability insurance in the amount of at least one million dollars (\$1,000,000) or greater as deemed satisfactory by the city. The insurance must name the City of St. Pete Beach as an additional insured.

I understand incomplete application or any outstanding financial obligations with any department with in the City of St. Pete Beach may result in a denial of my request.

Tammy E. Cash

Print Name

Tammy E. Cash

Signature

Gulf Beaches Elementary Magnet

Corporation Name (if applicable)

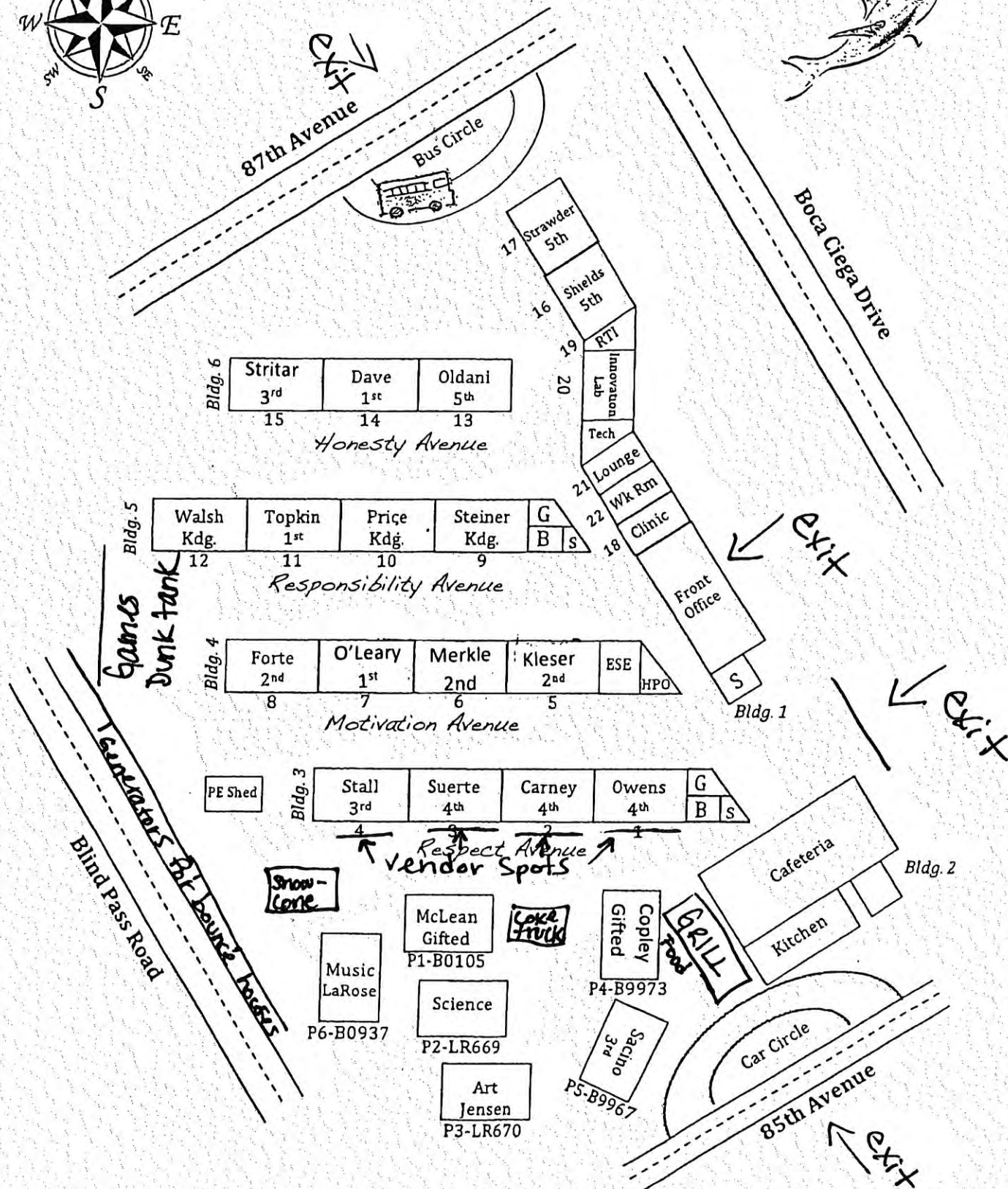
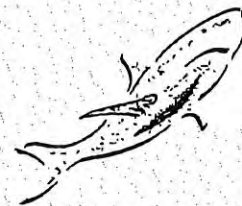
7/15/18

Date

Gulf Beaches Elementary Magnet

Center for Innovation and Digital Learning

School Map 2018-2019





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

Issue Considered: Request approval of the special event application for Vina Beer Fest and wet zone On October 20, 2018.

Date: September 11, 2018

Prepared By: Jennifer McMahon, Recreation Director

Through: Wayne Saunders, City Manager

Summary of Issue: The event is being organized by the Vina Del Mar Island Association. The event will include music, food and alcohol. The event is from 4-8pm Saturday, October 20, 2018 at the Vina Del Mar Park. The Association purchased event insurance through the Recreation Department for the event. The City Commission needs to approve Vina Del Mar Park as a wet zone for the event to allow alcohol consumption on public property.

Funding: N/A

Requested Motion: "I move to approve special event application for Vina Beef Fest and wet zone on October 20, 2018."

Attachments: Application

**Reviewed by
City Manager:** WS



City of St. Pete Beach Recreation
Department
Event Application

Applicant

Name of Applicant: Heather Riley Title (if applicable): _____

Name of Organization (if applicable): Vina Del Mar Island Association

Tax Exempt? ☒ Yes ☐ No Non-Profit? ☐ Yes ☐ NO *If yes on either, please provide documentation*

Mailing Address: 270 N Tessier Drive St Pete Beach, FL 33706

Cell Phone: 302-494-1307 Email: vinaHeather@aol.com

Event Information

Event Title: Vina October Beer Fest Event/Organization Web Address: http://vdmia.info/

Event Location(s): Vina Del Mar Park or in case of rain Warren Webster

If location is private property, a letter giving permission for the event to take place on the property must be included with the application.

Event Date(s) & Time(s)

Date	Day of the Week	Start Time	End Time
<u>10/20/18</u>	<u>Saturday</u>	<u>4:00</u>	<u>8:00</u>
_____	_____	_____	_____
_____	_____	_____	_____

Set Up Date(s): 10/20/18 Time(s) 3:00 to 4:00

Cleanup Date(s): 10/20/18 Time(s) 8:00 to 9:00

Description of Event: Brats, salads, beer and music in the park for a neighborhood get together

Will this be an Annual Event? ☒ Yes ☐ No If yes, next year's date(s): _____

Event Logistics

Estimated Attendance 80 80
(includes event crew, participants, and spectators) This Year Last Year (if Applicable)

List all event activities: Games (bean bag toss) music, eating and visiting with neighbors

Electricity Needed ☒ Yes ☐ No Source: _____

Will portable restrooms be used? ☐ Yes ☒ No If yes (include on site plan): One ADA compliant toilet for every 10 per location

Will Dumpsters be used? ☒ Yes ☐ No If yes (include on site plan)
How Many? _____ Size: _____ Installation Date: _____ Removal Date: _____

Entertainment (Detail type, bands, DJs, dancers, clowns, etc) One guy playing a guitar and singing

Parking Plan (please be detailed and include on site map): Parking around the park, many will walk

Food and Beverage:

Will alcohol be served or sold? ☐ Served ☒ Sold ☐ No Alcohol
Will there be food trucks? ☐ Yes ☒ No

All food trucks must be registered with the city.

If yes, please list the truck/trailer vendors

1. N/A St Pete Beach Food Truck Permit # _____
2. _____ St Pete Beach Food Truck Permit # _____
3. _____ St Pete Beach Food Truck Permit # _____
4. _____ St Pete Beach Food Truck Permit # _____
5. _____ St Pete Beach Food Truck Permit # _____

If you need additional space to list more food trucks please attached an additional sheet listing name of truck and the permit number.

Other Food Vendors that are not a truck or trailer: an outdoor cooking permit is required for those listed below. Please include the outdoor cooking permit application/s with the event permit

N/A

List all other vendors (art, crafts, clothes, etc) We will be grilling brat and hot dogs

Event Equipment – All equipment below other than a 10x10 tent requires a temporary structure permit. Please include the temporary structure permit for each piece of equipment listed below with the event application.

Tents: *Please list number of tents and size of each and include location on the site plan.*

N/A

Stage/Platforms: Please list dimensions, scaffolding, etc and include location on the site plan

N/A

Vehicle on the Beach Permits

Do you need to have a vehicle on the beach for your event? ☐ Yes ☒ No
If Yes, please include a vehicle on the beach permit application with the event application

Street Closures

Does Event require any Road or Sidewalk Closures?

☐

Yes

☐

No

If yes, you must include **all the details** in the **site plan** including streets and times

Road	Start Intersection	End Intersection	Date	Times
MA				

Signage/Banners – Please list number, size and placement of each banner that you plan to use to promote the event. If requesting to hang a banner over 75th Ave, a FDOT permit is required and request must be made at least 90 days before the event.

MA

City Equipment – Please indicate the number needed for your event, if none, please put a zero (0).

____ Barricades

____ Cones

6 X Trash Bins

As the Applicant, I hereby accept and understand the responsibility to oversee all contractors, vendors, or parties affiliated with the event and to insure compliance with the special event guide, the event rules guidelines, requirements for tents and all policies, rules, regulations, and code provisions of the City of St. Pete Beach. I understand that any violations may result in immediate cancellation and revocation of the Event permits. I further certify that all the facts contained in this request are accurate.

No advertising for the event shall occur until this Special Event permit has been approved by City staff and Commission.

If any information is found to be false, incomplete or misrepresented, such fact is just cause for the immediate revocation of any permit issued. In addition, failure to correct any on-site conditions or code violation as identified by City Staff will result in revocation of the permit and/or code enforcement fines.

For events on Public property, I agree to obtain and furnish the City of St. Pete Beach with a certificate of general liability insurance in the amount of at least one million dollars (\$1,000,000) or greater as deemed satisfactory by the city. The insurance must name the City of St. Pete Beach as an additional insured.

I understand incomplete application or any outstanding financial obligations with any department with in the City of St. Pete Beach may result in a denial of my request.

H C Riley
Print Name
Vina Del Mar Assoc
Corporation Name (if applicable)

H C Riley
Signature
8-14-16
Date

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

Issue Considered: Interlocal Agreement with the Pinellas Public Library Cooperative for library services from October 1, 2018 through September 30, 2023.

Date: September 11, 2018

Prepared By: Vincent Tenaglia, Administrative Services Director

Through: Wayne Saunders, City Manager

Summary of Issue: The City of St. Pete Beach is one of 14 participating agencies in the Pinellas Public Library Cooperative (PPLC). The PPLC centrally coordinates various administrative and financial functions between member libraries, and facilitates improved access to circulation materials by sharing resources. Cost savings are often obtained by leveraging the PPLC's financial resources on behalf of participating libraries for collection materials.

The PPLC agreement has been renewed in five-year increments since January 1989 and is currently scheduled to expire on September 30, 2018. Staff is requesting authorization to renew the agreement for a five year term.

Funding: N/A

Requested Motion: "I move to authorize the City Manager to execute the interlocal agreement with the Pinellas Public Library Cooperative from October 1, 2018 through September 30, 2023."

Attachment: Interlocal Agreement

Reviewed by the City Manager: WS

Library Interlocal Agreement

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between the undersigned Governmental Units as set forth on the signature pages attached hereto ("Parties"), for the participation in a cooperative library service for Pinellas County (the "Cooperative").

RECITALS:

WHEREAS, Pinellas County and various municipalities entered into an Interlocal Agreement providing for the establishment of the Cooperative dated the 10th day of January 1989, which was subsequently amended and extended, and which was superseded by an Interlocal Agreement entered into on the 10th day of September 2001, which expired on September 30, 2013; and which was superseded by an Interlocal Agreement entered into on the 1st day of October, 2013, which expired on September 30, 2018; and which was superseded by an Interlocal Agreement entered into on the 1st day of October 2018, which expires on September 30, 2023; and

WHEREAS, it is in the public interest to provide a free public library service for the use of the permanent residents of Pinellas County ("County"); and

WHEREAS, this Agreement is authorized by Section 163.01 of the Florida Interlocal Cooperation Act of 1969, which was promulgated to permit local governmental units to make the most effective use of their powers by enabling them to cooperate with other governmental units thereby providing services and facilities in a manner and pursuant to forms of governmental organization that will include geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, any public agency of this state may exercise jointly with any other public agency of this state any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the Parties to this Agreement have determined that in order to most effectively utilize their separate powers, a cooperative effort in the form of an Interlocal Agreement is needed; and

WHEREAS, Sections 257.12 through 257.25, Florida Statutes ("Free Library Service" verified 2017), provide state funds to assist in the furnishing of library services.

NOW THEREFORE, in consideration of the mutual benefits and in consideration of the covenants and agreements set forth herein, the Parties hereto agree as follows:

I. PURPOSE; EXECUTION; EFFECTIVE DATE; TERM OF AGREEMENT

A. Purpose:

The purpose and intent of this Agreement is to continue to operate the Cooperative to extend library services to the unincorporated areas of the County and to municipalities that do not have such services as of the effective date of this Agreement, and to improve library services to residents of municipalities and Municipal Services Taxing Units with Libraries as of the date of this Agreement.

The primary functions of the Cooperative are as follows:

1. To receive and disburse funds from federal, state, and local sources.
2. To maintain a shared library automation system serving Member Libraries.
3. To maintain a shared materials delivery system serving Member Libraries.
4. Where agreed by individual Member Libraries for the most efficient use of fiscal resources, to assist Member Libraries in the collective purchase of library resources and services.

B. Execution; Effective Date

This Interlocal Agreement may be signed in counterparts by the Parties hereto. This Agreement shall become effective on October 1, 2018.

C. Term of Agreement:

This Agreement will be in force for a period of five (5) years, ending September 30, 2023. The Agreement may be renewed for an additional period of five (5) years to September 30, 2028 with the mutual consent of the Parties.

II. DEFINITIONS:

A. Articles of Incorporation:

"Articles of Incorporation" as used in this Agreement refer to the Articles of Incorporation of the Pinellas Public Library Cooperative, Inc., (PPLC) approved by the signatories to the 1989 Interlocal Agreement establishing the Cooperative and executed and filed with the Secretary of State pursuant to Chapter 617, Florida Statutes (1987), as may be amended.

B. Board:

"Board" as used in this Agreement refers to the Board of Directors of the Pinellas Public Library Cooperative, Inc.

C. Board of County Commissioners:

"Board of County Commissioners" as used in this Agreement refers to the Pinellas County Board of County Commissioners and may be delineated as "BCC".

D. By-Laws:

"By-Laws" as used in this Agreement refer to the By-Laws of the Pinellas Public Library Cooperative, Inc., approved by the signatories to the 1989 Interlocal Agreement establishing the Cooperative, as may be amended by the Board as needed.

E. Cooperative:

"Cooperative" as used in this Agreement refers to the Pinellas Public Library Cooperative, Inc. and may be delineated as "PPLC".

F. County:

"County" as used in this Agreement refers to Pinellas County, a political subdivision of the State of Florida. The County as used in this Agreement is a Party to this Agreement but is not a Member of the Cooperative.

G. Disbursement Formula:

"Disbursement Formula" as used in this Agreement refers to the formula according to which disbursements to Members with Libraries shall be made pursuant to this Agreement. The Disbursement Formula is attached hereto and incorporated herein as Exhibit "B".

H. Governmental Unit:

"Governmental Unit" as used in this Agreement refers to municipalities; Municipal Services Taxing Units (MSTU) with Libraries; a municipal consortium offering library services; and the County. Governmental Units which are parties to this Agreement are included within the definition of Governmental Unit and may also be delineated as "Members" of the Cooperative.

I. Library:

"Library" as used in this Agreement refers to the public Libraries and Library systems operated by Members. To qualify as a "Library" for purposes of this Agreement, the Library must be approved by the Board, which shall determine if the Library meets the basic standards set forth in the Policy on Admission, a copy of which is attached hereto and incorporated herein as Exhibit "A."

J. Library MSTU

"Library MSTU" shall mean the Pinellas County Library Services District municipal services taxing unit as established by Ordinance 1989-5, and codified at Pinellas County Code Section 78-2; and excludes any individual MSTU for library services subsequently established.

K. Local Support:

"Local Support" as used in this Agreement refers to the dollar amount of funds expended for allowable costs by each Member with a Library during the fiscal year for library operations. Funds received from the County for the support of a Library that exists wholly in the unincorporated area of Pinellas County (Library MSTU), excluding all monies received by such

Libraries from the Cooperative, shall be considered as additional local support for the Member Library for purposes of the application of the disbursement formula. Local Support shall be determined by adding the expenditures for Personnel Services (State of Florida Uniform Accounting System Manual for Florida Local Governments, Object Code 10), Operating Expenditures/Expenses (Object Code 30), and "Books, Publications, Subscriptions, and Memberships" (State of Florida Uniform Chart of Accounts Object Code 60, Sub-Object Code 66). All other expenditures not specifically listed above shall not be tabulated when determining the Local Support.

L. Member:

"Member" as used in this Agreement refers to a Governmental Unit which is a Party to this Agreement and which forms part of the Cooperative either as a Member with a Library or as a Member without a Library.

M. MSTU:

"Municipal Services Taxing Unit" as used in this agreement refers to unincorporated Pinellas County. The Pinellas County Board of County Commissioners serves as the local government for the MSTU. A portion of the County budget (MSTU) is paid by residents of the unincorporated area and is devoted to providing municipal services, such as public library services.

N. Reciprocal Borrower:

"Reciprocal Borrower" is a cardholder from cooperating Libraries which have reciprocal borrowing agreements with PPLC.

N. Year:

"Year" as used in this Agreement, unless otherwise indicated, means the fiscal year from October 1 to September 30. The fiscal year of the Cooperative shall run from October 1 to September 30.

III. GOVERNING STRUCTURE OF THE COOPERATIVE:

A. Corporate Structure:

The Cooperative is a private non-profit organization incorporated under the Florida Not- For-Profit Corporation Act, Chapter 617, Florida Statutes (2000). Additional Members may be admitted in the manner specified in the Articles of Incorporation or the By-laws.

B. Board of Directors:

1. Membership. Each Board member represents the interests of all Parties, including the County, the Cooperative, Members with and without Libraries, and patrons. Each Board member can envision the future of countywide library services. The Board of Directors shall consist of nine (9) voting members who shall be selected and appointed in

accordance with the provisions of the Articles of Incorporation and the By-laws, as amended, as follows:

- a. Four members of the Board of Directors shall be the City Administrator of the City of St. Petersburg and the City Managers of Clearwater, Largo and Pinellas Park, or their senior management designees.
- b. Three members of the Board of Directors shall be county senior management employees, representing Pinellas County, who shall be appointed by the BCC upon the recommendation of the Pinellas County Administrator.
- c. Two members of the Board of Directors shall be appointed by the Board of County Commissioners and shall serve a term of three (3) years.

Criteria for such appointment shall be as follows:

- 1) The candidate has previous experience serving on a board or similar body and the capacity to evaluate a full range of perspectives, from library service providers to library users.
- 2) The candidate represents the interests of all Parties, including the County, the Cooperative, Members with and without Libraries, and patrons.
- 3) The candidate can envision the future of countywide library services.
- 4) The candidate may not be an employee or member of the governing body of a PPLC Member Library.

2. Terms. The Articles of Incorporation shall specify the term of office for Directors in conformance with Section III.B.1 above.
3. Officers. The Officers of the Cooperative shall be: Chair of the Board of Directors, Vice-Chair of the Board of Directors, and Secretary/Treasurer. The terms of office, election and duties of Officers shall be as specified in the By-laws.
4. Compensation. Directors and Officers shall not be paid a salary or wages but may be reimbursed for travel and per diem expenses on behalf of the Cooperative as approved by the Board, based on the PPLC Policies and Procedures Manual and in accordance with Section 112.061, Florida Statutes (“Per diem and travel expenses” verified 2017).

5. Meetings. The Board of Directors shall meet at least six (6) times each year. Meetings shall be conducted pursuant to the Sunshine Law, Chapter 286, Florida Statutes. The Chairperson or a simple majority of the Board may call emergency meetings. Such meetings shall require at least 24 hours' notice.
6. Duties. The duties of the Board of Directors shall include, but not be limited to:
 - a. Managing the affairs of the Cooperative;
 - b. Amending the Articles of Incorporation and the By-laws;
 - c. Establishing administrative policy for the operation of the Cooperative;
 - d. Receiving and disbursing funds from local, state and federal sources and entering into arrangements as appropriate in connection therewith, and receiving and disbursing funds from Members without Libraries participating in the Cooperative;
 - e. Investing the Cooperative funds;
 - f. Employing and directing an Executive Director;
 - g. Conducting open and public meetings, the time and place to be decided by the Board of Directors;
 - h. Establishing the operating budget for the Cooperative, which is subject to the review upon request of the BCC, and overseeing its execution, including approving expenditures for administration;
 - i. Advising the Parties and Members with respect to the budget, disbursements, extension and expansion of library services and other affairs of the Cooperative;
 - j. Submission of funding requirements in accordance with the provisions of Section V.C.
 - k. Developing, in collaboration with the Executive Director and Library directors of Members, the Long-Range Plan for the Cooperative to improve library services to residents of municipalities, library taxing districts, and unincorporated areas.
 - l. Review and approve the Annual Plan of Service.

C. Executive Director:

1. Duties. The duties of the Executive Director shall include, but not be limited to:

- a. Facilitating joint planning for coordination of library services among Members with Libraries and other Libraries within the County that participate in reciprocal borrowing and joint planning as recipients of State Aid to Libraries.
 - b. Maintaining information for and submitting applications on behalf of the Cooperative for available local, State, and Federal library funds with Board approval, and filing reports with the Division of Library and Information Services pursuant to Section 257.16, Florida Statutes (2000), as may be amended;
 - c. Preparing, in coordination with the library directors of Members, the annual operating and capital budgets of the Cooperative, and presenting the annual operating budget of the Cooperative to the Board and Members.
 - d. Developing, in collaboration with the library directors of Members, the Annual Plan of Service that shall include goals, objectives and activities, and the budget that will support library services for the year. This plan must clearly demonstrate that resources will be allocated in a way that serves the goal of access to library services throughout the area.
2. Qualifications. The Executive Director must have an American Library Association accredited Master's degree in Library Science (MLS), and a minimum of five (5) years library administration experience, with experience in library cooperative administration preferred.

D. Advisory Council:

A Library Directors Advisory Council (LDAC) made up of all library directors of Members, or their designees, will collaborate with the Executive Director in coordination, planning and other matters as appropriate. The Officers of the LDAC shall be: Chair, Vice-Chair, and Secretary. The terms of office, election, and duties of Officers shall be as specified in the LDAC By-laws. The By-laws of the LDAC shall provide that the office of Chair will be rotated yearly among the members of the Advisory Council and that the Chair will participate in the meetings of the Cooperative Board of Directors and represent the LDAC.

The duties of the LDAC shall be as follows:

1. Conduct open and public meetings, the time and place to be decided by LDAC.
2. Collaborate with the Executive Director on the establishment and revision of the PPLC Public Service Policies for Member Libraries.

3. Review and provide recommendations in the preparation of the annual budget.
4. Advise the Board on Board meeting agenda items as needed.

E. Long-Range and Annual Plans of Service:

Each year an Annual Plan of Service and Budget shall be adopted by the Board of Directors. The Long-Range Plan must be updated every five years. The Plans will meet the requirements for participation in the State Aid to Libraries Program. The Executive Director will disseminate the Plans.

F. Reports:

The Executive Director will provide annual reports on the progress toward meeting the objectives of the Long-Range Plan and the Annual Plan of service. The reports will include audited statements of operating expenditures, capital expenditures, and reserve accounts. Annual reports will be presented to the Board, the Members, and the Division of Library and Information Services.

IV. PARTICIPATION:

A. General:

Participation will be voluntary and open to any Governmental Unit. People residing in participating areas will be eligible to use the services of Member Libraries of the Cooperative without charge. People residing in Governmental Units or areas not electing to participate will be excluded from the use of the Cooperative's services unless individual people join Member Libraries by paying an annual fee; such fee may be adjusted by a majority of Parties to this Agreement. People who join by paying the annual fee to a Member Library will then be counted as residents of that Member Library's governmental unit. Members may withdraw pursuant to the provisions of Section VI.

B. Members With Libraries:

1. Admission. Governmental units applying for the first time for membership in the Pinellas Public Library Cooperative, Inc. must be approved by the Board which shall determine if the Library meets the statutory requirements and operational standards established in Exhibit "A": Policy on Admission.
2. Membership. Members with Libraries will adhere to the operational standards established in Exhibit "A": Policy on Admission, and comply with participation requirements as detailed in this section.
3. Noncompliance and Enforcement. Any Member with a Library that fails to

maintain the requirements established in the Policy on Admission or the Participation requirements, may be provided a Notice of Deficiency as follows:

- a. Subject to Board authorization, any Member with a Library that is found to be non-compliant may be issued a Notice of Deficiency effective upon the date of such Notice. A Member with a Library that has received a Notice of Deficiency will be granted a period not to exceed 12 months (as determined by the Board based on the nature of the deficiency) from the date of the Notice to achieve compliance with the requirements of Membership and to provide documentation of such compliance to the Board. Upon determination that the Member successfully demonstrated compliance with the requirements, the Board shall authorize a written Notice of Compliance to be provided to the Member.
 - b. A Member with a Library that has received a Notice of Deficiency and has failed to successfully demonstrate compliance within the prescribed time period will be considered to have withdrawn from the Cooperative. Such Member will comply with the requirements for withdrawal indicated in Section VI. B. of this Agreement.
4. Autonomy. Each Member with a Library shall continue to decide the level of library service for its community and shall prepare its own budget. Each Library shall remain autonomous and retain control of its operations and functions, i.e.:
 - a. Trust funds, individual gifts or donations made to a Library shall remain the property of that Library.
 - b. All Library staff shall remain employees of the various Members with no loss in benefits.
 - c. Each Library shall remain the property of the Member in which it is located, and all maintenance and repairs shall be affected through operating budgets from allocated local appropriations.
 - d. Members with Libraries will continue to fund their local Libraries and are not required to make any payment to the Cooperative for participation in the Cooperative.
5. Audits. Each Member with a Library shall provide to the Cooperative by March 31 of each year an audited statement of its Library operating costs for its last completed fiscal year. The audits are to be reviewed by the Cooperative

to determine the dollars expended locally for library operations. Allowable costs for each Library shall consist of all personnel and direct operating costs, and non-fixed capital as provided for in the State of Florida Chart of Accounts. All other costs, including fixed capital items and debt expenses, are not allowable.

6. Materials and Services.

- a. Members with Libraries agree to allow all circulating materials (non-electronic formats) of existing Libraries to be freely available to cardholding residents of all participants in the Cooperative.
- b. Members with Libraries agree to allow all circulating materials (electronic formats) to be freely available to all cardholders of that specific Library regardless of cardholder's address.
- c. Reciprocal Borrowers may borrow circulating materials in non-electronic formats only.
- d. Within policies established by the Cooperative all reference and public programming services are equally available to the public.

7. Staff Development. All Members with Libraries will agree to have their Libraries closed on Columbus Day (or alternately designated day) each year, unless otherwise prohibited, for participation in an annual county-wide staff development day. Staff development day planning will be coordinated by PPLC staff in collaboration with Member Library directors and staff.

C. Members Without Libraries:

1. Basis for Funding:

The County, on behalf of the Library MSTU, and subject to the provisions and limitations in Section V.A. and any other Member without a Library, shall provide annual financial support to the Cooperative which, when calculated on a per capita (of population of such Member) basis for any year, shall be equivalent to the average per capita funding, excluding all monies received from the Cooperative, provided during the most recent preceding year by the Members having Libraries subject to the provision of, and limitations in, Section V.A., the funding shall be calculated as follows: The total expenditures, as adjusted for monies received from the Cooperative, of the Members from the prior year shall be divided by the total population of the Members to obtain the aggregate average per capita cost. For purposes of this subsection C, "funding" means the amount of Library expenditures

for any year as described in Section V.A. by a Member having a Library, and "population" means the number of residents residing in the Member governmental unit determined in accordance with Section V.B. Payments shall be made by the County and each Member without a Library of annual financial support due from it in four (4) quarterly payments of twenty-five percent (25%) each.

2. Underfunding:

If financial support paid to the Cooperative by a Member without a Library is less than the amount due under Section V, written notice shall be provided by PPLC, to such unit of the deficiency and all funds due under Section V shall be immediately due and payable as specified in Section VI.C. Such unit shall be deemed to have withdrawn from the Cooperative notwithstanding the provisions of Section VI.A or VI.C effective thirty (30) days following the receipt of written notice of deficiency unless payment of such deficiency is made within that thirty (30) day period.

V. FUNDING MECHANISM:

A. Fiscal Funding:

The County will provide an amount of annual financial support equal to the financial support provided by all Members with Libraries, calculated on a per capita basis for the previous year, excluding all monies received from the Cooperative, provided that the amount shall not exceed the ad valorem revenue, excluding statutory payments to the Tax Collector and Property Appraiser, generated by the millage rate levied by the County in support of Cooperative Library services. At no time shall the millage rate levied by the County in support of Cooperative Library services exceed 0.5 mill. The County shall submit the funds to the Cooperative in quarterly payments. The County shall notify the Cooperative of any changes to the population figures subject to the amount of annual per capita financial support for the new fiscal period prior to May 30 of each year.

The obligations of the County as to any funding required pursuant to this Agreement are subject to annual approval of the Library MSTU millage by the County. If funds are not appropriated by the County through the Library MSTU for any or all the obligations in this Agreement, the County shall not be obligated to pay for the services provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify the Cooperative in writing of such failure of appropriation, and upon such notice, the provisions of Section IV shall govern.

B. Determination and Notification of Per Capita Amounts for Members Without Libraries:

The Cooperative shall advise each Member without a Library by June 1 of each year, of such unit's funding requirement for the next fiscal year, together with the calculations by which such funding requirement was determined and the backup information for such calculation, consisting of (i) average per capita locally funded library expenditures of Members with Libraries for the last completed year and (ii) appropriate population statistics. The expenditures shall be based on audited financial statements for such last completed year in accordance with budget line items identified in Section IV.B.5. The population statistics used to calculate such per capita expenditures shall be for such year and shall be from one of the following sources: the Bureau of Economics and Business Research of the University of Florida, the Pinellas County Planning Department, or the U.S. Census Bureau.

C. Fiduciary Responsibility for Funds:

1. All funds of the Cooperative shall be maintained in an interest-bearing public depository as set forth in Florida Statutes, Chapter 280 ("Security for Public Deposits," verified 2017), as may be amended;
2. Complete and accurate records shall be kept of the receipts and disbursement of all funds of the Cooperative, subject to the PPLC adopted Record Retention and Document Destruction Policy, which will comply with Florida Department of State General Schedule for State and Local Government Agencies GS1-SL, Internal Revenue Code 501(c)(3), and all other applicable federal, state, and local law;
3. An annual audit of the Cooperative by an independent certified public accountant, to be paid for from the operating funds of the Cooperative, shall be made and filed annually with the Department of State;
4. The Cooperative shall abide by the terms and provisions of the laws of the State of Florida and the provisions of this Agreement and any other applicable Federal, State, or local laws, rules and regulations including the County's Investment Policy.

D. Disbursement:

The Board of Directors shall disburse funds received by the Cooperative according to the formula below:

1. The Board of Directors shall annually establish the budgeted administrative costs of the Cooperative, including salary, office supplies, and any rents or other costs related to the administrative operations of the Cooperative.

2. The remaining funds shall be distributed to Members with Libraries in accordance with the disbursement formula, which is attached hereto and incorporated herein as Exhibit “B.” This distribution is to be based on submittal of annual library operating costs with descriptive codes in accordance with the State of Florida Uniform Chart of Accounts. All funds collected from sources other than Members shall be allocated as determined by the Board. In no instance shall the total allocation to a Member Library exceed the amount of the Local Support. Funds received by the Cooperative shall be disbursed within a reasonable time after receipt. Payments to Member Libraries shall be made in quarterly disbursements. The Libraries shall use those funds for materials and operations of their Libraries. The disbursement formula may only be amended by the Board, with the approval of a simple majority of the Members with Libraries and the approval of the BCC.
3. State Aid funds and program grants received from the state shall be used in accordance with the provisions of applicable state law, Florida Statutes 257 (“Public Libraries and State Archives” verified 2017) and Florida Administrative Code 1B-2 (“Library Grant Programs” verified 2017).

VI. WITHDRAWAL:

A. All Participants:

1. Any Member wishing to withdraw shall submit written notice thereof to the Cooperative no later than six (6) months prior to the beginning of any fiscal year of the Cooperative.
2. Withdrawal of Members without Libraries may occur in the manner specified in Section IV.C.2.

B. Members with Libraries:

A Member with a Library that submits a withdrawal notice to the Cooperative shall:

1. At the request of the Cooperative's Board, promptly furnish usage statistics and an audit of library operating costs for such Library's last fiscal year completed prior to the date the withdrawal is effective to ensure maintenance of proper accounting for the Cooperative; and
2. Return to the Cooperative within sixty (60) days after withdrawal, any special equipment or collections purchased for such Member with funds from the Cooperative capital improvements fund within the previous five years. In lieu of returning the equipment or collection so purchased, the amortized balance

thereof based on an amortization period of five years from date of purchase may be repaid to the Cooperative during the year following withdrawal; and

3. Repay to the Cooperative within sixty (60) days after withdrawal any then remaining unexpended and uncommitted funds received from the Cooperative;

C. Members Without a Library:

A Member without a Library that submits or receives a withdrawal notice shall pay all sums due for library services provided prior to the date of withdrawal pursuant to Sections IV and V prior to withdrawal.

VII. TERMINATION OF AGREEMENT:

In the event that Members representing more than fifty percent (50 %) of the total population of all Members withdraw under Section VI or are deemed to have withdrawn under Section IV.C.2 of this Agreement, the remaining Members shall consider the continuation or termination of the Agreement and may terminate the Agreement by consent of a simple majority of the Members.

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

EXHIBIT "A"
Policy on Admission
Pinellas Public Library Cooperative, Inc.
For a Library Seeking Membership

Libraries applying for membership in the Pinellas Public Library Cooperative, Inc. must be approved by the Board, which shall determine if the Library meets the basic eligibility requirements outlined below:

1. The Library meets the Essential level of **Core Standards** as defined in the Florida Public Library Standards (FLA, 2006 Revision, updated 2015 “Standards for Customer Focused Library Facilities” verified 2017).
2. The Library meets the Florida Public Library Standards (FLA 2006 Revision, updated 2015, verified 2017) for **Interconnectivity, Lending Services, Services-Resource Sharing and Interlibrary Cooperation**.
3. The governing entity must have an established budget for the maintenance and operation of the Library and must be audited each year.
4. There must be evidence that such funding is available, restricted for the Library and will continue to be available.
5. The Library has a long-range plan, an annual plan of service, and an annual budget [Florida Statutes 257.17(2)(e)] (long range plan statement, verified 2017).
6. The Library engages in joint planning for coordinating of library services within the county or counties that receive operating grants from the state [Florida Statutes 257.17(2)(f)] (joint planning statement, verified 2017).
7. The Library adapts its services to meet the needs of people with disabilities as required by the Americans with Disabilities Act and its attendant regulations.
8. The Library has established hiring practices that are in accordance with Equal Employment regulations.

When the Library and its governing entity determine that these eligibility requirements can be met the attached Procedures for Admission must be followed.

Such requests may be initiated at any time but the funding cycle for the subsequent fiscal year requires a March 31 deadline. See the Procedures for Admission for steps to be taken.

Procedures for Admission
To the Pinellas Public Library Cooperative, Inc.
As a Member Library

1. The Library seeking admission to the Cooperative must provide documentation that it can meet the standards spelled out in the Policy on Admission.
2. The Library must submit a letter of request signed by its governing entity (city commission, Board of Directors, etc.) to the Board/Executive Director.
3. The Library must submit with its letter of request documentation that it meets the basic eligibility standards for admission to the Pinellas Public Library Cooperative, Inc. as provided for in the Policy on Admission.
4. Upon receipt of the letter of request and documentation, the Board and Executive Director will review the request and appoint a committee to visit and evaluate the Library.
5. The committee will determine readiness for services by the requesting Library and will report any deficiencies in writing to the Board and to the Library's governing entity.
6. If the Library's governing entity wishes to pursue membership, it will be given a period of time in which to correct deficiencies, if any, and to prepare the Library for final evaluation by the Board.
7. Upon receipt of the final evaluation, the Board will have up to sixty (60) days in which to vote upon admission.
8. Following a positive vote, the Board will present the Library's governing entity with a copy of the Interlocal Agreement, which must be executed and returned, and an agreement form for the basic policies and procedures in effect for Member Libraries, including all public service policies such as patron registration, patron cards, materials circulation rules and others.
9. In order to be included in the subsequent year's funding allocations, the Procedures for Admission must be completed by March 31st in any given year.

EXHIBIT "B"
Disbursement Formula

Base Allocations to Members with Libraries shall be 90% of the balance remaining after the adjustments stated in Section V.D.1 and V.D.2 of the Library Interlocal Agreement. Each Library's percentage of the total Local Support extended, as determined through the review of the Certified Annual Financial Reports (CAFR), shall then be determined and translated into dollar amounts. The percentage of the total Local Support extended shall be determined by dividing the sums expended locally by the total Local Support for all Members. As set forth in Section IV.B.5 of the agreement, the Local Support shall be determined by adding the expenditures for Personnel Services (State of Florida Uniform Accounting System Manual for Florida Local Governments, Object Code 10), Operating Expenditures/Expenses (Object Code 30), and books, publications, and library materials (State of Florida Uniform Chart of Accounts Object Code 60, Sub-Object Code 66). All other expenditures not specifically listed above shall not be tabulated when determining the Local Support. The Members shall receive a percentage of the available funds equal to the percentage of their total support extended as a base allocation subject to a maximum of 16% and a minimum of 4%.

Circulation Allocations to Members with Libraries shall be 10% after the adjustments stated in Section V.D.1. and V.D.2. The dollars available for distribution include the balance remaining after the base allocation. The circulation pool allocation percentage shall be derived by taking non-resident (residents from unincorporated Pinellas County and other Member cities) circulation figures for each Library and dividing it by the total non-resident circulation for all Members.

Total Allocations to Members with Libraries shall not exceed the amount of the Local Support.

Member signature and date page

Each member decides what signatures will appear:

Mayor / Commissioner
City Manager
City / Town Attorney
City / Town Clerk

County Commission for Palm Harbor and East Lake

BCC page

PPLC page

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

Issue Considered: Request approval of Amendment No. 1 to the Blind Pass Road Stormwater Redesign grant agreement with the Florida Department of Environmental Protection.

Date: September 11, 2018

Prepared By: Vincent Tenaglia, Administrative Services Director

Through: Wayne Saunders, City Manager

Summary of Issue: The City of St. Pete Beach executed a grant agreement with the Florida Department of Environmental Protection (FDEP) on December 12, 2016 for the Blind Pass Road project. The agreement provides reimbursement funding up to \$500,000 for stormwater reconstruction and was originally scheduled to expire on December 31, 2018. Staff is requesting an extension to ensure funding remains available throughout the life of the construction project.

Funding: Amendment No. 1 is a time extension only and has no impact on funding.

Requested Motion: “I move to approve Amendment No. 1 to the Blind Pass Road Stormwater Redesign grant agreement with the Florida Department of Environmental Protection.”

Attachment: DEP Agreement No. LP52064 Amendment No. 1

**Reviewed by the
City Manager:**

WS

**DEP AGREEMENT NO. LP52064
BLIND PASS ROAD STORMWATER REDESIGN
AMENDMENT NO. 1**

THIS AGREEMENT as entered into on January 19, 2017, between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "Department") and the City of St. Pete Beach (hereinafter referred to as the "Grantee") is hereby amended.

WHEREAS, the LOCAL SPONSOR has requested to extend the expiration date and revise deliverables in the Grant Work Plan and the DEPARTMENT has agreed. Accordingly, the Grant Work Plan is revised as set forth in Attachment A-1; and,

WHEREAS, certain provisions of the Agreement need revision and several provisions need to be added to the Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Agreement is effective from July 1, 2016 to October 31, 2021.
2. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

FUNDING/CONSIDERATION/INVOICING:

- A. As consideration for the satisfactory completion of services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis up to a maximum of \$500,000.00. It is understood that any additional funds necessary for the completion of this project are the responsibility of the Grantee. The parties hereto understand and agree that this Agreement does not require a match on the part of the Grantee.
- B. Prior written approval from the Department's Grant Manager shall be required for changes to this Agreement.
 - i. A Change Order to this Agreement is required when task timelines within the current authorized Agreement period change, and/or when the cumulative transfer of funds between approved budget categories, as defined in Attachment A, are less than ten percent (10%) of the total budget as last approved by the Department. All Change Orders are subject to the mutual agreement of both parties as evidenced in writing.
 - ii. A formal Amendment to this Agreement is required for changes which cause any of the following: an increase or decrease in the Agreement funding amount, a change in the Grantee's match requirements, a change in the expiration date of the Agreement, and/or changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment A, exceeds or is expected to exceed ten percent (10%) of the total budget as last approved by the Department. All Amendments are subject to the mutual agreement of both parties as evidenced in writing.
- C. The Grantee shall be reimbursed on a cost reimbursement basis for all eligible project costs upon the completion, submittal and approval of each deliverable identified in **Attachment A**, in accordance with the schedule therein. Reimbursement shall be requested utilizing **Attachment B, Payment Request Summary Form**. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: http://www.myfloridacfo.com/aadir/reference_guide/. All invoices for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and

post-audit thereof. A final payment request should be submitted to the Department no later than sixty (60) calendar days following the completion date of the Agreement, to assure the availability of funds for payment. All work performed pursuant to **Attachment A** must be performed on or before the completion date of the Agreement, and the subsequent sixty-day period merely allows the Grantee to finalize invoices and backup documentation to support the final payment request.

- D. The State Chief Financial Officer requires detailed supporting documentation of all costs under a cost reimbursement agreement. The Grantee shall comply with the minimum requirements set forth in **Attachment C, Contract Payment Requirements**. The Payment Request Summary Form shall be accompanied by supporting documentation and other requirements as follows for each deliverable: Reimbursement shall be limited to the following budget categories:

- i. Contractual (Subcontractors) – Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the project. All multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If the Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, the Grantee shall be required to reimburse such funds to the Department within thirty (30) calendar days of written notification. Interest on the excessive charges shall be calculated based on the prevailing rate used by the State Board of Administration. Subcontracts, which involve equipment purchases as part of an installation/retrofit or that include infrastructure and/or infrastructure improvements, as defined in Florida Chief Financial Officer (CFO) Memorandum No. 5 (2011-2012), must be capitalized in accordance with Chapter 69I-72, Florida Administrative Code (F.A.C.). The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.

For fixed-price (vendor) subcontracts, the following provisions shall apply:

- a. The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in **Attachment A**. Invoices submitted to the Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (i.e., Invitation to Bid or Request for Proposals) resulting in the fixed-price subcontract.
- b. The Grantee may request approval from the Department to award a fixed-price subcontract resulting from procurement methods other than those identified in the paragraph above. In this instance, the Grantee shall request the advance written approval from the Department's Grant Manager of the fixed price negotiated by the Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of the Department Grant Manager's approval of the fixed-price amount, the Grantee may proceed in finalizing the fixed-price subcontract.
- c. All subcontracts are subject to the provisions of paragraph 12 and any other appropriate provisions of this Agreement which affect subcontracting activities.
- E. In addition to the invoicing requirements contained in paragraphs 3.C. and D. above, the Department will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines

(including cost allocation guidelines), as appropriate. This information, when requested, must be provided within thirty (30) calendar days of such request. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). State guidelines for allowable costs can be found in the Department of Financial Services' Reference Guide for State Expenditures at http://www.myfloridacfo.com/aadir/reference_guide/.

- F.
 - i. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, the Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - ii. If the Department finds that these funds have been commingled, the Department shall have the right to demand a refund, either in whole or in part, of the funds provided to the Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from the Department shall refund, and shall forthwith pay to the Department, the amount of money demanded by the Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the Department by the Grantee to the date repayment is made by the Grantee to the Department.
 - iii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by the Department, from another source(s), the Grantee shall reimburse the Department for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the Grantee to the date repayment is made to the Department by the Grantee.
- 3. Section 5 of the Agreement is hereby deleted in its entirety and replaced with the following:

REPORTS:

- A. The Grantee shall utilize **Attachment D, Progress Report Form**, to describe the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly reports shall be submitted to the Department's Grant Manager no later than twenty (20) calendar days following the completion of the quarterly reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31. The Department's Grant Manager shall have thirty (30) calendar days to review the required reports and deliverables submitted by the Grantee.
- B. The Grantee will identify the expected return on investment for this project and provide this information to the Governor's Office of Policy and Budget (OPB) within three months of execution of this Agreement. For each full calendar quarter thereafter, the Grantee will provide quarterly update reports directly to OPB, no later than 20 days after the end of each quarter, documenting the positive return on investment to the state that results from the Grantee's project and its use of funds provided under this Agreement. Quarterly reports will continue until the Grantee is instructed by OPB that no further reports are needed, or until the end of this Agreement, whichever occurs first. All reports shall be submitted electronically to OPB at

env.roi@laspbs.state.fl.us, and a copy shall also be submitted to the Department at legislativeaffairs@dep.state.fl.us.

4. Section 11 of the Agreement is hereby deleted in its entirety and replaced with the following:

SPECIAL AUDIT REQUIREMENTS:

- A. In addition to the requirements of the preceding paragraph, the Grantee shall comply with the applicable provisions contained in **Attachment E, Special Audit Requirements**, attached hereto and made a part hereof. **Exhibit 1** to **Attachment E** summarizes the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment E**. A revised copy of **Exhibit 1** must be provided to the Grantee for each amendment which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of **Exhibit 1**, the Grantee shall notify the Department's Grants Development and Review Manager at (850) 245-2361 to request a copy of the updated information.
- B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in **Attachment E, Exhibit 1** when making its determination. For federal financial assistance, the Grantee shall utilize the guidance provided under 2 CFR §200.330 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

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

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

5. Section 12 of the Agreement is hereby deleted in its entirety and replaced with the following:

SUBCONTRACTS:

- A. The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to paragraph 3.D. of this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of minority owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.

6. Section 16 of the Agreement is hereby deleted in its entirety and replaced with the following:

NOTICE:

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. Any and all notices required by this Agreement shall be delivered to the parties at the addresses identified under paragraph 17.

7. Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

CONTACTS:

The Department's Grant Manager (which may also be referred to as the Department's Project Manager) for this Agreement is identified below:

Catherine Florko, or Successor	
Florida Department of Environmental Protection	
Division of Water Restoration Assistance	
3900 Commonwealth Blvd., MS# 3601	
Tallahassee, Florida 32399	
Telephone No.:	850-245-2979
E-mail Address:	Catherine.florko@dep.state.fl.us

The Grantee's Grant Manager at the time of execution for this Agreement is identified below:

Vincent Tenaglia, or Successor	
City of St. Pete Beach	
155 Corey Avenue	
St. Pete Beach, Florida 33706	
Telephone No.:	727-363-9250
Fax No.:	727-363-9249
E-mail Address:	Vtenaglia@stpetebeach.org

8. Section 21 is deleted and replaced with RESERVED.
9. Section 31 is added to the Agreement as follows:

SCRUTINIZED COMPANIES:

- A. Grantee certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee or its subcontractors are found to have submitted a false certification; or if the Grantee, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- B. If this Agreement is for more than one million dollars, the Grantee certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Grantee, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities

in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

- C. The Grantee agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

10. Section 32 is added to the Agreement as follows:

INSPECTOR GENERAL

The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its Subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees.

11. Section 33 is added to the Agreement as follows:

REFUND OF PAYMENTS TO THE DEPARTMENT

Any balance of unobligated funds that have been advanced or paid must be refunded to the Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to the Department.

12. **Attachment A**, Grant Work Plan, is hereby deleted in its entirety and replaced with **Attachment A-1**, Revised Grant Work Plan, attached hereto and made a part of the Agreement. All references in the Agreement to **Attachment A**, shall hereinafter refer to **Attachment A-1**, Revised Grant Work Plan.
13. All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistency may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

REMAINDER PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this amendment to Agreement LP52064 to be duly executed, the day and year last written below.

CITY OF ST. PETE BEACH

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____
*Title of Person Authorized to Sign

By: _____
Secretary or designee

Print Name of Authorized Person

Print Name and Title of Authorized Person

Date: _____

Date: _____

Catherine Florko, DEP Grant Manager

Dena VanLandingham, DEP QC Reviewer

FEID No.: _____

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

Specify Type Attachment	Letter/ Number A-1	Description (include number of pages) Revised Grant Work Plan (2 Pages)

ATTACHMENT A-1 GRANT WORK PLAN

PROJECT TITLE: Blind Pass Road Stormwater Redesign

PROJECT LOCATION: The Project will be located in the Blind Pass Road neighborhood, which is located within the City of St. Pete Beach in Pinellas County, Florida. The project is the section of Blind Pass Road between Gulf Boulevard and 75th Avenue.

PROJECT BACKGROUND: In 2012, the City of St. Pete Beach (Grantee) completed a comprehensive Stormwater Master Plan (SWMP) update in order to identify and prioritize flooding within the City and eliminate or reduce the problem. Drainage improvements in the Blind Pass Road neighborhood area were identified as one of the top priorities in the City. Based on this determination, the City completed a drainage analysis for the Blind Pass Road area on May 14, 2013. This analysis provided the recommendations which included drainage improvements to Blind Pass Road and adjacent drainage basins. Based on these recommendations, the City authorized Michael Baker, Inc. to begin design of the Blind Pass Road Stormwater Redesign (and roadway reconstruction) Project. Over the past few years, this project has seen several iterations of design alterations to address the geometric and aesthetic suggestions of residents. The City anticipates construction in 2019.

The 2016 Florida Legislature appropriated \$500,000 for this project to the City of St. Petersburg Beach. However, the name of the city was officially changed to the City of St. Pete Beach in 1994.

PROJECT DESCRIPTION: The Grantee intends to upgrade the existing infrastructure in the Blind Pass Road neighborhood to the recommendations provided in the Grantee's Stormwater Master Plan Update. While subject to final engineering design, the proposed stormwater improvements will consist of significantly upsizing the existing stormwater collection, conveyance, and discharge (outfall) system under Blind Pass Road to not only accommodate the flow at this location, but also provide adequate conveyance capacity to allow the City to tie adjacent drainage basins into the new pipes under Blind Pass Road, reducing flooding at all of these locations as described in the SWMP update (tie-in of the adjacent basins is not included in the scope of this project). These improvements will also include upsized outfall pipes and a nutrient/sediment reducing baffle box with tidal control device. Proposed improvements will provide a level of service that limits flooding during the 25-year, 24-hour storm event along with addressing tidal flooding issues and installing BMPs to improve water quality.

The project will also include the replacement of sanitary sewer, reclaimed water, and potable water lines under Blind Pass Road, undergrounding of overhead utility infrastructure, and complete roadway reconstruction. The Grantee does not anticipate that the funding under this agreement will result in a fully completed project, so this agreement will cover a portion of the work.

TASKS and DELIVERABLES:

Task 1: Design and Permitting

Task Description: The Grantee will procure professional engineering in accordance with state law. The Grantee will complete the design of Blind Pass Road Stormwater Redesign and obtain all necessary permits for construction of the project. The Grantee will submit documentation of preconstruction activities, as described below.

Deliverable: Design completed to date as described in this task, as evidenced by these deliverables: 1) Signed acceptance of the completed work by the Grantee, 2) Summary of design activities to date, indicating

percentage of design completion representing time period covered in the payment request. 3) The final payment request for this task must be accompanied by an electronic copy of the final design and a list of all required permits identifying issue dates and issuing authorities. Upon request, the Grantee will provide paper copies of obtained permits or permit related correspondence or documentation and the final design document.

Performance Standard: The Department's Grant Manager will review all deliverables to verify that they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: The deliverables must be submitted and accepted prior to each payment request and may be submitted no more frequently than monthly.

Task 2: Construction

Task Description: The Grantee will construct Blind Pass Road Stormwater Redesign project in accordance with the construction contract documents. The project will also include the replacement of sanitary sewer, reclaimed water, and potable water lines under Blind Pass Road, undergrounding of overhead utility infrastructure, and complete roadway reconstruction. The Grantee does not anticipate that the funding under this agreement will result in a fully completed project, so this agreement will cover a portion of the work

Deliverable: Construction completed to date as described in this task, as evidenced by these deliverables: 1) Dated color photographs of on-going work representing the time period covered in the payment request; 2) signed acceptance and brief description of the completed work to date by the Grantee; 3) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project (as applicable); and 4) signed statement from a Florida Licensed Professional Engineer indicating construction has been completed in accordance with the construction contract documents (as applicable).

Performance Standard: The Department's Grant Manager will review the deliverables to verify that they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: The deliverables must be submitted and accepted prior to each payment request and may be submitted no more frequently than monthly.

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task end date.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Task End Date	Deliverable Due Date
1	Design and Permitting	Contractual Services	\$140,000	7/1/2016	10/31/2021	7/31/2021
2	Construction	Contractual Services	\$360,000	7/1/2016	10/31/2021	7/31/2021
Total:			\$500,000.00			

Note that, per paragraph 4 of the agreement, authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the Department if the Legislature reduces or eliminates appropriations. Extending the contract end date carries the risk that funds for this project may become unavailable in the future. This should be a consideration for the Grantee with this and future requests for extension.

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

Issue Considered: Request approval of Change Order #1 to the purchase agreement with Morelli Landscaping, Inc. in the amount of \$10,855.25 for Landscaping of Blind Pass Road (SR 699) from 75th Ave to 82nd Ave.

Date: September 11, 2018

Prepared By: Mike Clarke, Public Works Director

Through: Wayne Saunders, City Manager

Summary of Issue: Morelli Landscaping, Inc. was awarded the Landscaping of Blind Pass Road (SR 699) from 75th Ave to 82nd Ave on April 24, 2018. During the initial field visits following the award, it was discovered that the areas to be landscaped are without irrigation, or the existing systems were inoperable due to many years of no use. This change order adds the installation of these irrigation systems to the City's existing contract with Morelli, and allows the plants that are to be installed by this contract to be watered and established as required by FDOT. The installation of the landscaping for this project is funded by an FY17 FDOT Highway Landscape Reimbursement and Maintenance Memorandum of Agreement for Landscape Rehabilitation.

Funding: CIP – FDOT Highway Landscape
301-8000-590-5650

Requested Motion: “I move to approve Change Order #1 to the purchase agreement with Morelli Landscaping, Inc. in the amount of \$10,855.25 for Landscaping of Blind Pass Road (SR 699) from 75th Ave to 82nd Ave.”

Attachment: Change Order #1

**Reviewed by the
City Manager:** WS



CHANGE ORDER NO. 01

PROJECT IDENTIFICATION:

Project Name: Landscaping of Blind Pass Road (SR 699) from 75th Ave to 82nd Ave

CONTRACTOR:

CONTRACT: The Agreement dated April 24, 2018 between Morelli Landscaping, Inc. and the City of St. Pete Beach for the above described Project.

The Contract is changed as follows:

- 1. Addition of irrigation installation to the scope of work. There are areas in the project limits that require irrigation installation or repairs that is outside the capabilities of City staff.*

Total Addition to Contract Sum	\$ 10,855.25
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Contract Sum with prior approved Change Orders was:	\$ 81,345.15
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The Contract Sum will be increased by this Change Order for the items described above in the amount of:	\$ 10,855.25
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The new Contract Sum, including this Change Order, will be:	\$ 92,200.40
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The Contract Time will be changed as follows:	+ 0 days
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Execution of this Change Order shall constitute a final settlement of all matters relating to the change in the Work as described above which is the subject of this Change Order. The change approved by this Change Order shall result in an addition of zero calendar days to the Contract Time.

CHANGE ORDER NO. XX

OWNER/CITY:

CONTRACTOR:

By: _____

By: _____

Name: Wayne Saunders

Name: _____

Title: City Manager, St. Pete Beach

Title: _____

Date: _____

Date: _____



Morelli
Landscaping,
Inc.

Landscape Design
& Installation,
Nursery

July 24, 2018

Mr. Brett Warner, PE
City Engineer
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, Florida 33706

Re: Landscaping of Blind Pass Road from 75th Avenue to 82nd Avenue –
Assessment of Existing Irrigation

Dear Brett:

Per your request the following is our cost to investigate and assess the operation of the existing irrigation in the landscape renovation areas indicated on the plans:

Irrigation contractor to go through system and assess any necessary repairs and/or deficiencies which may be preventing the system from providing 100% coverage to the new landscaping. The result of this effort will be an itemized quote for all necessary repairs and/or amendments which will be submitted to the City for review and approval.

Total Cost: \$825.00

We appreciate the opportunity to provide you with this quote. Should you have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

Vincent J. Morelli, Jr.
President

5370 145th
Avenue North
Clearwater,
Florida
33760

727/535-6263
Fax 727/536-6855



Morelli
Landscaping,
Inc.

Landscape Design
& Installation
Nursery

July 24, 2018

Mr. Brett Warner, PE
City Engineer
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, Florida 33706

Re: Landscaping of Blind Pass Road from 75th Avenue to 82nd Avenue –
Additional Irrigation Work

Dear Brett:

Per your request the following is our cost to install irrigation to the six (6) landscape locations identified on Sheets LS-06, LS-07 and LS-08 that do not currently have irrigation:

Sheet LS-06: Materials and Labor – 1 Is @ \$3,643.20

- Includes 40 lf of 2" Directional Bore
- Reclaimed Water Tap to be provided by the City

Sheet LS-07: Materials and Labor – 1 Is @ \$2,590.90

- Includes 35 lf of 2" Directional Bore
- Two (2) Reclaimed Water Taps to be provided by the City

Sheet LS-08: Materials and Labor – 1 Is @ \$3,796.15

- Includes 40 lf of 2" Directional Bore
- Three (3) Reclaimed Water Taps to be provided by the City

Total Cost: \$10,030.25

We appreciate the opportunity to provide you with this quote. Should you have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

Vincent J. Morelli, Jr.
President

6370 146th
Avenue North
Clearwater,
Florida
33760

727/535-6263
Fax: 727/536-6855

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

Issue Considered: Request approval of an Easement dedicated to Duke Energy Florida, LLC for the existing pad mounted transformer and proposed associated underground conduit at 375 73rd Avenue, installed during the Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard project.

Date: September 11, 2018

Prepared By: Mike Clarke, Public Works Director

Through: Wayne Saunders, City Manager

Summary of Issue: In order to maintain electrical service to the St. Pete Beach Library located at 375 73rd Avenue, Duke Energy Florida will require an easement to run underground conduit to the existing pad mounted transformer located on the Library property. This easement will allow Duke Energy's contractor to enter the property to perform the installation, as well as allow Duke Energy to maintain their infrastructure after installation is complete.

Requested Motion: "I move to approve an Easement dedicated to Duke Energy Florida, LLC for the existing pad mounted transformer and proposed associated underground conduit at 375 73rd Avenue, installed during the Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard project."

Attachment: Duke Energy Easement

**Reviewed by the
City Manager:**

___WS___

Pinellas County, Florida
Work Request #: Blind Pass UG
Address: 375 73rd Ave, St. Pete Beach
STR: 36-31S-15E

EASEMENT

THIS EASEMENT ("**Easement**") from **City of St. Pete Beach**, 155 Corey Ave, St. Pete Beach, Florida 33706 ("**GRANTOR**," whether one or more) to **DUKE ENERGY FLORIDA, LLC, a Florida Limited Liability Company, d/b/a DUKE ENERGY**, Post Office Box 14042, St. Petersburg, Florida 33733, and its successors, lessees, licensees, transferees, permittees, apportionees, and assigns ("**GRANTEE**");

WITNESSETH:

THAT **GRANTOR**, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto **GRANTEE**, the perpetual right, privilege, and easement to install, operate and maintain in perpetuity, such Facilities as may be necessary or desirable for providing electric energy and for communication purposes over, under, upon, across, through and within the following described lands in Pinellas County, Florida, and referred to hereinafter as the Easement Area to wit:

A 10.00 foot wide Easement Area lying 5.00 feet on each side of **GRANTEE's** Facilities to be installed at mutually agreeable locations under, over, across and through the following described property to accommodate present and future development:

Lots 1, 6, 7 & 10 and the Southerly 46.2 feet of Lot 2, LESS the alley North of these Lots, Block 54, RE-PLAT ST. PETERSBURG BEACH SUBDIVISION, according to the map or plat thereof, as recorded in Plat Book 5, Page 28, Public Records of Pinellas County, Florida.

Tax Parcel Number: 36-31-15-77994-054-0010

The rights herein granted to **GRANTEE** by **GRANTOR** specifically include the right: (a) for **GRANTEE** to patrol, inspect, alter, improve, add to, repair, rebuild, relocate, and remove said Facilities; (b) for **GRANTEE** to increase or decrease the voltage and to change the quantity and type of Facilities; (c) ingress and egress over the Easement Area and over portions of **GRANTOR's** adjoining property for the purpose of exercising the rights herein granted; (d) to trim, cut or remove from the Easement Area, at any time, trees, limbs, undergrowth, structures or other obstructions; (e) to trim, cut or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of **GRANTEE**, might interfere with or fall upon the Facilities; (f) to allow third parties to attach equipment to the Facilities including but not limited to wires, cables and other apparatus; (g) and all other rights and privileges reasonably necessary or convenient for **GRANTEE's** safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of

the Easement for the purposes described herein. Failure to exercise the rights herein granted to **GRANTEE** shall not constitute a waiver or abandonment.

GRANTOR shall have the right to use the Easement Area in any manner that is consistent with the rights granted to **GRANTEE** herein; provided however, without the prior written consent of **GRANTEE**, **GRANTOR** shall not (a) place, or permit the placement of, any obstructions within the Easement Area including but not limited to, any building, house, or other above-ground or underground structure, or portion thereof. If obstructions are installed adjacent to the Easement Area, they shall be placed so as to allow ready access to **GRANTEE's** facilities and provide a working space of not less than ten (10) feet on the opening side, six (6) feet on the back for working space and three (3) feet on all other sides of any pad mounted equipment; (b) excavate or place, or permit the excavation or placement of any dirt or other material upon or below the Easement Area; or (c) cause, by excavation or placement of material, either on or off the Easement Area, a pond, lake, or similar containment vehicle that would result in the retention of water in any manner within the Easement Area. **GRANTEE** shall have the right to remove any such obstruction(s) at **GRANTOR's** expense. Excluding removal of vegetation and obstructions as provided herein, any physical damage to the surface of the Easement Area and/or **GRANTOR's** adjoining property caused by **GRANTEE** or its contractors shall be repaired to a condition reasonably close to the previous condition. The rights and easement herein granted are exclusive as to entities engaged in the provision of electric energy service and **GRANTOR** reserves the right to grant rights to others affecting said Easement Area provided that such rights do not create an unsafe condition or conflict with the rights granted to **GRANTEE** herein.

GRANTOR hereby warrants and covenants (a) that **GRANTOR** is the owner of the fee simple title to the premises in which the above described Easement Area is located, (b) that **GRANTOR** has full right and lawful authority to grant and convey this easement to **GRANTEE**, and (c) that **GRANTEE** shall have quiet and peaceful possession, use and enjoyment of this easement. All covenants, terms, provisions and conditions herein contained shall inure and extend to and be obligatory upon the heirs, successors, lessees and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Easement has been executed by Grantor on this _____ day of _____, 2018, and is effective as of the Effective Date herein.

GRANTOR:

City of St. Pete Beach

Name of Municipality

ATTEST:

City Attorney

City Manager

Print or Type Name

Print or Type Name

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

Grantor(s) mailing address:

Signature of First Witness

155 Corey Ave

St. Pete Beach, Florida 33706

Print or Type Name of First Witness

Signature of Second Witness

Print or Type Name of Second Witness

State of _____)
County of _____) ss

The foregoing Easement was acknowledged before me this _____ day of _____, 2018,
by _____ and _____, its
Mayor and its City Clerk, respectively of _____, who
is/are personally known to me or who has/have produced _____
as identification.

NOTARY SEAL

Name:

Notary Public

Serial Number:

My Commission Expires:

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

Issue Considered: Request approval of an updated agreement for cabana services at Pass-a-Grille and Upham Beach with Sand Dunes Beach Services, LLC.

Date: September 11, 2018

Prepared By: Jennifer McMahon, Recreation Director

Through: Wayne Saunders, City Manager

Summary of Issue: At the August 14, 2018 commission meeting, the commission approved for the city to negotiate an agreement for cabana services at Pass-a-Grille and Upham Beaches with Sand Dunes Beach Services, LLC. The agreement has been update since August 14 with needed changes. Additionally, The city shall provide two (2) parking spaces that are reserved for the lessee in close proximity to the concession facilities (#16 on the agreement).

Funding: N/A

Requested Motion: “I move to approve the updated agreement for cabana services at Pass-a-Grille and Upham Beach with Sand Dunes Beach Services, LLC.

Attachments: Agreement

**Reviewed by
City Manager:** WS

CITY OF ST. PETE BEACH, FLORIDA
SERVICE AGREEMENT

Beach Cabana Services

This is an Agreement (the "Agreement") entered into by and between the City of St. Pete Beach (hereinafter "City") and Sand Dunes Beach Services, LLC. (hereinafter "Vendor"). The City and Vendor together shall be referred to as the "parties."

WHEREAS, the City properly issued a Request for Proposal, attached and incorporated hereto as Exhibit "A", and the City Commission authorized the selection of Vendor at its August 14, 2018 public hearing; and

WHEREAS, City desires to purchase from Vendor the services described in this Agreement; and

WHEREAS, Vendor is in the business of providing the services described herein, and has submitted an appropriate proposal to the City to provide the same; and

WHEREAS, this Agreement has been properly approved by the appropriate authority of the City and the Vendor.

NOW, THEREFORE, upon the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto hereby agree to the following:

1. The foregoing recitals are true and correct, and incorporated herein by reference.
2. Public Records, Vendor shall abide by the legal requirements set forth in Florida Statutes, Section 119.0701 and incorporated herein as Exhibit B. **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDORS' DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (City Clerk, City of St. Pete Beach, Florida, 727-363-9220, cityclerk@stpetebeach.org, 155 Corey Avenue, St. Pete Beach, Florida 33706).**
3. Vendor hereby agrees to sell or provide, the goods or services described in the proposal attached hereto and incorporated herein as Exhibit C.
4. Vendor shall provide the services herein for an initial period of five (5) years from the effective date. This Agreement may be renewed for a period not to exceed one (1) additional five (5) year term upon mutual consent of the parties.

5. To the extent that this Agreement requires Vendor to provide any services of any kind, Vendor shall maintain public liability insurance in a combined single limit for bodily injury and property damage in the amount of not less than \$1,000,000.00, satisfactory to the City Manager, naming the City as an additional insured and providing coverage up through and including the final performance of any services provided herein. Vendor shall maintain in full force and effect a policy of worker's compensation insurance for all of Vendor's employees in accordance with applicable state and federal law. Said insurance coverage shall include employer's liability with a single limit of \$100,000.00 per accident or occurrence. Vendor shall present City with a certificate for all of the foregoing insurance, at the time of executing this Agreement and at such other times requested by the City. The Vendor waives all rights against the City, the City's consultants, separate contractors, if any, agents and employees, for any and all damages caused to the extent covered by insurance described herein and obtained pursuant to this Section or other property insurance applicable to the services and product provided under this Agreement. The City shall require of the Vendor, Vendor's consultants, separate contractors, if any, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waiver of subrogation by endorsement other otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

6. In consideration of the payment of ten dollars as part of the above purchase price, Vendor shall indemnify, defend and hold the City harmless for itself, its employees, agents and assigns, from and against any and all losses, claims, damages, suits, actions, or demands, including attorneys' fees and costs of litigation through all appellate proceedings, arising from the performance or non-performance of this Agreement, whether caused in part by the City or not.

7. This Agreement shall be binding upon the parties, their successors, assigns, and legal representatives. Vendor shall not assign or otherwise transfer any of the rights or duties under this Agreement, without the express written consent of the City.

8. This document and exhibits embody the entire Agreement of the parties. There are no promises, terms, conditions, or representations binding on either party hereto, other than those contained herein; and this document shall supersede all previous communications, representations, and/or agreements between the parties hereto, whether written or oral. This Agreement may be modified only in writing executed by all parties. This Agreement shall be construed according to the laws of Florida, and venue for any action arising here from shall be in Pinellas County, Florida.

9. The following Exhibits shall be attached, incorporated and made a part of this Agreement:

- a. City's Request for Proposal (Exhibit "A")
- b. Florida public records law (Exhibit "B")
- c. Vendor's proposal (Exhibit "C")

10. The prevailing party in any action to enforce or interpret this Agreement shall be entitled to reasonable attorney's fees incurred through all appellate proceedings.

11. Vendor hereby acknowledges that the person executing this Agreement on behalf of Vendor has the full authority to do so and to bind Vendor to the terms hereof.

12. Any and all notices sent pursuant to this Agreement shall be given in writing via certified mail or overnight courier and shall be delivered to the following addresses:

As to Vendor:

Sand Dunes Beach Services, LLC
Edward McNamara
3837 Belle Vista Drive East
St. Pete Beach, FL 33706

As to City:

City Manager
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706

13. To the extent that any terms in the attached proposal conflict with the terms of this Agreement, the terms of this Agreement shall control and supersede such conflicting terms in the attached proposal, to the extent of such conflict.

14. This Agreement may be amended or modified only in writing signed by all parties hereto. This Agreement shall not be modified by any oral statement, communication, Agreement, course of conduct, or by anything other than a writing signed by the Parties.

15. This Agreement may be executed by the parties in counterpart originals with the same force and effect as if fully and simultaneously executed as a single original document. The "Effective Date" of this Agreement shall be the date this Agreement has been executed by all parties.

16. City shall provide two (2) parking spaces that are reserved for the lessee in close proximity to the concession facilities.

{Remainder of this page intentionally left blank, signature page to follow}

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year set forth below.

Vendor:

City of St. Pete Beach:

Signature: _____

Signature: _____

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

Andrew Dickman
City Attorney

Rebecca C. Haynes
City Clerk

EXHIBIT “A”

City’s Request for Proposal

EXHIBIT “B”

Florida Public Records Law

119.0701 Contracts; public records; request for contractor records; civil action. —

(1) DEFINITIONS. —For purposes of this section, the term:

(a) “Contractor” means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) “Public agency” means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) CONTRACT REQUIREMENTS. —In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016, must include:

(a) The following statement, in substantially the following form, identifying the contact information of the public agency’s custodian of public records in at least 14-point boldfaced type:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address).

(b) A provision that requires the contractor to comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency’s custodian of public records, in a format that is compatible with the information technology systems of the public agency.

EXHIBIT “C”

(Place Vendor’s Proposal behind this page)

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

Issue Considered: Request approval for the Suntan Art Center Inc., to manage weekend art markets on the Pass-A-Grille Beach patio.

Date: September 11, 2018

Prepared By: Wayne Saunders, City Manager

Summary of Issue: The Suntan Art Center has submitted a proposal to the City Commission to manage a weekend exhibition of artists and artisans on the Pass-A-Grille patio.

Attached is their proposal providing their objective and methods.

Funding: N/A

Requested Motion: “I move to approve for the Suntan Art Center Inc., to manage weekend art markets on the Pass-A-Grille Beach patio as outlined in their proposal.”

Attachment: Suntan Art Center Proposal

**Reviewed by the
City Manager:** WS

Suntan Art Center, Inc

**PROPOSAL TO
MANAGE WEEK-END
ART MARKETS
AT PASS-A-GRILLE PATIO**

24 August 2018



SUMMARY

Suntan Art Center, Inc. is pleased to submit this proposal to manage the week-end exhibition of artists and artisans to the City of St Pete Beach. Since 2006, when Suntan began to rent the patio area for its member shows, it has maintained the highest ethical standard for its art markets. Every effort is made to present art and craft that is made at the hand of the individual exhibitor. By maintaining the authenticity of its vendors, Suntan consistently presents a weekly event that serves both its membership and the community by providing a reasonably priced, juried venue without threatening the livelihood of the local brick and mortar merchants. This planned revenue will help restore the financial solvency of this small not for profit enabling it to continue to bring exhibitions, programs in various art mediums and wellness classes such as yoga and aerobics to its supporting community.

OBJECTIVES

- To provide adequate oversight and planning for the existing week-end art market on the patio adjacent to the concession stand at 900 Gulf Way, St Pete Beach
- To generate much needed income to support the federally recognized 501(c)(3), Suntan Art Center, Inc
- To contribute income to the City to help maintain the public park at 900 Gulf Way

THE METHOD

- Suntan will jury prospective vendors for quality of workmanship and appropriateness for the venue
- Suntan will require all vendors to be members of the organization insurance liability purposes.
- Suntan will secure confirmation of current sales tax registration for all vendors
- Suntan will collect \$35 per single Saturday, \$128.40 for four prepaid Saturdays during season, October through May, and remit appropriate sales tax to the Florida Dep't of Revenue.
- Suntan will collect \$30 per single Saturday, \$107.00 for four prepaid Saturdays during off-season, June through September, and remit appropriate sales tax to the Florida Dep't of Revenue.

- Suntan will collect \$30 per single Sunday and occasional holiday Monday, \$107.00 for four prepaid dates during season, October through May, and remit appropriate sales tax to the Florida Dep't of Revenue.
- Suntan will collect \$25 per single Sunday, and occasional holiday Monday \$85.60 for four prepaid dates during off season, June through September, and remit appropriate sales tax to the Florida Dep't of Revenue.
- Suntan will remit \$20 per hour, for each day that the market is in session. This fee will be paid on the 5th of each month for the previous month.

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

Issue Considered: Authorize the City Manager to execute the Second Amendment to the Pinellas Suncoast Transit Authority Funding Agreement for Fiscal Year 2019 transit service

Date: September 11, 2018

Prepared By: Vincent Tenaglia, Administrative Services Director

Through: Wayne Saunders, City Manager

Summary of Issue: The Pinellas Suncoast Transit Authority (PSTA) has proposed a second one-year renewal to the operating agreement executed by the Cities of St. Pete Beach and Treasure Island in September 2016. The agreement defines levels of service and operating routes for beach trolley and DART paratransit service. The City of St. Pete Beach cost allocation for Fiscal Year (FY) 2019 is \$568,978, an increase of 7.0%. The FY 2019 proposed budget includes sufficient funding for this request.

Requested Motion: “I move to authorize the City Manager to execute the Second Amendment to the Pinellas Suncoast Transit Authority Funding Agreement for Fiscal Year 2019 transit service.”

Attachments: Second Amendment and Renewal to Suncoast Beach Trolley Funding Agreement
FY17 Suncoast Beach Trolley Agreement

**Reviewed by
City Manager:** WS

**SECOND AMENDMENT AND RENEWAL TO
SUNCOAST BEACH TROLLEY FUNDING AGREEMENT**

THIS SECOND AMENDMENT TO SUNCOAST BEACH TROLLEY FUNDING AGREEMENT (Second Amendment) is entered into on this _____ day of _____, 2018, by and between the PINELLAS SUNCOAST TRANSIT AUTHORITY, an independent special district, with its principal place of business located at 3201 Scherer Drive, St. Petersburg, FL 33716 (PSTA), the CITY OF ST. PETE BEACH (SPB), a Florida municipal corporation, and the CITY OF TREASURE ISLAND (TI), a Florida municipal corporation (collectively, the “Parties) to amend, supplement, and renew that certain Suncoast Beach Trolley Funding Agreement entered into by the Parties September 6, 2016 as amended and renews by that certain Renewal and Amendment to Suncoast Beach Trolley Agreement dated as of October 1, 2017 (the “Agreement”).

WHEREAS, pursuant to the Agreement, SPB and TI have been contributing funding to PSTA to supplement fixed route trolley services along the Suncoast Beach Trolley Route, and

WHEREAS, the Parties desire to continue the Agreement as amended by this Second Amendment; and

WHEREAS, unless otherwise defined in this Second Amendment, all capitalized terms used in this Second Amendment shall have the meaning defined in the Agreement.

NOW THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are true and correct and incorporated herein by reference.
2. **Contract Term.** The Agreement shall be renewed and extended effective October 1, 2018 through September 30, 2019 on the same terms, conditions, and covenants as set forth in the Agreement, except as expressly amended herein.
3. **Funding Contributions.** Exhibit 2 of the Agreement shall be amended and replaced with the Second Amended Exhibit 2 attached to this Second Amendment and incorporated herein by reference. As of October 1, 2018, all references to Exhibit 2 throughout the Agreement shall be deemed to refer to this Second Amended Exhibit 2 and the funding contributions stated therein.
4. **Conflicts.** All other provisions of the Agreement not specifically amended by this Second Amendment shall remain in full force and effect. To the extent that this Second Amendment conflicts with the Agreement, the provisions of this Second Amendment shall govern.

**AMENDMENT 2 TO
SUNCOAST BEACH TROLLEY FUNDING AGREEMENT**

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be executed as of the date first above written.

PINELLAS SUNCOAST TRANSIT AUTHORITY

ATTEST:

Rachael Cappolla

Brad Miller, Chief Executive Officer

APPROVED AS TO FORM:

Alan S. Zimmet, General Counsel

[Remainder of this page intentionally left blank – City of St. Pete Beach Signature Page Follows]

**AMENDMENT 2 TO
SUNCOAST BEACH TROLLEY FUNDING AGREEMENT**

City of St. Pete Beach, FL

Witness/Attest:

Print Name: _____

Print Name: _____
Its: _____

Approved as to content and form:

City Attorney (or designee)
By: _____

[Remainder of this page left blank – City of Treasure Island Signature Page Follows]

**AMENDMENT 2 TO
SUNCOAST BEACH TROLLEY FUNDING AGREEMENT**

City of Treasure Island, FL

Witness/Attest:

Print Name: _____

Print Name: _____

Its: _____

Approved as to content and form:

City Attorney (or designee)

By: _____

- contact info could not be entered because
there is no vendor listed

C-17-AZ-034
Board App:

FY17 SUNCOAST BEACH TROLLEY AGREEMENT

THIS AGREEMENT made and entered into this 6th of September, 2016, by and between the PINELLAS SUNCOAST TRANSIT AUTHORITY, an independent special district of the State of Florida (hereinafter referred to as "PSTA"), the CITY OF ST. PETE BEACH (SPB) and the CITY OF TREASURE ISLAND (TI), both of the latter being incorporated municipalities located in Pinellas County, Florida (hereinafter collectively referred to as "CITIES").

WHEREAS, it is the CITIES' plan to provide trolley bus service to promote and improve public transportation for the benefit of residents, visitors, and employees in said CITIES; and

WHEREAS, PSTA has offered to continue providing such service to the CITIES; and

WHEREAS, by this Agreement the parties desire to agree upon the terms and conditions for providing this transportation service.

NOW, THEREFORE, in consideration of the covenants, conditions, and mutual obligations contained herein, the parties agree as follows:

DEFINITIONS

Passenger who boards the trolley means any person boarding a trolley within the city of SPB or TI, whether the passenger pays a fare at the time of boarding or not, except children under the age of five (5) years.

1. **Service, Schedule, Routes, and Equipment.** PSTA will provide trolley bus service to the CITIES in accordance with the schedules and routes as show in Exhibit 1, which is the service provided by the Suncoast Beach Trolley and the Central Avenue Trolley (the "Fixed Route Services"). PSTA shall provide the Fixed Route Services only with a trolley bus. A different vehicle may be substituted (Substituted Vehicle) for a trolley bus, if suitable for public transportation, only because of a mechanical breakdown of a trolley bus and only when there is no backup trolley bus available for service of the route and schedule. In the event the conditions for vehicle substitution occur, in no event shall the Substituted Vehicle remain in service for more than five (5) consecutive days without prior notification to the CITIES. PSTA

shall have the authority to utilize a subcontractor to provide all or part of the service, and in that instance, PSTA shall have the sole and exclusive authority to select the subcontractor. The trolley buses utilized for this system shall be maintained in a clean and operable fashion.

2. **CITIES' Cost of PSTA Trolley Service.** The CITIES shall pay PSTA annual amounts as set forth in **Exhibit 2** and allocated between the CITIES in the following manner:
 - a. **Fixed Route** - For the portion of the cost related to Fixed Route Services provided to the CITIES, the CITY OF ST. PETE BEACH shall pay two-thirds (2/3rds) of the total cost and the CITY OF TREASURE ISLAND shall pay one-third (1/3rd) of the total cost.
 - b. **DART Paratransit** – For the portion of the cost related to DART paratransit services, the apportionment shall be based on the actual allocation of contracted DART expenses within each of the CITIES during the first three quarters of the previous fiscal year. (October through June). PSTA will provide the CITIES an accounting of this DART cost allocation by July 30th each year to establish the apportionment of DART costs as shown in **Exhibit 2**.
3. **Billing and Payments.** PSTA shall invoice the CITIES separately on the 1st day of each month, for the current month, for their respective funding contributions as shown in **Exhibit 2**. Payment shall be made to PSTA immediately upon receipt of an invoice, but in no case more than thirty (30) days from the date of the invoice.
4. **Compliance With Law.** PSTA, while in the performance of its duties under this Agreement, shall comply with all federal, state, and local laws applicable to service provided under this Agreement.
5. **Amendments to Exhibits.** The schedules and routes illustrated on Exhibit 1 are the approved schedules and routes under this Agreement. Any change to the schedules or routes of Exhibit 1, as they affect the CITIES, shall require the written consent of the parties and shall become an addendum to this Agreement.
6. **PSTA Regulations.** All applicable regulations, rules, and laws governing the riders of PSTA's service, including but not limited to PSTA's rules regarding the use of transfers or passes,

shall be complied with by all riders of the trolley service and shall and may be enforced by PSTA in its sole discretion.

7. **Uniform Fare Structure.** The fare structure for the trolley service to be provided under this Agreement shall be the same as the fare structure established by PSTA for the other portion of the beach trolley service. PSTA's fare structure in existence as of the start of this Agreement is shown in Exhibit 2 and is subject to revision as deemed appropriate by PSTA, at PSTA's sole discretion.
8. **Effective Date.** The effective date of this Agreement shall be October 1, 2016 and shall continue for a period of one (1) year.
9. **Termination Without Cause.** This Agreement may be terminated earlier by the parties without cause by providing the other parties with six (6) months prior written notice of termination.
10. **Hold Harmless.** The parties agree, to the extent allowed by law, to hold the other harmless for the negligent acts or omissions of their employees and officer, and for any violations of federal or state law or regulation, including but not limited to 42 U.S.C., §1983, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans With Disabilities Act, and Chapter 760, Florida Statutes. Nothing contained herein shall be construed as a waiver of any immunity from or limitation of liability the CITIES or PSTA may be entitled to under the doctrine of sovereign immunity or §768.28, Florida Statutes. The obligations contained in this paragraph shall survive termination of this Agreement. The obligation of the CITIES and PSTA to indemnify, defend, and hold harmless the others under this Agreement is limited to the same extent that the CITIES or PSTA would otherwise be obligated directly to third persons under existing law or to the extent provided under §768.28, Florida Statutes.
11. **Notices.** All notices, requests, demands, deliveries, and other communications which are required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally, when sent by Telex, telegram, or facsimile, or when mailed, registered or certified first class, postage pre-paid, to the persons and addresses set forth below:

City Manager
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706

Chief Executive Officer
Pinellas Suncoast Transit Authority
3201 Scherer Drive
St. Petersburg, FL 33716

City Manager
City of Treasure Island
120 108th Avenue
Treasure Island, FL 33706

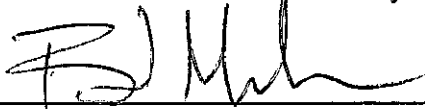
Alan S. Zimmet, PSTA General Counsel
Bryant Miller Olive, P.A.
One Tampa City Center, Suite 2700
Tampa, FL 33602

Any of the parties may change the persons and addresses to which notices or other communications are to be sent to it by giving written notice of any such change in the manner provided herein for giving notice.

12. **Entire Agreement.** This Agreement, together with the Exhibits hereto, supersedes any and all prior negotiations, oral agreements, and representations made relating to the subject matter of this Agreement and, except for any written agreement, if any, executed and delivered simultaneously with or subsequent to the date of this Agreement, constitutes the entire Agreement of the parties relating to the subject matter hereof. This Agreement may not be altered or amended except by a writing signed by the parties. No waiver of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be charged therewith. The waiver of any condition or of the breach of any term, covenant, representation, warranty, or other provision hereof shall not be deemed nor construed as a further or continuing waiver of any condition or breach or a waiver of any condition or breach or a waiver of any condition or of any breach of any other term, covenant, representation, warranty, or other provision contained in this Agreement.
13. **Assignment.** This Agreement shall be binding upon, and shall inure to the benefit of the parties. This Agreement may not be assigned by a party without the written consent of the other parties.
14. **Third Party Rights.** This Agreement shall create no rights or claims whatsoever in any person other than parties to the Agreement.
15. **Severance.** If any one or more of the provisions of this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

Executed this 6th day of September, 2016

Pinellas Suncoast Transit Authority



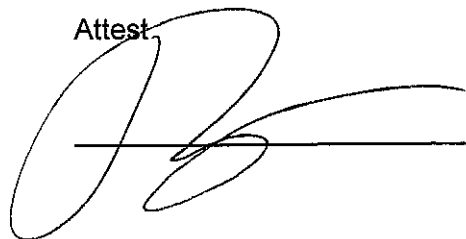
Brad Miller, Chief Executive Officer

Approved as to Form:



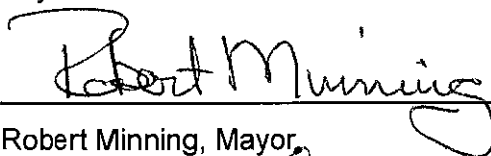
Alan S. Zimmet, General Counsel

Attest



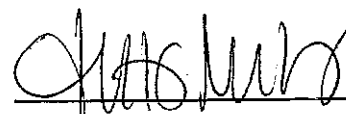
Executed this 20th day of September, 2016

City of Treasure Island



Robert Minning, Mayor

Attest



City Clerk

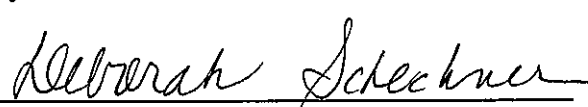
Approved as to Form:



City Attorney

Executed this 23rd day of August, 2016

City of St. Pete Beach



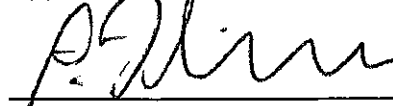
Deborah Schechner, Mayor

Attest



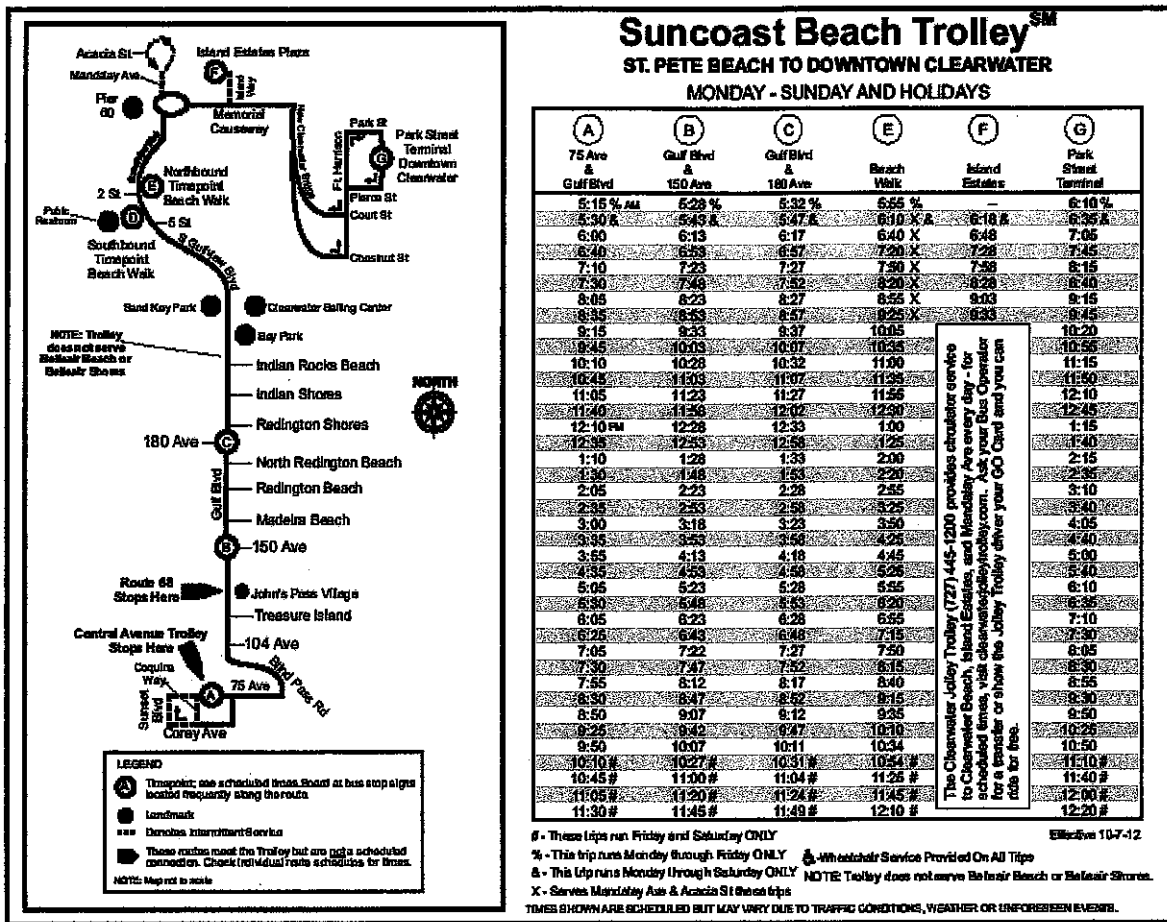
Rebecca C. Haynes, City Clerk

Approved as to Form:



City Attorney

EXHIBIT 1



Map of the St. Paul and Northern Pacific Railroad (St. Paul & N.P.) showing fare zones and routes. The map is oriented with North at the top. It shows a network of lines connecting various stations. Key stations include St. Paul (A), Downtown (B), and Grand Central (C). The map is divided into fare zones: \$1 Fare Zone (St. Paul to Downtown), \$2 Fare Zone (Downtown to Grand Central), \$3 Fare Zone (Grand Central to Central Ave), and \$4 Fare Zone (Central Ave to St. Paul). A legend indicates that solid lines represent fare zones, dashed lines represent transfer points, and circles represent stations. A note states: "NOTE: Map not to scale. Legend: Dashed line - Transfer point. Circle - Station. Solid line - Fare zone. Station at blue stop sign located frequently along the route. Dashed line - Transfer point. Circle - Station. Solid line - Fare zone."

EXHIBIT 2

FY 2016 Cost of Transit Services and City Allocation October 1, 2015 - September 30, 2016

Cost Item	Treasure Island		St. Pete Beach		Total
	Allocation	Amount	Allocation	Amount	
Fixed Route	33%	\$231,132	67%	\$462,264	\$693,396
DART Paratransit	47%	\$5,896	53%	\$6,648	\$12,544
Total		\$237,028		\$468,912	\$705,940

FY 2017 Cost of Transit Services and City Allocation October 1, 2016 - September 30, 2017

Cost Item	Treasure Island		St. Pete Beach		Total
	Allocation	Amount	Allocation	Amount	
Fixed Route	33%	\$247,311	67%	\$494,623	\$741,934
DART Paratransit *	51%	\$6,659	49%	\$6,398	\$13,057
Total		\$253,970		\$501,021	\$754,991

* DART Paratransit costs are estimated based on actual data from October 1, 2015 through June 30, 2016

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

Issue Considered: Request approval of the purchase of Envirosight CCTV Camera Inspection Equipment from Environmental Products Florida in the amount of \$76,793.31.

Date: September 11, 2018

Prepared By: Mike Clarke, Public Works Director

Through: Wayne Saunders, City Manager

Summary of Issue: The Public Works Department purchased a new camera van during FY2017, with the intention of outfitting this vehicle with updated Closed Circuit Televising (CCTV) equipment in FY2018. The equipment will be purchased using the City of Tallahassee's purchasing contract with Environmental Products Florida, dated April 2016.

Using this updated CCTV equipment, the City will be able to dramatically improve our ability to self-inspect and categorize defects in buried infrastructure, reducing the City's dependence on external contractors, reducing the cost of inspection.

The camera equipment will cost more than the FY18 budgeted amount. The remaining cost will be funded utilizing budgeted funds from the GIS Integration System Stormwater Allocation.

Funding: TBD

Requested Motion: "I move to approve the purchase of Envirosight CCTV Camera Inspection Equipment from Environmental Products Florida in the amount of \$76,793.31."

Attachment: Purchase Agreement
Quote from Environmental Products Florida
City of Tallahassee Purchase Contract #3708

**Reviewed by the
City Manager:**

WS

CITY OF ST. PETE BEACH, FLORIDA
PURCHASING AGREEMENT

Envirosight CCTV Inspection Equipment and Installation

This is an Agreement (the "Agreement") entered into by and between the City of St. Pete Beach (hereinafter "City") and Environmental Products of Florida (hereinafter "Vendor"). The City and Vendor together shall be referred to as the "parties."

WHEREAS, Vendor is currently under contract with the City of Tallahassee for furnishing certain vehicles, trailers, and equipment used for cleaning, maintenance and repair of street, storm water and similar systems (the "Tallahassee Contract"), attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City desires to purchase from Vendor, Envirosight CCTV Inspection Equipment and the installation of the same; and

WHEREAS, pursuant to Florida Statute 287.057 and Section 1-16 of the City's purchasing policy adopted by the City Commission, the City is authorized to "piggy-back" onto the Tallahassee Contract for the same or similar services; and

WHEREAS, the Vendor specifically consents to the City using its "piggy-back" authority and has provided a proposal to the City with the same or similar unit pricing as the Tallahassee Contract; and

WHEREAS, this Agreement has been properly approved by the appropriate authority of the City and the Vendor.

NOW, THEREFORE, upon the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto hereby agree to the following:

1. The foregoing recitals are true and correct, and incorporated herein by reference.
2. Public Records, Vendor shall abide by the legal requirements set forth in Florida Statutes, Section 119.0701 and incorporated herein as Exhibit B. **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDORS' DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (CITY CLERK, CITY OF ST. PETE BEACH, FLORIDA, 727-363-9220, CITYCLERK@STPETEBEACH.ORG, 155 CORRY AVENUE, ST. PETE BEACH, FLORIDA 33706).**
3. City hereby agrees to purchase, and Vendor hereby agrees to sell or provide, the goods or services described in the proposal attached hereto and incorporated herein as Exhibit C.

4. Vendor shall deliver the goods, or provide the services, described herein no later than December 31, 2018 ("completion date").

5. Time is of the essence in the performance of this Agreement. City shall be entitled to liquidated damages in the amount of \$500 per day, for each day after the date set forth in paragraph 4 herein that Vendor has failed to properly and completely deliver all of the goods or provide all of the services specified herein. Vendor specifically acknowledges that the foregoing sum is reasonable and does not constitute a penalty.

6. Upon Vendor's satisfactory delivery of the goods, or full performance of the services, or in accordance with the payment schedule provided in the attached proposal, City shall pay Vendor as per the Unit Prices listed in the Bid Schedule, as full consideration for goods or services provided in this Agreement and more specifically in Exhibit B.

7. Vendor fully warrants the title to any and all goods provided hereunder, and agrees to defend the same against all claims whatsoever. At the time of delivery, Vendor shall furnish to the City a bill of sale absolute, with full warranties, or other evidence of title transfer satisfactory to the City, for the goods specified herein.

8. Vendor expressly warrants that all goods delivered hereunder are of merchantable quality and fit for the purpose for which the City has purchased the same. Vendor further warrants that any defects in the goods shall be properly repaired by Vendor for a period of 18 months from final delivery ("guarantee period"), including all parts and labor associated with said repairs.

9. City reserves the right to reject any defective goods, notwithstanding City's payment of the purchase price provided herein.

10. Vendor fully warrants that all services and/or goods provided herein have been provided in a good and workmanlike manner. Vendor guarantees said services for a period of 18 months from the date of final performance. Vendor shall provide all labor and materials necessary to repair any defective workmanship reported to Vendor within said guarantee period.

11. To the extent that this Agreement requires Vendor to provide any services of any kind, Vendor and all of Vendor's subcontractors shall maintain public liability insurance in a combined single limit for bodily injury and property damage in the amount of not less than \$1,000,000.00, satisfactory to the City Manager, naming the City as an additional insured and providing coverage up through and including the final performance of any services provided herein. Vendor and all of Vendor's subcontractors shall maintain in full force and effect a policy of worker's compensation insurance for all of Vendor's employees in accordance with applicable state and federal law. Said insurance coverage shall include employer's liability with a single limit of \$100,000.00 per accident or occurrence. Vendor shall present City with a certificate for all of the foregoing insurance, at the time of executing this Agreement and at such other times requested by the City. The Vendor waives all rights against the City, the City's consultants, separate contractors, if any, and any of its subcontractors, agents and employees, for any and all damages caused to the extent covered by insurance described herein and obtained pursuant to this Section or other property insurance applicable to the services and product provided under

this Agreement. The City shall require of the Vendor, Vendor's consultants, separate contractors, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waiver of subrogation by endorsement other otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

12. In consideration of the payment of ten dollars as part of the above purchase price, Vendor shall indemnify, defend and hold the City harmless for itself, its employees, agents and assigns, from and against any and all losses, claims, damages, suits, actions, or demands, including attorneys' fees and costs of litigation through all appellate proceedings, arising from the performance or non-performance of this Agreement, whether caused in part by the City or not.

13. This Agreement shall be binding upon the parties, their successors, assigns, and legal representatives. Vendor shall not assign or otherwise transfer any of the rights or duties under this Agreement, without the express written consent of the City.

14. This document and exhibits embody the entire Agreement of the parties. There are no promises, terms, conditions, or representations binding on either party hereto, other than those contained herein; and this document shall supersede all previous communications, representations, and/or agreements between the parties hereto, whether written or oral. This Agreement may be modified only in writing executed by all parties. This Agreement shall be construed according to the laws of Florida, and venue for any action arising herefrom shall be in Pinellas County, Florida.

15. The following Exhibits shall be attached, incorporated and made a part of this Agreement:

- a. Vendor's "Piggy-Back" contract (Exhibit "A")
- b. Florida public records law (Exhibit "B")
- c. Vendor's Proposal to the City (Exhibit "C")

16. The prevailing party in any action to enforce or interpret this Agreement shall be entitled to reasonable attorney's fees incurred through all appellate proceedings.

17. Vendor hereby acknowledges that the person executing this Agreement on behalf of Vendor has the full authority to do so and to bind Vendor to the terms hereof.

18. Any and all notices sent pursuant to this Agreement shall be given in writing via certified mail or overnight courier and shall be delivered to the following addresses:

As to Vendor:

Brian Stewart
Inspection Division Manager
Environmental Products of Florida
2525 Clarcona Rd
Apopka, FL 32703

As to City:

City Manager
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706

19. To the extent that any terms in the attached proposal conflict with the terms of this Agreement, the terms of this Agreement shall control and supersede such conflicting terms in the attached proposal, to the extent of such conflict.

20. This Agreement may be amended or modified only in writing signed by all Parties hereto. This Agreement shall not be modified by any oral statement, communication, Agreement, course of conduct, or by anything other than a writing signed by the Parties.

21. This Agreement may be executed by the parties in counterpart originals with the same force and effect as if fully and simultaneously executed as a single original document. The "Effective Date" of this Agreement shall be the date this Agreement has been executed by all parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year set forth below.

Environmental Products of Florida

City of St. Pete Beach:

Signature: _____

Signature: _____

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

Andrew Dickman
City Attorney

Rebecca C. Haynes
City Clerk

EXHIBIT “A”

(Vendor’s “Piggy-Back Contract”)

EXHIBIT “B”

Florida Public Records Law

119.0701 Contracts; public records; request for contractor records; civil action. —

(1) DEFINITIONS. —For purposes of this section, the term:

(a) “Contractor” means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) “Public agency” means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) CONTRACT REQUIREMENTS. —In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016, must include:

(a) The following statement, in substantially the following form, identifying the contact information of the public agency’s custodian of public records in at least 14-point boldfaced type:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address).

(b) A provision that requires the contractor to comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency’s custodian of public records, in a format that is compatible with the information technology systems of the public agency.

EXHIBIT “C”
(Vendor’s Proposal to the City)

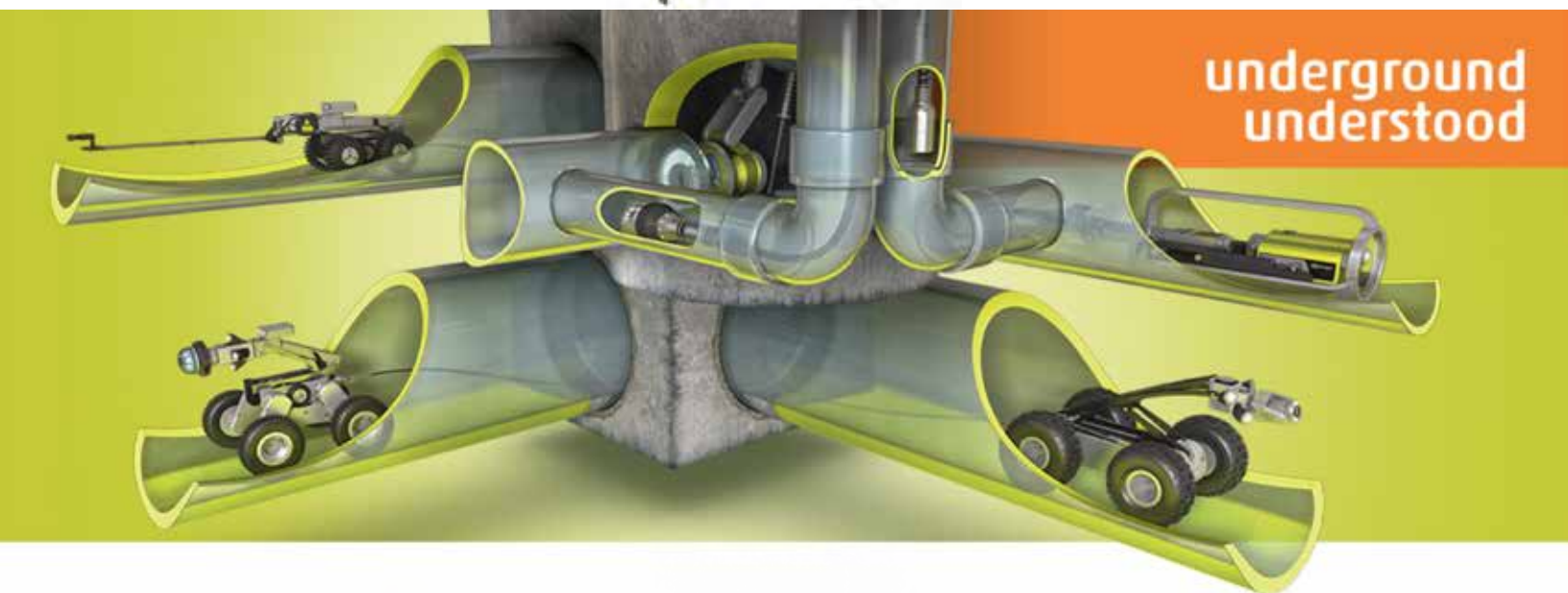
City of St. Pete Beach, FL



7581 Boca Ciega Drive
St. Pete Beach, FL 33706

Request for Quote:
Envirosight CCTV Inspection System and Ford Transit Install

May 29, 2018



ENVIRONMENTAL PRODUCTS
FLORIDA

2525 Clarcona Road
Apopka, FL 32703
P: (407) 608-0544

Brian Stewart
bstewart@myEPG.com



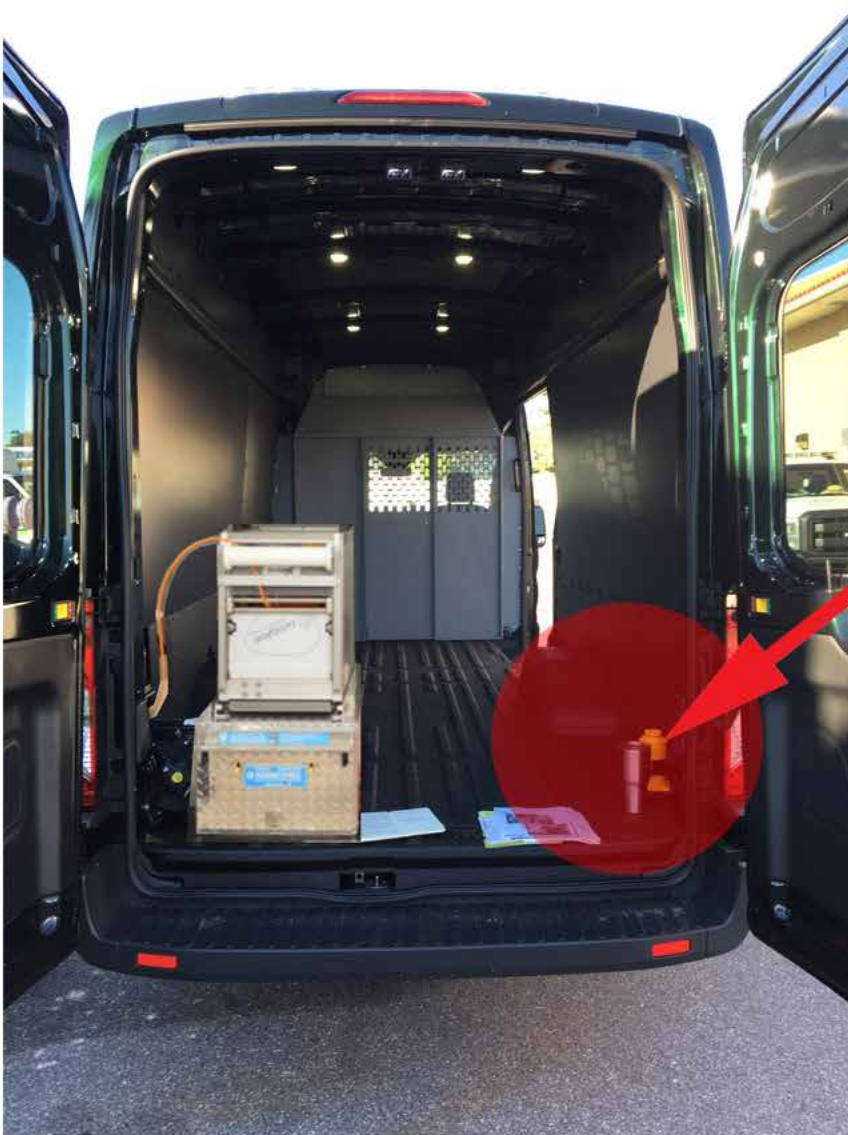
ENVIRONMENTAL PRODUCTS
FLORIDA

Envirosight LLC





Vehicle Retrofit Rendering



15 gal. electric water washdown system





ENVIRONMENTAL PRODUCTS FLORIDA

Local Service Facilities: Envirosight Camera Technicians and Parts on hand at each location.

Environmental Products of Florida

Sweeper & Vac Truck Sales

West Coast – John Miller

C: 813-299-0033

E: JMiller@myEPG.com

North FL – Nick Causey

C: 904-537-8799

E: NCausey@myEPG.com

South FL – Paul Hart

C: 561-719-1395

E: PHart@myEPG.com

Inspection Division Manager – Brian Stewart

C: 407-608-0544

E: BStewart@myEPG.com



Locations

Monday – Friday
7AM – 4PM



Deerfield Bch, FL

1907 SW 43rd Terrace
Deerfield Beach, FL 33442

Office: (954) 518-9923

Fax: (954) 518-9926

[Open In Google Maps](#)



Atlanta, GA

4410 Wendell Dr SW
Atlanta, GA 30336

Office: (404) 693-9700

Fax: (404) 693-9690

[Open In Google Maps](#)



Apopka, FL

2525 Clarcona Road
Apopka, FL 32703

Phone: (407) 798-0004

Fax: (407) 798-0013

[Open In Google Maps](#)



City of St. Pete Beach, FL	Envirosight CCTV Inspection Equipment	
5/29/2018	Tallahassee Purchase Contract #3708	Tallahassee Price
E-RX-SYS-Truck_Basic-18	Standard Rovver X System with VC Pendant Controller with Desk Mount and US –Connector PC-VC, RCX90 Camera, RX130 Crawler with Backeye Camera, Inclination, Sonde & Clutch included, RAX300 Cable Reel with Wireless Remote and 300M (1000') of Orange Gore Cable. Additional Accessories include Emergency Stop cable for Reel, Mounting Frame for Reel, Pressurization Kit. Wheel Sets include, 6 small standard rubber wheels for 6" pipes, 4 medium rubber wheels for 8" pipes, 2 wheel extenders, 4 large wheels for 10"/12" pipes.	\$ 70,976.31
E-080-0704-01	(4) XXL Rubber QCD Wheels for 15" pipes and larger	\$ 2,144.60
	Equipment Total	\$ 73,120.91
	Equipment Installation	
E-Crawler Drawer	Toolbox with sliding drawer, cable reel mounted above, (unpublished option)	\$ 1,432.00
Washdown	15 gal. tank, electric wash down sprayer with gun (15 ft hose), unpublished option	\$ 255.00
E-000-0035-00	Top Manhole Cable Roller	\$ 372.50
E-000-0036-00	Tiger Tail 2"	\$ 67.90
Wiring	Complimentary wiring/switches as needed, (unpublished option)	\$ 225.00
Install	Installation of equipment (unpublished option)	\$ 870.00
Chassis/Power Source	Pricing <u>does not</u> include 2017 Ford T350 Transit Utility Cargo Van E1Z with 148" wheelbase and 3.2L diesel engine. Pricing <u>does not</u> include generator or inverter (customer supplied)	
	Install Total	\$ 3,222.40
	Training/Delivery	\$ 450.00
	Subtotal	\$ 76,793.31
	Sales Tax	\$ 0.00
	Total	\$ 76,793.31



Link to Tallahassee Purchase Contract #3708

<http://www.myepg.com/city-of-tallahassee-elgin-vactor-envirosight-wincan-seca-duratech-mad-vac-turn-key-maintenance-packages>

Thanks for the opportunity to earn your business!

Please reply to:

Brian Stewart, Inspection Division Manager
Environmental Products of Florida
2525 Clarcona Road
Apopka, FL 32703
Cell: (407) 608-0544
Email: bstewart@myEPG.com
www.myepg.com



CONTRACT
No. 3708

THIS CONTRACT is executed this 6 day of April 2016 by and between the CITY OF TALLAHASSEE, a Florida municipal corporation, hereinafter called the "City" and ENVIRONMENTAL PRODUCTS OF FLORIDA CORPORATION, hereinafter called the "Contractor",

RECITALS

The City issued Request for Proposals No. 0096-15-KM-RC (such document and all addenda thereto, if any, being hereafter referred to as "RFP") seeking proposals for furnishing certain vehicles, trailers, and equipment used for cleaning, maintenance and repair of street, storm water and similar systems, as described in the RFP ("Vehicles", "Trailers", and "Equipment" respectively), and the Contractor submitted a certain proposal on September 29, 2015 ("Proposal") in response to that RFP. The City and the Contractor now desire to enter into a contract for the purchase of Vehicles, Trailers, and Equipment as more particularly set forth herein.

Therefore, in consideration of the mutual promises and covenants, obligations, and terms hereinafter set forth, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, City and Contractor hereby agree as follows:

SECTION 1.0 PURCHASE OF VEHICLES, EQUIPMENT AND ACCESSORIES

- 1.1 Contractor shall provide various Vehicles, Trailers, and Equipment as may be ordered from time to time by the City. All Vehicles, Trailers, and Equipment shall be priced, designed, constructed, and equipped in accordance with the specifications set forth in the Proposal and applicable Change Orders executed by the parties unless otherwise stated in this Contract. All Vehicles, Trailers, and Equipment shall conform and comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations and shall be delivered in accordance with delivery schedules set forth in the RFP and the Proposal.

1.1.1 The Contractor and the City Fleet Management Division shall schedule the following meetings with respect to each order received from the City:

- (i) A pre-production meeting to completely review the specifications and drawings prior to commencing assembly or production. This meeting shall include the equipment manufacturer if appropriate. The Contractor shall be represented by qualified technicians/engineers to properly facilitate the design and construction requirements. At the option of the City, this meeting will be held either at City Fleet Management Division facilities or at the Contractor's facilities;
- (ii) A second meeting will be planned according to the needs of Fleet Management. At the option of the City, this meeting will be held either at City Fleet Management Division facilities or at the facilities of the equipment manufacturer; and,
- (iii) A final review and inspection when each Vehicle, Trailer, or Equipment is considered by the Contractor to be complete. In addition to a complete inspection, City representatives will conduct a full performance test of each Vehicle, Trailer, or Equipment and of all integral systems. The Contractor shall provide all technical information and representatives reasonably required to assist the City in these inspections and shall make available to the City all reasonably required third-party certifications. A technician shall be available to complete any needed repairs or to replace items not meeting specifications. At the option of the City, this meeting will be held either at City Fleet Management Division facilities or at the Contractor's facilities.

The Contractor shall coordinate arrangements for these meetings with the City Fleet Management Division and the cab and chassis manufacturer, if appropriate, at least three weeks prior to the scheduled meeting. The Contractor shall bear all costs related to participation of its representatives or personnel in these meetings and activities.

1.1.2 The City or the Contractor, at any time, may request changes in the specifications or requirements related to a particular Vehicle, Trailer, or Equipment. No changes shall become effective until reduced to writing and signed by duly authorized representatives of each party ("Change Order"). All such Change Orders shall include, as a minimum, the following information:

- (i) The specific changes to be made;
- (ii) Changes, if any, in the time for delivery of the Vehicle or Equipment; and,
- (iii) Changes in the price of the Vehicles or Equipment.

1.2 Equipment. The Contractor shall provide associated equipment, accessories and tools as set forth in the RFP and the proposal that may be ordered from time to time by the City. Additional equipment, accessory, and tool offerings shall be an option based on functionality. Manufacturers and models may change from time to time but functionality shall remain the same.

SECTION 2.0 PURCHASE OF PARTS

2.1 The Contractor shall provide such parts for all Vehicles, Trailers, and Equipment as may be ordered from time to time by the City. The Contractor shall provide on-line parts ordering capability, if available, for the City and, upon request, will provide original manufacturer part numbers. All parts ordered by the City shall be delivered FOB to the City Fleet Management Division within twenty-four (24) hours from placement of the order. Delays in shipment beyond the reasonable control of the Contractor shall be subject to Section 10.1; provided, however, the Contractor, in such event, shall promptly provide Notice to the City regarding the details of any such delay so the City can make a final determination regarding responsibility. Long lead time parts or components not reasonable to inventory or fabricated components not reasonable to inventory are examples of orders that may require a longer delivery time. The Contractor shall expedite all such orders as reasonably timely as is possible.

- 2.2 The Contractor shall maintain, at City Fleet Management Division facilities, an inventory of certain high volume of use and long lead-time parts for Vehicles and Equipment ("Consignment Parts"). Consignment Parts shall remain the property of the Contractor until use by the City; however, the City, unless otherwise provided herein, shall bear the risk of loss of all Consignment Parts while in the custody of the City. The City, based on information provided by the Contractor, shall be responsible for monitoring the shelf-life and condition of all Consignment Parts. The Contractor, at its cost, shall ensure that Consignment Parts that are used, otherwise withdrawn from stock, are determined to be obsolete, or are identified as being out of date or in an unusable condition are promptly replaced in inventory. This inventory of Consignment Parts will be audited annually for reconciliation purposes. The City agrees to allow the Contractor to use the Consignment Parts for other customer applications, so long as such parts are promptly replaced by the Contractor. The volume of these transactions should not cost the City additional inventory maintenance expenditures.

SECTION 3.0 TERM

The Term of this Contract shall be a period of Five (5) years, commencing on the date set forth in the introductory paragraph, unless earlier terminated in accordance with the terms of this Contract. Such term may be extended for an additional Five (5) year period, subject to mutual agreement of the parties.

SECTION 4.0 CONTRACT PRICING AND PAYMENT.

4.1 Vehicles, Trailers, and Equipment.

4.1.1 During the Term, the City shall pay the Contractor for each Vehicle, Trailer, and Equipment ordered by the City based upon the Contractor's current pricing at the time a particular order is placed, provided, however, that such price shall not exceed the following:

- (i) For the current model year, the initial prices as set forth in the Proposal;

- (ii) For subsequent model years, the purchase price paid for such model during the preceding model year plus any price increases from the manufacturer to Contractor, if Contractor submits confirmation of such increase satisfactory to the City, in its discretion to insure the manufacturer is within acceptable industry perimeters; and
- (iii) For any manufacturer, models or associated equipment not quoted in the Proposal, a price to be set by mutual agreement, which shall be no greater than the lowest price offered by the Contractor to any other customer.

The City reserves the right to purchase Vehicles, Trailers, and Equipment from other manufacturer(s) or dealer(s) whenever the City, in its discretion, determines that it is in its best interest to do so.

4.1.2 All prices shall be F.O.B. City of Tallahassee, Fleet Management, 400 Dupree Street, Tallahassee, Florida,. In addition to the limitations set forth in Section 4.1.1 above, the prices offered to the City during the term of this Contract shall be no greater than the lowest price offered by the Contractor to any customer. The City shall have the right to annually review and audit all Contractor contracts and sales records to verify that the Contractor is in compliance with this most favored pricing requirement. If the Contractor is found not to be in compliance, the City will notify the Contractor, in writing, of such fact, and the Contractor, within 30 days of its receipt of such notice, shall pay to the City the applicable price differential for all affected Vehicles, Trailers, and Equipment purchased by the City, plus interest thereon at the rate of six percent (6%), for the period from the date of final acceptance of each affected Vehicle, Trailer, or Equipment through the date of such notice from the City.

4.1.3 A standard warranty package (as described in the Proposal) is included in the price of each Vehicle, Trailer, and Equipment. Extended warranties shall be made available to the City at Contractor's cost from the manufacturer.

SECTION 4.2 Parts and Accessories.

The Contractor shall sell to the City all parts and accessories for Vehicles, Trailers, and Equipment in accordance with the pricing structure set forth in the Proposal; which cost may be modified from time to time by mutual agreement as set forth in an amendment. The pricing offered to the City during the term of this Contract shall be no greater than the lowest price offered by the Contractor to any customer. The City shall have the right to annually review and audit all Contractor records to verify that the Contractor is in compliance with this pricing requirement. If the Contractor is found not to be in compliance, the City will notify the Contractor, in writing, of such fact, and the Contractor, within 30 days of its receipt of such notice, shall pay to the City the applicable price differential for all affected parts and associated equipment purchased by the City, plus interest thereon at the rate of six percent (6%), for the period from the date of delivery of the affected parts or associated equipment through the date of such notice from the City. This provision (4.2) is for the City of Tallahassee only and is not intended for inclusion as part of any purchase by any other entity. Other options contained within the proposal shall be made available to other agencies, such as rentals, leasing, maintenance and buyback programs. The availability of such items to other agencies shall be at the discretion of the Contractor.

SECTION 4.3 Payment

- 4.3.1 All Vehicles, Trailers, Equipment, and parts prices shall be F.O.B. City of Tallahassee, Fleet Management Division, 400 Dupree Street, Tallahassee, Florida.
- 4.3.2 All proper invoices shall be paid by the City in accordance with the Local Government Prompt Payment Act, Section 218.70, Florida Statutes.
- 4.3.3 In addition to other remedies available under this Contract, the City shall have the right to deduct, offset against, or withhold from sums or payments otherwise due the Contractor any sums or amounts which the Contractor may owe to the City pursuant to provisions of this Contract, as a result of breach or termination of this Contract, or otherwise.

SECTION 5.0 DELIVERY AND ACCEPTANCE

- 5.1 The Contractor shall deliver, or shall cause the manufacturer to deliver; all Vehicles, Trailer, and Equipment to the City in accordance with the schedule set forth in the Proposal or such other time period as may be agreed by the parties. The Contractor and the City agree that timely delivery by the Contractor is of the essence of this Contract that the City will suffer damages in the event the Contractor fails to so perform, and that such damages may be difficult to precisely calculate or prove. As a result, the Contractor shall pay to the City, as liquidated damages and not as a penalty, the amount of \$100 per day, or portion thereof, for each day of delay in delivery of each Vehicle, Trailer, and Equipment ordered by the City. Such liquidated damages shall be paid in addition to any other recourse or remedy that may be available to City in the event of such a breach.
- 5.2 The Contractor shall fully assemble, service, and adjust each Vehicle, Trailer, and Equipment prior to delivery and shall demonstrate, to the satisfaction of the City that each delivered Vehicle, Trailer, and Equipment is in perfect mechanical condition. In the event a cab and chassis is shipped to the Contractor's facility for installation of Equipment, or a cab and chassis is provided by the contractor, the inspection and acceptance of that cab and chassis by the City shall be performed at the Contractor's facility under the direction and assistance of the Contractor. An inspection form approved by the City, provided by the cab and chassis manufacturer, will be completed by the Contractor to establish receipt date and condition of each cab and chassis. Upon delivery to the Contractor's facility, the Contractor shall be responsible for, and shall bear all risk of loss and damage to, each vehicle, equipment or accessory until it is delivered to the City at its specified location.
- 5.3 Delivery of a Vehicle, Trailer, or Equipment to the City does not constitute acceptance for the purpose of payment or warranty start time. The City shall inspect and test each delivered Vehicle, Trailer, and Equipment to determine whether it meets all specifications and requirements set forth in this Contract, and, within ten (10) days following delivery, the City shall notify the Contractor, in writing, of either its final acceptance of the Vehicle, Trailer, or Equipment or the failure of the Vehicle, Trailer, or Equipment to meet certain specifications and requirements. In the latter

case, the Contractor, within ten (10) days following its receipt of written notice from the City, shall deliver to the City a detailed proposal and schedule for corrective action. If the proposed corrective action is acceptable to the City, the Contractor will be given a written notice to proceed, and a new inspection, testing, and notice process shall commence upon completion of corrective action. If the proposed corrective action or schedule is not acceptable, or if approved corrective action is not timely completed, the City may refuse the affected Vehicle, Trailer, or Equipment. Contractor shall bear all risk of loss or damage to each Vehicle, Trailer, or Equipment until final acceptance by the City.

5.4 With each Vehicle, Trailer, and, Equipment the Contractor shall deliver to the City, in an electronic format or hard copy the following:

- (i) Up to three (3) copies of the technical and service manuals for the Vehicle, Trailer, or Equipment;
- (ii) Up to three (3) copies of the parts manual for the Vehicle, Trailer, or Equipment;
- (iii) One copy of the manufacturer's preventive maintenance schedule; and one copy of the operator's manual; and
- (iv) The manufacturer's statement of origin, title application, and all warranty documents.

5.5 All Vehicles, Trailers, and Equipment delivered to the City shall be owned by the Contractor and shall be delivered free and clear of all liens and security interests of any kind.

SECTION 6.0 INDEMNIFICATIONS.

6.1 The Contractor shall indemnify and save harmless the City, its officials and employees, from all losses, damages, costs, expenses, liability, claims, actions, and judgments of any kind whatsoever, including reasonable attorney's fees and costs of litigation, to the extent arising out of or caused by any act or omission of the

Contractor, its subcontractors, or their respective employees, officers, directors, or agents, in the performance under this Contract. The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under any Workers' Compensation Act, Disability Benefit Act, or other Employee Benefit Act.

- 6.2 The Contractor shall, at its sole expense, defend any claim, suit or proceeding brought against the City, its official or employees, to the extent such claim, suit or proceeding is based on a claim that any Vehicle, Trailer, or Equipment, or any portion thereof, furnished under this Contract (collectively, "Infringing Work") constitutes infringement of any registered patent of the United States of America or country county of manufacture, provided that City shall give the Contractor prompt written notice of any such claim, suit or proceeding and shall give the Contractor authority, information and assistance in a timely manner for the defense of the same. The Contractor shall indemnify and hold the City, its officials or employees, harmless from and against all costs and damages awarded, and all attorneys' fees incurred or awarded, in any suit or proceeding so defended. The Contractor will not be responsible for any settlement or proceeding made without its prior written approval. In case said Infringing Work is held to constitute an infringement and the use of said Infringing Work is enjoined, the Contractor shall, at its own expense and at its option, either (a) procure for City the right to continue using said Infringing Work, (b) replace said Infringing Work with substantially equivalent, equally functional, non-infringing work, parts or combination thereof, or (c) modify such Infringing Work so that it becomes non-infringing, while maintaining the same functionality.

SECTION 7.0 INSURANCE

- 7.1 Prior to commencing work, Contractor shall procure and maintain at Contractor's own cost and expense for the duration of the Contract, the following insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the Scope of Services hereunder by Contractor, its agents, representatives, employees or sub-consultants. The cost of such insurance shall be borne by Contractor.

7.1.1 Contractor shall maintain the following coverage with limits no less than the indicated amounts:

- (a) Commercial General/Umbrella Liability Insurance - \$1,000,000 limit per occurrence for property damage and bodily injury. The certificate of insurance shall state whether the coverage is provided on a claims-made or preferably on an occurrence basis. The insurance shall include coverage for the following:
 - (i) Premise/Operations
 - (ii) Explosion, Collapse and Underground Property Damage Hazard (only when applicable to the project)
 - (iii) Products/Completed Operations
 - (iv) Contractual
 - (v) Independent Contractors
 - (vi) Broad Form Property Damage
 - (vii) Personal Injury
- (b) Business Automobile/Umbrella Liability Insurance - \$1,000,000 limit per accident for property damage and personal injury.
 - (i) Owned/Leased Autos
 - (ii) Non-owned Autos
 - (iii) Hired Autos
- (c) Workers' Compensation and Employers'/Umbrella Liability Insurance - Workers' Compensation statutory limits as required by Chapter 440, Florida Statutes. This policy should include Employers'/Umbrella Liability Coverage for \$1,000,000 per accident.

7.1.2 Other Insurance Provisions

- (a) Commercial General Liability and Automobile Liability Coverage

- (i) City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers are to be covered as additional insured's as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor or premises on which Contractor is performing Services on behalf of City. The coverage shall contain no special limitations on the scope of protection afforded to City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers.
 - (ii) The Contractor insurance coverage shall be primary insurance as respects City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers. Any insurance or self-insurance maintained by City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers shall be excess of Contractor insurance and shall not contribute with it.
 - (iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers.
 - (iv) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (b) Workers' Compensation and Employers' Liability and Property Coverage

The insurer shall agree to waive all rights of subrogation against City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers for losses arising from activities and operations of Contractor in the performance of its obligations under this Contract.

(c) All Coverage

- (i) Each insurance policy required by this Article shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to City in accordance with this Contract.
- (ii) If Contractor, for any reason, fails to maintain any insurance coverage that is required pursuant to this Contract, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Contract and obtain damages from Contractor resulting from said breach.
- (iii) Alternatively, City may purchase such required insurance coverage (but has no special obligation to do so), and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

7.1.3. Deductibles and Self-Insured Retention's

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers; or Contractor shall procure a bond guaranteeing payment of losses, related investigation, claim administration and defense expenses.

7.1.4. Acceptability of Insurers

Insurance is to be placed with Florida admitted insurers rated B+X or better by A.M. Best's rating service.

7.1.5. Verification of Coverage

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon execution of the contract documents, the certificates and endorsements are to be received and approved by City before work commences.

SECTION 8.0 TERMINATION

- 8.1 The City may, by written notice to the Contractor, terminate this Contract in whole or in part, at any time, either for the convenience of City or because of failure of the Contractor to fulfill its obligations. Upon receipt of such notice, the Contractor shall immediately discontinue all work affected (unless the notice directs otherwise).
- 8.2 If the termination is for the convenience of the City, the Contractor shall be paid for each Vehicle, Trailer, and Equipment, all parts, and all accessories delivered and finally accepted as of the effective date of termination.
- 8.3 If the termination is due to the failure of the Contractor to fulfill its obligations under this Contract, the Contractor shall be liable to City for reasonable additional costs incurred by City as a result of such breach.
- 8.4 If, after notice of termination for failure to fulfill its obligations under this Contract, it is determined that Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of City.

- 8.5 The rights and remedies of the parties provided in this Section 8 are in addition to any other rights and remedies such party may have at law, in equity, or under this Contract.

SECTION 9.0 WARRANTY AND MAINTENANCE

- 9.1 The Contractor hereby warrants all Vehicles, Trailers, and Equipment as set forth in its Proposal and the individual warranty documents delivered with each item. The Contractor will respond, on-site in Tallahassee, for all warranty repairs within twenty-four (24) hours following notice from the City. Contractor may request an additional twenty-four (24) hours where circumstances prohibit agreed upon response time. The City reserves the right to deny any such requests based on the needs of the City.
- 9.2 Through the manufacturer, the Contractor will make available to the City, at any time during the first thirty (30) days after each Vehicle, Trailer, or Equipment has been placed into service, the option to purchase an extended warranty for such Vehicle, Trailer, or Equipment at the Contractor's cost of such warranty from the manufacturer.
- 9.3 The Contractor shall provide training as provided for in the Proposal. The City prefers to have the Contractor complete all warranty work, and the City shall perform such work only in the event of exigent circumstances. The Contractor, within thirty (30) days of receipt of an invoice therefore, will pay the City for all such warranty work completed by the City in an amount equal to the fully loaded costs for personnel performing such work. At the request of the Contractor, the City will provide documentation of such costs.
- 9.4 The Contractor agrees to place at least one manufacturer-trained technician approved by the City's Superintendent, Fleet Management ("Superintendent"), at the Fleet Management Division facilities at 400 Dupree Street. This technician shall facilitate and expedite both warranty-related work and general repairs, as directed by the Superintendent with respect to all Vehicles, Trailers, and Equipment purchased under this Contract. The Contractor shall process all paper work in conjunction with

warranty-related work or claims. The City shall not be obligated to pay the Contractor for any warranty-related repairs or replacements; however, the Contractor shall be entitled to receive any reimbursement or payment that may be offered by the manufacturer with respect to warranty repairs, replacements, or claims performed or paid by the Contractor. Non-Warranty repairs performed by the Contractor at the City's facility will be billed to the City at \$60.00 per hour at the time repairs are performed, which labor rate shall not increase more than the Contractor's actual cost for such labor for the duration of this Contract. Warranty related activities will be the first responsibility of the technician. In cases where the amount of warranty work does not require 40 hours in a particular week the City shall provide non-warranty assignment. Warranty and non-warranty assignments together shall not be more than 40 hours in any week. This excludes weeks where vacations, holidays or sickness prevents the technician from an actual 40-hour week.

SECTION 10.0 MISCELLANEOUS PROVISIONS

- 10.1 Time shall be of the essence in performance of this Contract; provided, however, that either party shall be excused from timely performance under this Contract to the extent that, but only to the extent that, such delay is the result of any cause beyond the reasonable control of, and not the result of negligence or the lack of diligence of, the party claiming such excuse from timely performance.
- 10.2 Failure to enforce or insist upon compliance with any of the terms or conditions of this Contract or failure to give notice or declare this Contract terminated shall not constitute a general waiver or relinquishment of the same or any other terms, conditions, or acts; but the same shall be and remain at all times in full force and effect.
- 10.3 If written notice to a party is required under this Contract, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested, to the Contractor as follows:

Jeffrey H. Haase
Environmental Products of Florida, Corp.
2525 Clarcona Rd.
Apopka, Florida 32703
And to the City as follows:

City of Tallahassee
Fleet Management Division
400 Dupree Street
Tallahassee, Florida 32304
Attn: Fleet Superintendent

- 10.4 Contractor shall not assign any of their rights or obligations under this Contract without prior approval by the City.
- 10.5 Contractor shall be responsible for the actions of any and all of their subcontractors and consultants. Neither subcontractors nor any consultants shall interface directly with the City.
- 10.6 This Contract and every question arising hereunder shall be construed, interpreted, or determined according to the laws of the State of Florida. Venue for any action brought in relation to this Contract shall be placed in a court of competent jurisdiction in Leon County, Florida.
- 10.7 As required by Section 287.133, (2) (a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or a public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.010 for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Any

person must notify the City within thirty (30) days after a conviction of a public entity crime applicable to that person or to an affiliate of that person.

- 10.8 The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either City or Contractor. The section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Contract. If any provision of this Contract is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Contract and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other of which would render the provisions valid, then the provision shall have the meaning which renders it valid.
- 10.9 Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, gender, age or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, creed, color, sex, marital status or national origin. The Contractor will post a copy of this pledge in a conspicuous place, available to all employees and job applicants and will place or cause to be placed a statement in all solicitations or advertisement for job applicants, including subcontracts, that the respondent is an "Equal Opportunity Employer".
- 10.10 Either party shall be excused from timely performance under this Agreement to the extent, but only to the extent, such delay is the result of any cause beyond the reasonable control of, and not the result of negligence or the lack of diligence on the part of, the party claiming such excuse from timely performance.
- 10.11 The Contractor, if requested by the City, shall repurchase/buy back Vehicles, Trailers, and Equipment as set forth in the Proposal, provided that such Vehicle, Trailer, or Equipment is in good mechanical condition with body damages exceeding \$1,000.00 in repair costs having been repaired to original equipment manufacturer standards. The City and Contractor agree to the repurchase/buy back rates for such

Vehicles, Trailers, and Equipment as set forth in the Proposal (Binder #2). The Contractor's obligation to repurchase/buy back Vehicles, Trailers, and Equipment shall not be contingent on the City's purchasing a replacement unit from the Contractor.

- 10.12 The Contractor shall make Vehicles, Trailers, and Equipment available to other governmental entities on the same terms and conditions as set forth in this Contract. Should any such entity purchase a Vehicle, Trailer, or Equipment on such basis, the Contractor shall report such purchases to the City and, within thirty (30) days following final payment for each such purchase, shall provide payment by check to the City in the amount of 0.75% of the purchase price of such Vehicle, Trailer, and Equipment. This provision shall apply to all purchases initiated during the term of this Agreement, excluding parts and maintenance, even if such purchase continues and payment is received after the expiration of the Term.
- 10.13 The City and Contractor may, at the discretion of the City, participate in, Preventive Maintenance Plans, Full Service Maintenance Plans, Buy-Back Plans, Extended Warranty Plans, Rental Plans or Leasing Plans as set forth in the proposal or by mutual agreement. The City reserves the right to participate in any programs or incentives that may become available through the Contractor or manufacturer, which in the opinion of the City, would be in its best interest.
- 10.14 It is understood and agreed that this Contract, including exhibits and references (if any), is the entire Contract between the parties and supersedes all prior oral agreements and negotiations between the parties relating to the subject matter hereof. City and Contractor, by mutual agreement, may change or amend the terms and conditions of this Contract. All such changes or amendments shall be set forth in a written amendment to this Contract.
- 10.15 If any portion of this Contract, or any Exhibit or portion thereof, is held to be invalid by a court of law, such provision shall be considered severable, and the remainder of this Contract shall be construed and enforced in a manner consistent with the intent of the Parties.

10.16 It is the intent of the Parties that any provision of this Agreement that, by its terms or by any reasonable interpretation thereof, is intended to survive termination (whether by expiration, default, extinguishment or otherwise) of this Agreement, including indemnity obligations, will do so.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized representatives, effective the date first above written.

CITY OF TALLAHASSEE

Attest:

By: James O. Cooke, IV
James O. Cooke, IV
City Treasurer-Clerk

By: Andre Libroth
Andre Libroth
Manager for Procurement Services

Approved as to form:

By: [Signature]
City Attorney

**ENVIRONMENTAL PRODUCTS OF
FLORIDA CORPORATION**

[Signature]
Witness as to Contractor
[Signature]
Witness as to Contractor

By: [Signature]
Name: JEFFREY H. HAASE
Title: PRESIDENT

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

Issue Considered: Request approval of an Underground Conversion Agreement based on a binding cost estimate of \$492,065.29 and Utility Reimbursement Agreement from Duke Energy for the Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard.

Date: September 11, 2018

Prepared By: Mike Clarke, Public Works Director

Through: Wayne Saunders, City Manager

Summary of Issue: The City requested that Duke Energy convert the existing overhead power infrastructure from 75th Avenue to Gulf Boulevard to underground. On July 25, 2018, the City received a binding cost estimate of \$492,065.29 from Duke Energy to provide the conversion. By signing this Agreement, the City agrees to pay Duke Energy the binding cost estimate in consideration of performance of this conversion.

As part of this underground conversion, Duke Energy requires that the City also sign a Utility Reimbursement Agreement. This Agreement requires that any relocation of Duke Energy infrastructure following construction will be paid for by the City of St. Pete Beach.

Funding: CIP – Blind Pass Road Reconstruction
301-8000-590-5650

Requested Motion: “I move to approve the Underground Conversion Agreement based on a binding cost estimate of \$492,065.29 and Utility Reimbursement Agreement from Duke Energy for the Blind Pass Road Reconstruction from 75th Avenue to Gulf Boulevard.”

Attachment: Underground Conversion Agreement
Duke Energy Binding Cost Estimate
Utility Reimbursement Agreement

**Reviewed by the
City Manager:**

— WS —



UNDERGROUND CONVERSION AGREEMENT BASED ON A BINDING COST ESTIMATE

THIS UNDERGROUND CONVERSION AGREEMENT (the "Agreement") entered into this _____ day of _____, _____ (the "Effective Date") by and between Duke Energy Florida, LLC, d/b/a Duke Energy ("DE") and _____ City of St Pete Beach _____ (the "Applicant"). DE and the Applicant shall be referred to individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, the Applicant desires to have DE relocate and replace certain of its existing overhead distribution lines and related facilities with new underground distribution lines and related facilities, all as noted in the Work Request, which is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, DE is willing to relocate and replace the aforesaid existing overhead facilities with the new facilities set forth in the attached Work Request ("Facilities") at the locations set forth more specifically in the attached Work Request ("Cable Route"); and

WHEREAS, Applicant has paid a deposit in the amount of \$ 1,975.00 ("Deposit") and requested a binding estimate ("Binding Cost Estimate") of the total cost it will be responsible to pay DE for the Relocation Work (as that term is defined below); and

WHEREAS, DE has provided Applicant with the Binding Cost Estimate (in the amount referenced in Article 7 below) and in consideration of DE's performance of the Relocation Work, Applicant agrees to pay DE the Binding Cost Estimate as it may be adjusted in accordance with the terms of this Agreement below;

NOW THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, DE and the Applicant hereby agree as follows:

ARTICLE 1. RECITALS

The foregoing recitals are true and correct and are a part of this Agreement.

ARTICLE 2. DEFINITIONS

"Additional Work"- Shall mean the additional work to be performed by DE with respect to this underground conversion project beyond the Relocation Work, as said Additional Work may be authorized by the Parties in accordance with the terms of this Agreement.

"Additional Binding Cost Estimate"- Shall have the meaning given to it in Article 9 of this Agreement.

"Additional Deposit"- Shall have the meaning given to it in Article 9 of this Agreement.

"Agreement"- Shall mean this Underground Conversion Agreement entered into between the Parties.

"Applicant"- Shall mean the counter party to DE under this Agreement as noted in the above first paragraph of this Agreement.

"Applicant Delay"- Shall have the meaning given to it in Article 8 of this Agreement.

"Binding Cost Estimate"- Shall have the meaning given to it in the recitals above and in Article 7 of this Agreement.

"Cable Route"- Shall have the meaning given to it in the recitals above.

"CPR"- Shall have the meaning given to it in Article 17 of this Agreement.

"Deposit"- shall have the meaning given to it in the recitals above.

"Effective Date"- Shall be the date entered in the above first paragraph of this Agreement.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____



“Facilities”- Shall mean the facilities specifically described and detailed in the Work Request.

“Final Price”- Shall have the meaning given to it in Article 7 of this Agreement.

“Final Statement”- Shall have the meaning given to it in Article 7 of this Agreement.

“Force Majeure”- Shall have the meaning given to it in Article 14 of this Agreement.

“Notice to Proceed”- Shall mean duly authorized and executed written notice given by the Applicant to DE requesting DE to proceed with the Relocation Work (or Additional Work, if any) under the terms and conditions of this Agreement.

“Party”- Shall mean any single party to this Agreement.

“Parties”- Shall mean both parties to this Agreement.

“DE”- Shall mean Duke Energy Florida, LLC.

“Relocation Work”- Shall mean only that work which is specifically described and detailed in the Work Request and Article 4 of this Agreement.

“Work”- Shall mean the Relocation Work and the Additional Work.

“Work Request”- Shall mean the documents attached to this Agreement as Exhibit A.

ARTICLE 3. CONDITIONS PRECEDENT

3.1 Notwithstanding any other provision hereof to the contrary, this Agreement and the rights and obligations of the Parties set forth herein are expressly subject to and contingent upon:

A. Applicant securing all required easements and rights-of-way for the performance of the Relocation Work;

B. Applicant receiving funding adequate for the payment of all costs and expenses that will be due and owing by Applicant to DE under this Agreement, and the Applicant providing reasonable evidence to DE that Applicant has received or otherwise secured such funding;

C. The issuance by governmental agencies of all required permits and approvals necessary for the performance by both Parties under this Agreement;

D. Applicant paying DE all funds that are required by this Agreement to be paid prior to DE beginning the Relocation Work; and

E. Applicant obtaining written confirmation from all affected DE customers agreeing to accept underground service upon customer’s property.

3.2 In the event the conditions in this Article have not been fulfilled or satisfied within 90 days of the Effective Date of this Agreement, either Party may terminate this Agreement upon written notice to the other Party with no obligation or liability under this Agreement to the other Party resulting from such termination (other than DE’s right to retain the Deposit), or the Parties may mutually agree upon an extension of time within which such conditions may be met. Notwithstanding anything herein to the contrary, DE shall not be required to proceed with the Relocation Work unless and until the above noted conditions precedent have been satisfied or mutually waived in writing by the Parties. Further, notwithstanding anything herein to the contrary, it is the intention of the Parties that the provisions of this Article 3 also shall apply to any Additional Work, so that the Parties’ rights and obligations with respect to any such Additional Work is expressly subject to and contingent upon the satisfaction of the conditions set forth above within 90 days of the date of the amendment authorizing such Additional Work, and failing which either Party may terminate the subject amendment upon written notice to the other Party with no obligation or liability under this Agreement or that amendment to the other Party resulting from such termination (other than DE’s right to retain the Additional Deposit, if any), or the Parties may mutually agree upon an extension of the time within which such conditions may be met.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

ARTICLE 4. DE'S SCOPE OF WORK

4.1 In consideration of the payments by Applicant of the amounts set forth in Article 7 below, DE shall provide (except to the extent excluded in the Work Request) the following as part of the Relocation Work:

A. Dismantle and at DE's discretion salvage or dispose of existing overhead distribution lines and facilities which will be replaced by the Facilities;

B. Design, permit, install and test the Facilities within the designated locations in the Cable Route;

C. Install, by directional bore, open-trench or such other means or methods as DE may determine in its sole discretion, all new primary and secondary cable, wire, conduit and appurtenances;

D. Perform all Relocation Work in accordance with applicable laws, including locating, positioning and installing (at DE's sole discretion) switchgear, pad-mounted transformers, service pedestals, pull boxes, and other related distribution equipment in accordance with the National Electrical Safety Code and other applicable industry standards, if any;

E. Modify existing DE distribution facilities located outside the Cable Route boundary as determined by DE in its sole discretion for connection to the Facilities;

F. To the extent authorized in the Work Request and to the extent the Applicant has obtained the necessary consents of the residential service users to the conversion, coordinate with such users and convert affected residential service laterals from overhead to underground;

G. Procure and maintain such insurance as DE may determine in its sole discretion is appropriate to cover property damage, personal injury and general liability of DE and its contractors, if any, arising out of or relating to their performance of the Relocation Work;

H. Provide reasonable notice to DE's customers regarding planned interruptions of electric service occasioned by the Relocation Work; and,

I. Maintain a safe work site in compliance with applicable laws, rules and safety standards pertaining to installation of the Facilities.

4.2 The above noted provisions also shall apply to and be deemed a part of any Additional Work hereafter authorized by the Parties in accordance with the terms set forth herein, except to the extent otherwise expressly noted in the applicable amendment.

ARTICLE 5. APPLICANT'S RESPONSIBILITIES

The following are Applicant's responsibilities, to be provided or satisfied by Applicant at no cost to DE:

A. Within 30 days of the Effective Date, Applicant shall provide a Notice to Proceed for the Relocation Work to DE, and shall convey to DE a non-exclusive and irrevocable license to use any easement, right-of-way or other appropriate real property interest which Applicant has with respect to the performance of the Relocation Work and the delivery of utility services thereafter by DE. Subject to the other terms of this Agreement, upon receipt of the Notice to Proceed, DE shall commence with the performance of the Relocation Work. DE shall notify Applicant, in writing, when DE believes it has received all necessary easements and rights-of-way for the Relocation Work to be obtained and provided by Applicant;

B. With respect to any Additional Work authorized by the Parties in accordance with the terms set forth herein, each amendment authorizing any such Additional Work shall address the date by when Applicant is to provide a Notice to Proceed for the subject Additional Work, as well as the date by when Applicant shall convey to DE a non-exclusive and irrevocable license to use any easement, right-of-way or other appropriate real property interest which Applicant has with respect to the performance of the subject Additional Work and the delivery of utility services thereafter by DE. DE shall notify Applicant in writing when DE believes it has received all necessary easements and rights-of-way for the subject Additional Work to be obtained and provided by Applicant. Subject to the other terms of this Agreement and the applicable amendment, DE shall not commence performance of the subject Additional Work until all conditions to be fulfilled by Applicant as to that Additional Work have been satisfied and DE has received Applicant's Notice to Proceed for that subject Additional Work;

ISSUED BY: **Lori Cross, Manager, Regulatory Services - Florida**

EFFECTIVE: _____

C. The Applicant shall cooperate and assist DE's permitting efforts with respect to the Work and shall not take any action (or fail to take any action required of it) that violates the conditions of any permits and approvals from any applicable governmental entities so as to allow DE to: (a) relocate the Facilities within the Cable Route, (b) cross any federal, state, or local highway or cross any rail lines or corridors along the Cable Route necessary to relocate the Facilities, and (c) otherwise perform the Work as planned by DE;

D. With respect to all easements and rights-of-way to be provided by Applicant, it is Applicant's responsibility to clear, survey, stake, and grade to within six inches of final grade, at no cost to DE, all such easements and rights-of-way. All such clearing, surveying, staking and grading must be accomplished by Applicant so as to cause no delay to DE's performance of the Work. Accordingly, as part of its clearing and grading obligation hereunder, Applicant is responsible for all removal and restoration of buildings, roads, driveways, sidewalks, patios, fences, ditches, landscaping, sprinkler systems, and all other improvements or utilities located within the easements and rights-of-way to be provided by Applicant, at no cost to DE, all such removal and restoration work located within the easements and rights-of-way to be performed so as to cause no delay to the performance of the Work by DE;

E. Applicant shall provide traffic management along affected roadways within the Cable Route;

F. Applicant is responsible for making all arrangements necessary with all other utilities or joint users of DE's above ground facilities (including telephone and cable) to remove their equipment and facilities at no cost to DE and in a manner and schedule so as not to delay DE's performance of the Work. Applicant shall acquire all contracts or agreements required to provide for the timely removal of all such joint users' equipment and facilities, and provide a copy of all such contracts and agreements to DE upon request from DE;

G. Applicant is responsible for ensuring that DE's distribution facilities are not damaged, destroyed or otherwise disturbed during the performance of Applicant's responsibilities hereunder. This obligation extends not only to Applicant's employees, but also to any contractors, subcontractors, consultants or agents of Applicant. Applicant is responsible for the full cost of repairing any such damage, destruction or disturbance; and

H. Applicant is responsible for making all necessary arrangements with all affected DE customers to prepare their premises and service entrance in a timely manner for underground service, so as not to delay DE's performance of the Work. All such consents, arrangements, and preparations shall be provided by Applicant at no cost to DE.

ARTICLE 6. TERM

The Term of this Agreement shall commence upon the Effective Date and shall continue until the end of the period set forth in Article 8, unless terminated earlier by a Party in accordance with the terms set forth herein.

ARTICLE 7. PRICE AND PAYMENT TERMS

A. DE has provided Applicant, and Applicant has accepted, the Binding Cost Estimate of DE's costs to perform the Relocation Work in the amount of \$ 492,065.29, which is the price to be paid by Applicant for the Relocation Work performed by DE under this Agreement, subject to adjustment for the Final Price in accordance with the provision of this Article.

B. The Binding Cost Estimate shall be paid by Applicant in accordance with the Payment Schedule attached hereto and incorporated herein as Exhibit B. With respect to any Additional Work authorized hereunder, the compensation to be paid DE for such Additional Work, including the payment of any Additional Deposit and Additional Binding Cost Estimate amount for such Additional Work, shall be made by Applicant in accordance with the terms set forth in the subject amendment authorizing that Additional Work.

C. Because the Binding Cost Estimate is only for the Relocation Work to be performed by DE, it does not cover the costs associated with Applicant's performance of its responsibilities with respect to this Project, which costs include the cost of: (a) conversion of customers' meter bases to accommodate underground service, (b) an underground street lighting system, (c) easement acquisition; (d) restoration of landscaping, sprinkler system sidewalks, road pavement and other existing improvements within the required easements or rights-of-way, and (e) underground conversion or relocation of other utilities' facilities (telephone, cable, etc.).

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

D. The Parties acknowledge that the Binding Cost Estimate and any Additional Binding Cost Estimate(s) are based on estimates of the various cost components that comprise the Relocation Work and Additional Work, and that the actual cost of the Work subject to the Binding Cost Estimate and Additional Binding Cost Estimate(s) may be more or less than the amounts reflected in the Binding Cost Estimate and applicable Additional Binding Cost Estimates. Within approximately ninety (90) days following the completion of the Work, DE shall furnish to Applicant an itemized statement signed by an authorized representative of DE setting forth the actual final costs of the Work ("Final Statement"). The sums of the final actual costs of the Relocation Work plus the Additional Work (if any) is the final price to be paid hereunder by Applicant to DE ("Final Price"); provided, however, in no event may a sum of more than 10% above the Binding Cost Estimate for the Relocation Work or a sum of more than 10% above the Additional Binding Cost Estimate for any particular Additional Work, be included in the Final Price amount. If the sum of all payments theretofore made by Applicant for the Work (including the Deposit and any Additional Deposits) is less than the Final Price, Applicant shall pay the remaining balance to DE within thirty (30) days after presentment of the Final Statement by DE. If the sum of such payments made by Applicant for the Work is greater than the Final Price, DE shall refund the difference to Applicant within thirty (30) days after the presentment of the Final Statement. If Applicant objects to any of the amounts reflected in the Final Statement, Applicant shall provide DE with written notice of same, stating in detail the objections Applicant has to the Final Statement. Applicant shall provide that written notice within fourteen (14) calendar days of receiving the Final Statement. All items in the Final Statement not expressly objected to by Applicant in writing within said fourteen (14) day period shall be deemed accepted by Applicant as being final and binding, without any further right to challenge or appeal such items.

E. If Applicant fails to pay any amount owed DE hereunder when due, such past due amounts shall accrue interest at the rate of 18% per annum or the maximum legal rate, whichever is lower. Further, if Applicant fails to make any undisputed payment owed DE hereunder within five (5) business days of receiving written notice from DE that such payment is past due, DE may suspend performance of all or any portion of the Work until such past due amounts have been paid in full. Any such suspension shall be deemed an Applicant Delay (as defined in Article 8 below) and Applicant shall be liable for all costs and damages incurred by DE as provided in Article 8.

ARTICLE 8. WORK SCHEDULING

A. Upon DE's receipt of Applicant's Notice to Proceed and the satisfaction or mutual waiver of the conditions precedent set forth in Article 3 above, DE will commence performance of the Relocation Work.

B. DE shall endeavor to complete the Relocation Work within 18 months after the Notice to Proceed is received per Article 5A, as said date may be extended for reasons beyond the fault or control of DE.

C. DE may utilize contractors in the performance of the Work, but such use of contractors shall not relieve DE of any of its obligations under this Agreement. Any such contractor shall not be considered a contractor to Applicant and Applicant shall not enter into any contracts directly with any such contractors during the term of this Agreement regarding any work associated with the conversion project anticipated under this Agreement.

D. If the Work falls behind schedule: (i) for reasons due to a Force Majeure event (as defined in Article 14) or any other reason not due to the fault or beyond the control of DE, its contractors, agents or employees; (ii) as the result of the actions or inactions of Applicant, its contractors, employees or agents ("Applicant Delay"), or (iii) as a result of the actions or inactions of any third parties, the time period referenced in Section 8.B above shall be extended for each such day of delay. Further, in the event of any such delay, DE, at its sole discretion, may accelerate the performance of the Work to mitigate the impact of such delay on the schedule. To the extent the delay is attributable to an Applicant Delay; Applicant shall be liable to DE for all increased costs and expenses incurred by DE, including any acceleration or other schedule impact costs and delay damages incurred by DE or its contractors, as a result of such delay. All such increased cost and expenses, damages, acceleration and other impacts associated with any such delay shall be deemed Additional Work under this Agreement. If Applicant refuses to execute an amendment to this Agreement reasonably acceptable to DE equitably adjusting DE's time and compensation under this Agreement for such Additional Work, among any other rights or remedies it may have hereunder, DE may suspend all or any portion of the Work until such time as that amendment is executed by the Parties and delivered to DE. If the delay is due to any reason other than an Applicant Delay or the fault or neglect of DE, Applicant shall have the right to request DE to accelerate its performance of the Work, to the extent commercially reasonably

ISSUED BY: **Lori Cross, Manager, Regulatory Services - Florida**

EFFECTIVE: _____

possible, in an attempt to mitigate the impact of the delay upon the schedule. Provided, however, DE shall perform such requested acceleration work only if the Parties reach written agreement upon the scope and the time and compensation adjustment for such acceleration work, which agreement shall be in the form of an amendment to this Agreement, and the acceleration work shall be deemed Additional Work hereunder. Until such amendment is executed by the Parties, DE shall have no obligation to accelerate its performance of the Work as a result of any such delay. If the Work falls behind schedule for reasons attributable to the fault or neglect of DE, its contractors, agents or employees, DE shall, to the extent commercially reasonably possible and as Applicant's sole and exclusive remedy for any such delay, accelerate its performance of the Work in an attempt to mitigate the impact of such delay upon the schedule, at no increased cost to Applicant.

ARTICLE 9. ADDITIONAL WORK

Any Additional Work to be performed by DE beyond the Relocation Work with respect to this underground conversion project must be authorized by a written amendment to this Agreement executed by both Parties. DE shall not be required to perform any Additional Work except to the extent a mutually acceptable amendment is executed by the Parties that sets forth the scope, compensation, schedule and other relevant terms concerning such Additional Work. To the extent the Additional Work involves the underground conversion of overhead facilities owned by DE that are not included within the scope of Relocation Work, Applicant may request DE to provide a binding estimate for the cost of such Additional Work ("Additional Binding Cost Estimate"). In the event that Applicant makes such a request, Applicant shall be required to pay an additional deposit ("Additional Deposit") in an amount to be mutually agreed to by the Parties. If the Parties fail to reach agreement on the Additional Deposit or Applicant otherwise fails to pay the Additional Deposit, DE shall not be required to provide the Additional Binding Cost Estimate. In the event an Additional Binding Cost Estimate is provided by DE for certain Additional Work, but the parties fail to reach agreement on the amendment for such Additional Work within 180 days from the date the Additional Binding Cost Estimate is provided to Applicant, besides not being required to perform such Additional Work, DE shall retain the Additional Deposit as compensation for preparing and providing the Additional Binding Cost Estimate. Notwithstanding anything herein to the contrary, in the event Applicant requests DE to perform additional underground conversion work beyond the scope of the Work then authorized by this Agreement, DE shall have the right to require any such work be performed pursuant to a new and separate agreement between the Parties.

ARTICLE 10. DIFFERING SITE CONDITIONS; INSPECTIONS BY THE APPLICANT

A. DE shall stop the performance of the Work and immediately notify Applicant, if any of following differing or changed site conditions is discovered:

1. Subsurface or latent physical conditions in the Cable Route differing materially from those anticipated by DE in preparing its Binding Cost Estimate or Additional Binding Cost Estimate, as applicable; or
2. Other conditions, differing materially from those reflected in any information or documents concerning site conditions provided to or obtained by DE or of a nature not ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement.

B. As soon as practical after such notice, DE shall provide Applicant a written notice including a general description of any such differing or changed site conditions, a determination of whether DE can proceed with the Work despite such conditions and, if so, whether such conditions will cause an increase or decrease in the cost of, or the time required for, performance of the Work. Upon receipt of any such notice, and if DE has determined it can proceed with the Work, Applicant may either (i) request the Work to proceed, in which event, all increased and additional work incurred by DE in response to the differing or changed conditions shall be deemed Additional Work subject to the terms of Article 9 above, (ii) request DE to otherwise modify the scope of the Work to avoid the cost of the differing or changed conditions on terms mutually acceptable to both Parties, or (iii) request DE to discontinue the Work and demobilize its work force. Applicant shall issue its request in writing to DE as soon as possible, but in any event, within five (5) business days from its receipt of the notice. In the event Applicant exercises its right under (iii) above, it shall be considered a termination for convenience by Applicant and DE shall determine the Final Price based on the Work performed, including DE's reasonable demobilization costs. The Parties acknowledge that any costs associated with differing or changed site conditions are separate and not included in the Binding Cost Estimate or any Additional Binding Cost Estimate.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

C. The discovery of hazardous material within the Cable Route, not specifically identified in either the Work Request or applicable amendment with respect to its location and quantity, shall be deemed to be a differing site condition pursuant to this Article. If hazardous materials are discovered, DE shall give prompt notice to Applicant of such discovery and stop that portion of the Work affected by such materials, and DE shall not recommence such portion of the Work until Applicant, at no cost to DE, has removed or otherwise neutralized such hazardous materials to DE's satisfaction. Any such suspension of the Work being deemed an Applicant Delay, with Applicant being responsible for all costs and damages as provided in Article 8 above. To the maximum extent permitted by law, Applicant agrees to indemnify, defend and hold DE and its contractors, employees and agents harmless from any cost, expense, damage, claim, liability, obligation, demand, loss, cause of action, or suit arising out of or relating to any such hazardous materials encountered during the performance of the Work, except to the extent such hazardous materials were brought onto the Cable Route by DE or its contractors, employees or agents. This indemnification, defense and hold harmless obligation shall survive the termination or expiration of this Agreement.

D. Applicant reserves the right during the performance of the Work to conduct, at its own expense, reasonable field inspections to verify compliance of the Work with the requirements of this Agreement, provided, however, that any such inspections by Applicant shall be conducted in a manner so that they do not unreasonably interfere with or delay the performance of the Work. Applicant shall promptly notify DE in writing of any Work that is incomplete or otherwise fails to comply with this Agreement. Any such Work that the Parties mutually agree to be non-compliant or incomplete shall be corrected by DE.

ARTICLE 11. WARRANTY

A. In the event that DE uses its own employees to perform such portions of the Work performed under this Agreement, DE warrants only that such Work hereunder shall be performed with that degree of skill and care which is customarily exercised in the industry by experienced firms with respect to work of a similar or like nature. In the event that DE hires a contractor to perform a portion of the Work required hereunder, DE makes no warranties or representations concerning that Work, except DE agrees to assign the contractor's warranties, if any, to Applicant for such Work.

B. EXCEPT AS EXPRESSLY STATED HEREIN, DE MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WHETHER STATUTORY, BY OPERATION OF LAW OR OTHERWISE, AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ALL WARRANTIES ARISING FROM COURSE OF DEALING AND USAGE OF TRADE, OR ANY OTHER MATTER WITH RESPECT TO THE WORK PERFORMED HEREUNDER. ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE EXPRESSLY WAIVED.

ARTICLE 12. INDEMNIFICATION

Subject to the other terms of this Agreement, including the terms of Article 13 below, the Parties shall indemnify, defend and hold each other harmless from any and all claims, liabilities, obligations, damages, costs and expenses (including, but not limited to, reasonable attorney's fees) or causes of action of whatsoever kind or nature for injury to or death of any person (including indemnitee's employees), and for damage to or destruction of property (including indemnitee's property), to the extent resulting from any or all negligent acts or omissions or willful misconduct of the indemnifying Party or anyone for whose acts that the indemnifying Party may be liable in connection with this Agreement. The indemnification, defend and hold harmless obligation shall survive the termination or expiration of this Agreement.

ARTICLE 13. LIMITATION OF LIABILITY

A. Notwithstanding anything in this Agreement to the contrary, in no event shall DE be liable for demands by Applicant for any incidental, indirect, special, consequential, exemplary, punitive, or multiple damages resulting from any claim or cause of action, whether brought in contract, tort, or under any other legal theory.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

B. Notwithstanding anything in this Agreement to the contrary, DE's sole liability to Applicant for any non-conforming Work shall be to correct the defective Work, of which written notice must be given by Applicant to DE no later than seven (7) business days after such non-conforming Work is discovered or should have reasonably been discovered by Applicant. In any event, the aggregate liability of DE to Applicant arising out of or in connection with this Agreement shall not exceed the Final Price payable to DE for the Work performed hereunder.

ARTICLE 14. FORCE MAJEURE

A. Except for a Party's obligation to pay the other Party any sum of money owed it hereunder, neither Party shall be liable for its failure to perform hereunder if such failure is due to any act or circumstance beyond the reasonable control, and not due to the fault or neglect of, of the Party claiming the event of Force Majeure event including, but not limited to the following acts or circumstances: (i) act(s) of God, (ii) war or wars, (iii) government regulation by a governmental authority having jurisdiction (including, but not limited to, any law, rule, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency), (iv) act(s) or threatened act(s) of terror, including, but not limited to any acts by organized groups of terrorists or any acts of a public enemy (v) disaster(s) (including, but not limited to, hurricane, tornado, tropical storm, earthquake, or major storm), (vi) any pandemic, epidemic, pestilence, plague, or outbreak, (vii) strike, lockout, or industrial disputes, (viii) civil disorder, riot, or disturbance of the peace, (ix) any third party act for which the Party who fails to perform is not responsible, or (x) any other condition or circumstance, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) beyond the reasonable control and fault of the Party claiming the Force Majeure event.

B. In the event that either Party is rendered unable, wholly or in part, by reason of an event of Force Majeure to perform any obligations set forth in the Agreement, other than an obligation to pay a sum of money owed hereunder by one Party to the other, then such Party shall give the other Party written notice and reasonably full particulars of such event as soon as practicable after the occurrence thereof, and thereafter, the obligations of both Parties shall be suspended to the extent and for the period of such Force Majeure condition and such cause shall be remedied with all reasonable dispatch. Settlement of strikes and lockouts shall be entirely within the discretion of the Party affected and the requirement that any event of Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the parties directly or indirectly involved in such strikes or lockouts when such course is inadvisable in the discretion of the Party having such difficulty.

C. To the extent the Force Majeure event causes a delay or an increase in costs or expenses to DE, Applicant shall be liable to DE for all increased costs and expenses incurred by DE, including any acceleration or other schedule impact costs and delay damages incurred by DE or its contractors, as a result of such Force Majeure event. All such increased cost and expenses, damages, acceleration and other impacts associated with any such delay shall be deemed Additional Work under this Agreement. If Applicant refuses to execute an amendment to this Agreement reasonably acceptable to DE equitably adjusting DE's time and compensation under this Agreement for such Additional Work, among any other rights or remedies it may have hereunder, DE may suspend all or any portion of the Work until such time as that amendment is executed by the Parties and delivered to DE.

ARTICLE 15. NOTICE

A. Unless otherwise stated herein, any notice required hereunder must be given in writing to the below-designated representative of each Party within the required specified period of time. Notice is deemed to be delivered by the Party providing such notice to the receiving Party at the address provided in Paragraph B below in the following manner: (1) upon hand-delivery; (2) upon confirmation of transmittal by facsimile or telex; (3) within five (5) business days after depositing such notice with the United States Postal Service first-class, registered or certified mail; or (4) within two (2) business days after depositing such notice with a nationally-recognized overnight courier service.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____



B. The Parties' respective authorized representatives and mailing addresses are as follows:

DE:

Duke Energy Florida, LLC

Attn: _____

Fax: _____

The Applicant:

The _____ of _____

Attn: _____

Fax: _____

C. Either Party may change its address or designated representatives for the receipt of notice, requests or other communications hereunder by providing the other Party with notice within ten (10) business days and in accordance with Paragraph A of this Article.

ARTICLE 16. TERMINATION

In the event either Party is unable to perform its obligations because of any Force Majeure as defined in Article 14 herein, the Party awaiting performance by the other Party may elect to terminate this Agreement by giving written notice to the non-performing Party if the Force Majeure exceeds one hundred twenty (120) days. In the event either Party is in default of any of its material obligations under this Agreement, the non-defaulting Party shall notify the defaulting Party in writing, setting forth in detail the default. If the defaulting Party fails to commence to diligently and continuously cure such default within fourteen (14) days of receipt of the written notice from the non-defaulting Party, the non-defaulting Party may terminate this Agreement upon giving the defaulting Party written notice of such termination. Within approximately ninety (90) days following any termination of this Agreement, DE shall furnish to Applicant the Final Statement referenced in Article 7 above setting forth the Final Price for the Work to be paid by Applicant, including DE's reasonable demobilization costs.

ARTICLE 17. DISPUTE RESOLUTION

Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties shall meet at a mutually acceptable time and place within ten (10) business days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. In such meetings and exchanges, a Party shall have the right to designate any information that a Party offers as confidential, and no designated confidential information exchanged in such meetings for the purpose of resolving a dispute will be used by a Party in litigation against another Party. If the matter has not been resolved by these individuals within thirty (30) calendar days of the disputing Party's notice, or if the Parties fail to meet within ten (10) business days as required above, either Party may initiate mediation as provided hereinafter. The mediation proceeding shall be conducted in accordance with the then current Center for Public Resources ("CPR") Model Procedure for Mediation of Business Dispute or other mutually agreed upon procedures, with the following exceptions:

(1) if the Parties have agreed to pursue mediation but have not agreed within thirty (30) calendar days of the request for mediation on the selection of a mediator willing to serve, the CPR, upon the request of either Party, shall appoint a member of the CPR Panel of Neutrals as the mediator; and

(2) efforts to reach a settlement shall continue until the conclusion of the proceeding, which is deemed to occur when: a) a written settlement is reached, or b) the mediator concludes and informs the Parties in writing that further efforts would not be useful, or c) the Parties agree in writing that an impasse has been reached. Neither Party may withdraw before the conclusion of the proceeding; provided, however, notwithstanding the foregoing, an impasse shall be deemed to have occurred if the Parties have failed to execute a written settlement within ninety (90) calendar days after the date the mediation proceeding was initiated by either Party.

If the Parties are unable to resolve the dispute and litigation proves necessary, either Party may initiate such litigation.

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

ARTICLE 18. GOVERNING LAW AND VENUE

This Agreement and the rights and obligations of the Parties to this Agreement shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to any principles of conflicts of laws where the giving of effect to any such principles would result in the laws of any other state or jurisdiction being applied to this Agreement.

ARTICLE 19. ENTIRE AGREEMENT

The Agreement constitutes the entire understanding between DE and Applicant relating to the subject matter hereof, superseding any prior or contemporaneous agreements or understanding between the Parties. The Parties shall not be bound by or be liable for any statement, prior negotiation, correspondence, representation, promise, draft agreements, inducement or understanding of any kind or nature not set forth or provided for herein. No prior course of dealing, usage of trade or course of performance shall be used to supplement or explain any term, condition, or instruction used in this Agreement.

ARTICLE 20. MODIFICATION

No statements or agreements, oral or written, made prior to the date hereof, shall vary or modify the written terms set forth herein and neither Party shall claim any amendment, modification or release from any provision hereof by reason of a course of action or mutual agreement unless such agreement is in writing, signed by both Parties and specifically states it is an amendment to this Agreement.

ARTICLE 21. WAIVER

There shall be no waiver by either Party of any right, remedy, term, condition, or provision of this Agreement unless such waiver is expressed in writing and signed by the Party against which such waiver is sought to be enforced. Nor shall any usage of trade, course of dealing, practice of performance, or failure to strictly enforce any term, right, obligation or provision of this Agreement by either Party be construed as a waiver of any provision herein unless such waiver is expressed in writing and signed by the Party against which such waiver is sought to be enforced.

ARTICLE 22. SEVERABILITY

In the event any provision, or any part or portion of any provision of this Agreement shall be deemed or defined by any law or order any court or any governmental agency, or regulatory body having jurisdiction over either Party, or held or declared by a court of competent jurisdiction to be unlawful, invalid, void or otherwise unenforceable, the rights and obligations of the Parties shall be reduced or abated only to the extent required to remove or cure such illegal or unenforceable portion, so long as the Agreement is not affected in a manner or to the extent which would render it economically, technically, materially, or commercially infeasible to either Party.

ARTICLE 23. SURVIVAL OF PROVISIONS

Neither termination nor cancellation of this Agreement shall be deemed to relieve the Parties of any obligations hereunder that by their nature survive termination or cancellation including, but not limited to, all warranty, indemnification, and limitation of liability obligations.

ARTICLE 24. CAPTIONS

The headings used throughout this Agreement are inserted for reference purposes only and are in no way to be construed as a limitation of the scope of the particular sections to which they refer.

ARTICLE 25. REPRESENTATIONS AND WARRANTIES FROM APPLICANT

25.1 Applicant represents and warrants as follows:

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

A. Applicant is a [public body/association/company] duly formed, validly existing, and in good standing under the laws of the State of Florida with its principle place of business and chief executive offices at its address set forth herein.

B. This Agreement, including all Exhibits referenced herein, on execution, will constitute valid obligations of Applicant, enforceable in accordance with their terms. The consummation of the transactions or actions contemplated by this Agreement, and the performance of any of the terms and conditions of this Agreement, will not result in a breach of, or constitute a default in, Applicant's organizational documents or in any deed, deed of trust, covenant, restriction of record, note, loan agreement, credit agreement, bond or trust indenture, or any other agreement to which Applicant is a party or by which Applicant may be bound or affected. Applicant is not in default of any order of any court or any requirement of any governmental authority that could materially adversely affect this Agreement or the easements or rights-of-way for and property along the Cable Route.

C. This Agreement is not misleading, and fully and fairly states all material facts relevant to the matters with which it purports to deal. There is no fact of which Applicant is aware that Applicant has not disclosed to DE in writing that could materially adversely affect this Agreement or the easements or rights-of-way for and property along the Cable Route. Applicant has furnished DE with a true and complete copy of all documents relating to this Agreement.

D. Applicant holds or will hold within the time periods set forth in this Agreement for obtaining easements and rights-of-way necessary for the Work, full legal and equitable title to the easements and rights-of-way obtained and provided to DE for the Work. The terms and conditions of all new easements and rights-of-way to be provided by Applicant hereunder, shall be substantially similar to the terms and conditions of the original easements or rights-of-way for the existing overhead facilities being relocated hereunder, unless otherwise agreed to in writing by DE, in its sole discretion.

E. There are no actions, suits, or proceedings pending or, to the knowledge of Applicant, threatened, in any court or before or by any governmental authority against or affecting Applicant or any of the property along the Cable Route, which, if adversely determined, would have a material adverse effect on the property along the Cable Route or impair the ability of Applicant to complete its obligations under this Agreement, or which involve the validity, enforceability, or priority of this Agreement and any easements or rights-of-way for the Work, at law or in equity.

F. There are no governmental requirements prohibiting the use and operation of the property along the Cable Route for the Relocation Work. There are no, nor are there any alleged or asserted, violations of governmental requirements, law, regulations, ordinances, codes, permits, licenses, declarations, covenants, conditions, or restrictions of record, or other agreements relating to the easements and rights-of-way for or property along the Cable Route. Applicant has obtained or is not aware of any reason why it cannot obtain all necessary easements, rights-of-way, permits, licenses, consents, or approvals for performance of the Relocation Work.

G. DE will have adequate access to perform the Relocation Work. Further, the property along the Cable Route is not located in a flood zone as defined in the Flood Disaster Protection Act of 1973, as amended, and the property along the Cable Route is not located within wetlands as defined by any governmental authority, or where wetlands are located on the property along the Cable Route, they have been delineated and all required governmental approvals for the Relocation Work have been obtained by Applicant.

H. The Applicant warrants and represents that it has the legal authority and is duly authorized to enter into each and every provision within this Agreement and to abide by and comply with each and every provision in this Agreement.

25.2 The representations and warranties in this Agreement are made by Applicant as an inducement to DE to enter into this Agreement and Applicant understands that DE is relying on these representations and warranties. These representations and warranties shall survive any breach or default of this Agreement, any bankruptcy

ISSUED BY: **Lori Cross, Manager, Regulatory Services - Florida**

EFFECTIVE: _____



proceedings involving Applicant, any termination of this Agreement, and any assignment or conveyance of this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date and year first above written.

DUKE ENERGY FLORIDA, LLC D/B/A

DUKE ENERGY

By: _____

By: _____

printed name

printed name

title

title

ISSUED BY: Lori Cross, Manager, Regulatory Services - Florida

EFFECTIVE: _____

July 25, 2018

Brett Warner
City of St Pete Beach
155 Corey Avenue
St Pete Beach, FL 33706

Subject: *Binding cost estimate to underground facilities on Blind Pass Road*

Dear Mr. Warner:

Thank you for submitting your request to Duke Energy. The purpose of this proposal is to provide a binding cost estimate for the area you have identified. The effective date of this proposal is July 25, 2018. This cost estimate is based on current labor and material rates and is valid for 180 days. Requests beyond that period will require review and adjustments as needed.

Project Scope

Underground the existing Duke Energy electrical facilities on Blind Pass Rd, between Gulf Boulevard and 74th Avenue. City of St Pete Beach to install all of the conduit and associated material, including pull boxes, for the new underground. Details to be provided on Schedule 1 of the Agreement.

Binding Cost Estimate

The binding cost estimate for the area identified above is: \$492,065.29

Proposal Assumptions

Below is a non-inclusive list of assumptions used in calculating this estimate:

- City of St Pete Beach to install conduit and associated material including pull boxes for Duke Energy Florida, LLC. Requirements that must be met for conduit/box installation will be provided prior to starting construction. Cost estimate does not include conduit material required by Duke Energy.
- All underground facilities to be located in private property easements, not in the right of way. Easements to be obtained by customer at no cost to Duke Energy.
- Does not include cost to underground joint users, such as telephone and cable television.
- Does not include cost for restoration of any street, right of way, easement, private property or pavement reconstruction that may be necessary as a result of the construction. This cost only includes backfilling the affected area to safe condition.
- Does not include costs associated with new streetlights.
- Does not include cost to replace existing meter can to accept new underground service.
- Does not include any survey work that may be required to identify right of way and easements.
- Does not include cost to replace existing meter cans to accept new underground services. Average cost to install a new underground residential service is \$1,500 plus costs associated to replace the meter can and any city/county permits that may be required.
- Duke Energy's design does not guarantee construction feasibility in the field until a constructability review is completed.



4121 St Lawrence Drive
New Port Richey, FL 34653

c: 727.372.5164
f: 727.372.5117

miriam.tucker@duke-energy.com

Next Steps

Below is a high-level list of next steps if you wish to proceed with this project.

	Task	Responsible Party
1	Gather cost estimates from all other joint utilities (Telephone, cable television, etc...)	Applicant
2	Obtain easements to install facilities and locate equipment	Applicant with support from Duke Energy
3	Coordinate customer obligations and possible outages	Applicant with support from Duke Energy
4	Sign and approve agreements required by Duke Energy. Provide payment to Duke Energy prior to construction start.	Applicant
5	Schedule and complete conversion	Duke Energy / Other utilities

Enclosed is a copy of the Duke Energy Tariff that applies to these types of projects as well as a copy of the "Underground Conversion Agreement Based on a Binding Cost Estimate" contract that will need to be approved and signed by all parties should you decided to proceed.

If you would like to proceed with this project, please contact me at (727)372-5164 or at the email address above. We appreciate your business and look forward to providing you with excellent customer service.

Sincerely,

Miriam Tucker

Miriam Tucker
Project Manager
1 Distribution Force (1DF) – Project Management

UTILITY REIMBURSEMENT AGREEMENT
City of St Pete Beach – Blind Pass Road (from 75th Ave to Gulf Blvd)

THIS AGREEMENT, made and effective this _____ day of _____, 20_____, is by and between **Duke Energy Florida, LLC, d/b/a Duke Energy**, a Florida corporation (hereinafter referred to as “DEF”), and **City of St Pete Beach**, in Florida (hereinafter referred to as “the Local Government”).

WITNESSETH:

WHEREAS, as a Florida public utility, DEF has the right under Florida law to construct, operate and maintain its utility facilities upon Florida public road right of way including but not limited to, **Blind Pass Road in Pinellas County, City of St Pete Beach, Florida**; and

WHEREAS, DEF has constructed and now operates and maintains certain electric line facilities near, upon, along, within and/or adjoining **Blind Pass Road (from 75th Ave to Gulf Blvd)**, all of which are more particularly depicted or described on the attached Exhibit “A” (hereinafter referred to as “the Utility Facilities”); and

WHEREAS, the Local Government is requesting DEF to convert the overhead Utility Facilities to underground (“UGC Work”); and

WHEREAS, simultaneous with execution of this Reimbursement Agreement, DEF and Local Government have entered into that certain Underground Conversion Agreement (“UGC Agreement”) to perform such underground UGC Work.

WHEREAS, the UGC Agreement requires, among other things, that Local Government secure certain property rights for the UGC Work as further described therein.

WHEREAS, as consideration for DEF relocating the Utility Facilities in accordance with the UGC Agreement, Local Government hereby agrees to pay the costs in accordance with the UGC Agreement as well as this Reimbursement Agreement; **NOW, THEREFORE**,

for and in consideration of the mutual promises from, to and between DEF and the Local Government, hereinafter contained, DEF and the Local Government do hereby agree to and with each other, as follows:

Recitals. The Parties agree that the above recitals are true and correct and are incorporated into this Agreement.

UGC Work. DEF will relocate the Utility Facilities as depicted in the UGA. The preliminary estimated cost thereof is set forth in the UGA.

Future Relocation Work.

A. As consideration for DEF relocating the Utility Facilities in accordance with the UGC Agreement, Local Government hereby agrees to pay (1) all costs incurred by DEF in accordance with the terms of the UGC Agreement and (2) for any and all future relocation costs and expenses incurred by DEF to the extent such Utility Facilities need to be relocated due to any local, state, or federal road or highway improvement project or for any other work or project of the Local Government or other governmental agency or third party entity which interferes with the Utility Facilities (“Future Relocation Work”). The Local Government shall reimburse DEF for the costs incurred by DEF to perform any Future Relocation Work within thirty (30) days of receipt of an invoice from DEF for such Future Relocation Work. Said statement shall include supporting documentation to substantiate the invoice. DEF shall have the right to submit such statements for progress payments as the Work proceeds and such statements shall be paid within thirty (30) days of receipt.

B. DEF shall not start the Work or any Future Relocation Work until all conditions precedent set forth in the UGA and below have been satisfied by Local Government, including but not limited to the following: (a) written notice has been given to DEF by the Local Government that (i) the Work has been authorized and funds are available to reimburse DEF, and (ii) all necessary public road right of way and easement areas have been acquired for the Work and all obstructions or obstacles have been removed (clean, cleared and ready to go) and all utility locates have been performed, (b) the Local Government has denoted the public road right of way line in the area of the Work, by staked survey at not more than 100 foot intervals with station markings, (c) the Local Government has trimmed/removed all vegetation away from the public road right of way in the area of the Work, as reasonably determined by DEF, and (d) the

Local Government and DEF have executed the Underground Conversion Agreement and this Reimbursement Agreement for the Work.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by through their duly authorized representatives, effective the date first above written.

DUKE ENERGY FLORIDA, LLC

(Signature)

(Name, Printed or Typed)

(Position)

City of St Pete Beach

By: _____

Printed Name: _____

Printed Title: _____

Dated: _____

By: _____

Printed Name: _____

Printed Title: _____

Dated: _____

By: _____

Printed Name: _____

Printed Title: _____

Dated: _____

Attest:

Treasurer

SUMMARY

All terms used herein shall have the same meaning as those used in the Agreement to which this Exhibit is attached, except as otherwise expressly noted herein. The Relocation Work consists of converting Duke Energy Florida's ("DE") power line Facilities identified herein from overhead ("OH") to underground ("UG"). Applicant is working independently with all other utilities that may be impacted by this Work Request. Where reasonably possible, DE will endeavor to enter into joint trench agreements with such other utilities. The UG Facilities are to be installed in the easements and rights-of-way provided by Applicant.

SCOPE OF WORK

- The specific Facilities to be converted from OH to UG as part of the Relocation Work are set forth in more detail in attached Schedule 1. Schedule 1 drawings to be provided to applicant prior to construction start.
- The plans and specifications for the Relocation Work, if any, are identified in attached Schedule 2.
- Prior to the start of Work in any particular area, DE shall seek to locate all pre-existing UG utilities that might lie within the anticipated Cable Route in accordance with the guidelines established within the "Call Sunshine" program.
- DE and its contractors and consultants shall not be responsible for any damage to any pre-existing UG utilities or improvements not identified under the Call Sunshine program. Such facilities not identified under the guidelines of Call Sunshine program are to be located by and are the responsibility of Applicant.
- Applicant to install entire conduit system including pull boxes for the new underground per DE specifications. Applicant to provide all conduit material.
- All new conduit to be mandrelled and string pulled to verify connectivity prior to DE taking ownership of the conduit. All new conduits must be installed per DE specifications and verified by a DE representative during installation. Once DE representative approves said installation, DE will take ownership of conduit.
- DE crews to begin work once conduit system is installed by Applicant and verified by DE representative.
- Restoration of the Cable Route, including all improvements located within it except for those pre-existing UG utilities and improvements identified pursuant to the Call Sunshine program, is not included in the [Binding Cost Estimate/Cost Estimate]. DE's contractors only will be required to backfill and level the easements and rights-of-way within the Cable Route disturbed by the Work. Applicant is responsible for all other restoration work.
- DE will convert the Facilities from OH to UG.
- DE will provide a point of service for all non-residential services. These services will be owned and maintained by their respective customers.



- DE shall be responsible for staking all of its Pedestal, Transformer, and Pull-Box locations. Subject to the terms of the Agreement, DE shall be entitled to reimbursement from Applicant as a cost of the Work all costs associated with installation and/or relocation of any such Pedestal, Transformer, and Pull-Boxes resulting from the Relocation Work.
- Any street lights to be installed shall be based on designs provided by DE. Any such street lights will be metered by DE and DE shall obtain the billing information from relevant customers seeking such lighting.
- Meter-can conversions will be coordinated by DE under a separate contract with N/A.
- Applicant is required to obtain all necessary letters of consent from all customers affected by the Work.
- Applicant is responsible for clearly staking and clearing the easements and rights-of-way along the Cable Route in a timely manner so as to cause no delay to DE's performance of the Work.
- Applicant shall provide the necessary easement(s) to allow access and installation of DE underground cables and equipment in easements as designated by DE.
- Applicant shall provide, at no cost to DE, a staging site for DE, its contractors and consultants to use for the purpose of field offices, storage and set-up with respect to the Relocation Work. Such staging site is to be located at N/A.



WORK ORDER DRAWINGS

- DE shall provide a copy of the preliminary work order drawing(s) of the design to Applicant, if requested. Work request drawings are construction prints for DE crews and are subject to change based on field conditions.



Schedule 2 – Plans and Specifications

City of St Pete Beach – Blind Pass Rd
Undergrounding Project

PLANS AND SPECIFICATIONS

- DE shall provide a copy of the preliminary work order drawing(s) of the design to Applicant, if requested. Work request drawings are construction prints for DE crews and are subject to change based on field conditions.



Schedule 3 – Planned Sequencing and Schedule

City of St Pete Beach – Blind Pass Rd

Undergrounding Project

PLANNED SEQUENCING

- Applicant has asked DE to start the Relocation Work at the following location: N/A.

SCHEDULE

- DE shall endeavor to complete the Relocation Work within 18 months after the Notice to Proceed is received and conduit system has been installed and verified for connectivity. Conduit system must meet DE standards prior to DE beginning work.
- DE shall not be required to perform any work on weekends or holidays.
- DE shall notify Applicant when work is scheduled to begin.

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

Issue Considered: Resolution 2018-12: Authorizing and directing execution and delivery of a joinder to agreement and declaration of trust creating and establishing the Florida Local Government Investment Trust; and providing an effective date.

Date: September 11, 2018

Prepared By: Vincent Tenaglia, Administrative Services Director

Through: Wayne Saunders, City Manager

Summary of Issue: Staff is requesting authorization to diversify the City's cash and investment portfolio by establishing a new account with an authorized local government investment pool. The Florida Local Government Investment Trust is a local government investment pool established pursuant to Florida Statutes s. 163.01 and 218.415, which invests in short-term, highly liquid securities and is an eligible investment under the City's current investment policy.

Fund summary:

- Stable net asset value fund (\$1.00/share)
- Rating per S&P: AAAM (highest fund rating)
- Approximate balance: \$667,000,000
- Yield as of July 30, 2018: 2.07%
- Daily liquidity
- No minimum investment balance

Authorization provides staff the discretion to re-balance the City's portfolio. The City is not obligated to any financial actions or minimum investment upon approval.

Requested Motion: "I move to approve Resolution 2018-12 (read title)."

Attachment: Resolution 2018-12
Exhibit A

**Reviewed by the
City Manager:** WS

RESOLUTION 2018-12

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY OF A JOINDER TO AGREEMENT AND DECLARATION OF TRUST CREATING AND ESTABLISHING THE FLORIDA LOCAL GOVERNMENT INVESTMENT TRUST; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, THAT:

SECTION 1. Definitions. Unless the context of use clearly indicates another meaning or intent, the following words and terms as used in this Resolution shall have the following meanings.

"City" shall mean the City of St. Pete Beach, a municipal corporation organized under the laws of the State of Florida.

"Clerk" shall mean the City Clerk, or such other person as may be duly authorized to act on his or her behalf.

"Commission" shall mean the City Commission of St. Pete Beach, Florida.

"Florida Trust" shall mean the Florida Local Government Investment Trust.

"Investment Fund" or "Investment Funds" shall mean one or more trust funds established pursuant to the Trust Agreement to enable public entities to pool their surplus funds for joint investment.

"Joinder Agreement" shall mean the Joinder to Agreement and Declaration of Trust between the City and the Florida Trust, in substantially the form appended hereto as Exhibit A.

"Mayor" shall mean the Mayor of St. Pete Beach, or such other person as may be duly authorized to act on his or her behalf.

"Resolution" shall mean this Resolution, as the same may from time to time be amended, modified or supplemented.

"Trust Agreement" shall mean the Agreement and Declaration of Trust, dated as of December 1, 1991, creating and establishing the Florida Trust, as amended, a composite of which is attached to the Joinder Agreement as Appendix A thereto.

SECTION 2. Findings. It is hereby determined that:

(A) It furthers the public interest for the City to invest any monies not immediately required to be disbursed and to maximize the net earnings on such funds.

(B) The Florida Local Government Investment Trust has been established pursuant to the Trust Agreement for the purpose of establishing one or more Investment Funds for pooling surplus funds of public entities for joint investment.

(C) The City desires to have the Investment Funds available if they become an advantageous investment for the City's surplus funds; the investment policy adopted pursuant to Section 218.415, Florida Statutes, permits investment in the Investment Funds established by the Florida Local Government Investment Trust.

(D) The City is required to become a party to the Trust Agreement as a condition precedent to participation in any Investment Fund.

(E) The City Clerk or comparable officer has approved the City's participation in the Florida Trust, which is a condition precedent to participation in the Florida Trust.

SECTION 3. Authorization of Trust Agreement. The City Commission hereby authorizes and directs the Mayor to execute, and the City Clerk to attest under the seal of the City, the Joinder Agreement for the purpose of becoming a party to the Trust Agreement and evidencing the City's agreement to become bound by the terms thereof. The Mayor is further directed to deliver the Joinder Agreement to the Florida Trust for execution by its appropriate officers. Upon execution and delivery of the Joinder Agreement by the City and the Florida Trust, all of the terms and provisions of the Joinder Agreement and the Trust Agreement shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein. The Joinder Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor. Execution of the Joinder Agreement by the Mayor shall be deemed to be conclusive evidence of approval of such changes.

SECTION 4. Effective Date. This Resolution shall take effect immediately upon adoption.

CITY COMMISSION, CITY OF ST. PETE
BEACH, FLORIDA.

Alan Johnson, Mayor

ATTEST:

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Andrew Dickman, City Attorney

EXHIBIT A

JOINDER TO AGREEMENT AND DECLARATION OF TRUST

**JOINDER TO
AGREEMENT AND DECLARATION OF TRUST**

THIS JOINDER TO AGREEMENT AND DECLARATION OF TRUST is made and entered into as of _____, 2018, by and between the City of St. Pete Beach, Florida (the "City") and the Florida Local Government Investment Trust ("Florida Trust").

WHEREAS, it furthers the public interest for the City to invest any monies not immediately required to be disbursed and to maximize the net earnings on such funds; and

WHEREAS, the Florida Trust has been established for the purpose of establishing one or more investment funds (each referred to herein as an "Investment Fund") for pooling the surplus funds of participating public entities for joint investment in order to seek a higher rate of return without compromising the safety of such funds; and

WHEREAS, the City desires to have the Investment Funds available should they be determined, at any time, to be an advantageous investment for the City's surplus funds; and

WHEREAS, the Investment Funds are only available to public entities that have become parties to the Agreement and Declaration of Trust creating the Florida Local Government Investment Trust, dated as of December 1, 1991 (the "Trust Agreement"), as amended; and

WHEREAS, the City Clerk or comparable officer has previously approved the City's participation in the Florida Trust.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the City and the Florida Trust hereby agree as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct, and incorporated herein by reference.

SECTION 2. JOINDER IN TRUST AGREEMENT. Upon execution and delivery of this Joinder Agreement, the City shall become a full party to the Trust Agreement, the form of which is attached hereto as Appendix A and incorporated herein by reference, pursuant to Section 2.03 thereof.

SECTION 3. COUNTERPARTS. This Joinder Agreement may be simultaneously executed in two or more counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The signatures of parties appearing on one or more counterparts shall bind them as fully as though all such parties had signed the same counterpart.

IN WITNESS WHEREOF, the Florida Local Government Investment Trust and the City have caused this Joinder Agreement to be executed and attested by its duly authorized officers, all as of the date first above written.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**FLORIDA LOCAL GOVERNMENT
INVESTMENT TRUST**

By: _____
Chairman of the Board of
Trustees

ATTEST:

Secretary of the Board of Trustees

**CITY OF ST. PETE BEACH,
FLORIDA**

By: _____
ALAN JOHNSON
Mayor

APPENDIX A

FORM OF AGREEMENT AND DECLARATION OF TRUST

**FORM OF
AGREEMENT AND DECLARATION OF TRUST
Creating and Establishing the
FLORIDA LOCAL GOVERNMENT INVESTMENT TRUST
Reflecting Amendments as of March 23, 2012**

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AGREEMENT AND DECLARATION OF TRUST

THIS AGREEMENT AND DECLARATION OF TRUST is made and entered into as of December 1, 1991, by and among Brevard County, Hernando County, Manatee County and Orange County, as the initial participants of the Florida Local Government Investment Trust (the "Initial Participants") and Robert L. Anderson, Scott I. Cowan, Martha O. Haynie, Karen Nicolai, Richard B. Shore and Terry R. Wood, as the initial Trustees of the Florida Local Government Investment Trust (the "Initial Trustees").

WITNESSETH:

WHEREAS, it furthers the public interest for public entities to invest any monies not immediately required to be disbursed and to maximize the net earnings on such funds; and

WHEREAS, the Initial Participants each desire to enter into a trust agreement and thereby establish one or more investment funds (each referred to herein as an "Investment Fund") for pooling their surplus funds for joint investment in accordance with the provisions of this Agreement and Declaration of Trust (the "Agreement"); and

WHEREAS, each of the Initial Participants has duly taken all official action necessary and appropriate to become a party to this Agreement; and

WHEREAS, it is the desire and intent of the Initial Trustees to serve in the capacity of trustees of the Florida Local Government Investment Trust for the purpose of operating, managing and maintaining the assets and liabilities thereof; and

WHEREAS, it is the intent and purpose of this Agreement to invest the pooled funds only in the manner authorized by applicable law; and

WHEREAS, it is proposed that the beneficial interest of any Participant hereunder in the assets of any Investment Fund created pursuant to the provisions of this Agreement shall be divided into non-transferable shares of beneficial interest, which shall be evidenced by share registers maintained by or on behalf of the Trustees; and

WHEREAS, the Initial Participants anticipate that other public entities may wish to become Participants hereunder by becoming parties to this Agreement;

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the Initial Participants and Participants hereafter added pursuant to the provisions hereof, mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns that all monies, assets, securities, funds and property now or hereafter acquired by the Trustees, their successors or assigns under this Agreement, shall be held and managed in trust for the mutual and

proportionate benefit of the holders of record from time to time of shares of beneficial interest in one or more Investment Funds established pursuant to this Agreement, without privilege, priority or distinction among such holders, and subject to the terms, covenants, conditions, purposes and provisions hereof as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Agreement and Declaration of Trust, the following terms shall have the following meanings unless the context hereof otherwise requires. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations.

"Administrator" shall mean the person or persons appointed, engaged by the Trustees in accordance with the applicable provisions of Section 5.01 hereof, to perform the duties described in Section 5.03 hereof.

"Affiliate" shall mean, with respect to any person, another person directly or indirectly controlled by or under common control with such person, or any officer, director, partner or employee of such person.

"Agreement" shall mean this Agreement and Declaration of Trust, including any amendments, supplements or joinders hereto executed and delivered in accordance with the terms hereof.

"Annual Report" shall mean the annual report required by Section 4.15 hereof.

"Board" shall mean the Board of Trustees responsible for the operation and administration of the Trust.

"Business Day" shall mean any day upon which banks in the State are open to transact regular business.

"Clerk's Association" shall mean the Florida Association of Court Clerks and County Comptrollers.

"County Association" shall mean the Florida Association of Counties, Inc.

"Custodian" shall mean the bank or trust company engaged by the Trustees in accordance with the applicable provisions of Section 6.01 hereof.

"Custodian Agreement" shall mean the agreement between the Trust and the Custodian referred to in Section 6.01 hereof, as the same may be amended from time to time.

"Development Expenses" means any charges or expenses associated with the initial formation of the Trust, including legal fees and amounts advanced by the County Association and the Clerk's Association.

"Education Expenses" means any charges or expenses associated with education and technical assistance, as set forth in Section 4.20 hereof.

"Fiscal Year" shall mean the annual period beginning October 1 of each year and ending September 30 of the following year unless modified by the Trustees pursuant to Section 4.10 hereof.

"Information Statement" shall mean the information statement or other descriptive document or documents adopted as such by the Trustees and distributed by the Trust to Participants and potential Participants of the Trust as the same may be amended by the Trustees from time to time.

"Initial Participants" shall mean Brevard County, Hernando County, Manatee County and Orange County, which are Public Entities of the State and which, acting with respect to the surplus funds of their respective treasuries, formed this Trust by the execution and adoption of this Agreement.

"Initial Trustees" shall mean Robert L. Anderson, Scott I. Cowan, Martha O. Haynie, Karen Nicolai, Richard B. Shore and Terry R. Wood, as the initial Trustees of the Florida Local Government Investment Trust.

"Investment Advisor" shall mean the person or persons engaged by the Trustees in accordance with the applicable provisions of Section 5.01 hereof to perform the duties described in Section 5.02 hereof.

"Investment Advisory Agreement" shall mean the agreement with the Investment Advisor referred to in Section 5.02 hereof as the same may be amended from time to time.

"Investment Fund" shall mean a trust fund established by the Trustees pursuant to Section 4.02 hereof, to enable the Participants to pool their surplus funds for joint investment in accordance with the provisions of this Agreement.

"Net Asset Value" shall mean the aggregate value of Shares in an Investment Fund, determined in accordance with Section 9.02 hereof.

"Operating Expenses" means any charges or expenses which, in the opinion of the Trustees, are necessary or incidental to or proper for carrying out any of the purposes of this Agreement, including appropriate compensation or fees to persons with whom the Trust has contracted or transacted business.

"Participant" shall mean the Initial Participants and the Public Entities which comply hereafter with the provisions of Section 2.03 hereof.

"Permitted Investments" shall mean the investments authorized by the Trustees for any specific Investment Fund, as authorized by Section 4.02 hereof.

"Public Entity" shall mean any municipality, county, public utility, or other political subdivision of the State, or any department, agency, or instrumentality thereof, or any political or public corporation thereof, existing as a local government entity under the Constitution and laws of the State, which is authorized to invest in the Trust. The term "Public Entity" shall be limited to those types of public entities that are political subdivisions of the State of Florida within the meaning of the Internal Revenue Code of 1986, as amended, integral parts of the State of Florida, or entities whose income qualifies for exclusion from gross income pursuant to Section 115 of the Internal Revenue Code of 1986, as amended.

"Share" shall mean the unit used to denominate and measure the respective pro rata beneficial interest of the Participants in the Trust Property, as described in Article VII.

"Share Register" shall mean the register of Shares maintained pursuant to Article VIII hereof.

"Share Value" shall mean the value of each Share in an Investment Fund, determined in accordance with Section 9.03 hereof.

"State" shall mean the State of Florida.

"Transaction Execution Date" means the Business Day on which a Participant's investment in or redemption from an Investment Fund is executed in accordance with the terms hereof.

"Transaction Valuation Date" means (A) with respect to investments, each Transaction Execution Date, and (B) with respect to redemptions, the Business Day immediately preceding each Transaction Execution Date.

"Trust" shall mean the "Florida Local Government Investment Trust" as established and governed by this Agreement.

"Trust Counsel" shall mean the attorney or firm of attorneys, experienced in matter of local government law and duly admitted to practice law in the State, as may be engaged or employed by the Board pursuant to Section 5.04 of this Agreement.

"Trust Property" shall mean, as of any particular time, any and all property, real, personal, or otherwise, tangible or intangible, which is transferred, conveyed or paid to the Trust or Trustees, and all assets, income, profits and gains therefrom and which, at such time, is owned or held by or for the account of the Trust or the Trustees, including but not limited to Permitted Investments.

"Trustees" shall mean the Initial Trustees of the Florida Local Government Investment Trust designated in Section 3.01 of this Agreement or any successors appointed thereafter as provided in said Section 3.01.

SECTION 1.02. SECTION HEADINGS. Any headings preceding the texts of the several Articles and Sections of the Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

ARTICLE II

CREATION AND PURPOSE OF TRUST

SECTION 2.01. CREATION OF TRUST. There is hereby created and established an investment trust for surplus public funds to be known as the "Florida Local Government Investment Trust," the operation and administration of which shall be the responsibility of the Trustees. The Trustees shall conduct the Trust's activities, hold property, execute all documents and sue or be sued as the "Florida Local Government Investment Trust" and such name (and the name "Trust", wherever used in this Agreement or related documents, except where the context otherwise requires) shall refer to the Board of Trustees in their capacity as Trustees, and not individually or personally, and shall not refer to the officers, agents, employees, counsel, advisors, consultants, accountants, or Participants of the Trust or of such Trustees. Should the Trustees determine that the use of such name is not practicable, legal or convenient, they may use such other designation or adopt such other name for the Trust as they deem proper, and the Trust may hold property and conduct its activities under such designation or name. The Trustees shall take such action as they deem necessary or appropriate to file or register such name in accordance with the laws of the State or the United States of America so as to protect and reserve the right of the Trust in and to such name.

SECTION 2.02. PURPOSE AND NATURE OF TRUST.

(A) The purpose of the Trust is to provide Investment Funds through which Public Entities may pool funds which are not immediately required to be disbursed in order to take advantage of Permitted Investments and maximize net earnings, subject to and in accordance with the provisions of the laws of the State, from time to time in effect, governing the investment of funds by such Public Entities.

(B) The Trust is created pursuant to and shall be subject to and governed by all applicable laws of the State. The Trust is not intended to be, shall not be deemed to be, and shall not be treated as a general partnership, limited partnership, joint venture, corporation, investment company, joint stock company, or any other entity or organization other than a local government surplus funds trust fund. The Participants shall be the beneficiaries of the Trust and their relationship to the Trustees shall be solely in their capacity as Participants and beneficiaries in accordance with the rights conferred upon them hereunder.

(C) This Agreement is an agreement of indefinite term regarding the deposit, redeposit, investment, reinvestment and withdrawal of local government funds within the meaning of the laws of the State. The Trust Property shall be invested in compliance with the laws of the State and the provisions hereof.

SECTION 2.03. PARTICIPANT REQUIREMENTS. A Public Entity may become a Participant by (A) agreeing by written instrument to be bound by the terms of this Agreement, and (B) providing written evidence to the Trust that the Clerk of the Circuit Court, County Comptroller or other comparable officer of such Public Entity has approved participation in the Trust, each in form and substance acceptable to the Trust Counsel. Each Public Entity, once having become a Participant as set forth above, shall continue as a Participant until a subsequent written instrument withdrawing from the Trust is adopted and delivered to the Trustees and Administrator stating that Public Entity's intent to withdraw from participation in the Trust.

SECTION 2.04. PRINCIPAL OFFICE. The Trust shall maintain an office of record in the State and may maintain such other offices or places of business as the Trustees may from time to time determine. The initial office of record of the Trust shall be 3544 Maclay Boulevard, Tallahassee, Florida 32312. The office of record may be changed from time to time by resolution of the Trustees, and notice of such change of the office of record shall be given to each Participant.

ARTICLE III

BOARD OF TRUSTEES

SECTION 3.01. APPOINTMENT OF TRUSTEES. The Trust shall be operated and administered by a Board of Trustees consisting of six members. Three Trustees shall be appointed by and serve at the pleasure of the County Association and three Trustees shall be appointed by and serve at the pleasure of the Clerk's Association. Upon appointment, each Trustee shall execute, acknowledge and deliver to the Board and the organization responsible for such Trustee's appointment an instrument in writing accepting such appointment hereunder, and thereupon such Trustee, without any further act, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of a Trustee. Each Trustee shall be appointed for a term of one year or until his or her successor is appointed and qualified as provided herein. There shall be no limit upon the number of successive terms to be served by any Trustee. Trustees' terms shall commence on July 1. Notwithstanding the foregoing, the term of the initial Trustees shall commence on the effective date of this Agreement and expire on June 30, 1992.

The initial Trustees of the Trust are as follows:

<u>Name</u>	<u>Appointing Organization</u>
Robert L. Anderson	County Association
Scott I. Cowan	County Association
Martha O. Haynie	Clerk's Association
Karen Nicolai	Clerk's Association
Richard B. Shore	Clerk's Association
Terry R. Wood	County Association

SECTION 3.02. RESIGNATIONS. Any Trustee may resign by delivering, either by mail or in person, his or her written resignation to the Chairman of the Board and the organization responsible for such Trustee's appointment. Any person appointed to serve as a Trustee while serving as a County Commissioner, Clerk of the Circuit Court or County Comptroller shall be deemed to resign as a Trustee on the date such person (A) ceases to hold such office or (B) is suspended from such office, notwithstanding any subsequent reinstatement. Any person who ceases being a Trustee for whatever reason shall forthwith turn over to the remaining Trustees, at the principal office of the Trust, any and all records, books, documents, property or other assets in his or her possession owned by the Trust or by the Board incident to the fulfillment of this Agreement and the administration of the Trust. The Trust shall immediately notify the County Association and the Clerks Association in writing of the resignation of any Trustee appointed by such

association. The powers of the Board to act shall not be impaired or limited in any way pending the appointment of a successor Trustee to fill any vacancy.

SECTION 3.03. BOARD MEETINGS.

(A) Notwithstanding any other provisions of this Agreement to the contrary, meetings of the Board of Trustees shall be governed by the substantive provisions of Section 286.011, Florida Statutes, as the same may hereafter be amended and supplemented, and any subsequently enacted statute succeeding to the functions of Section 286.011. The Trustees hereby individually and collectively agree to comply with the provisions thereof.

(B) The annual meeting of the Board shall be held at such times and at such places as determined periodically by the Board.

(C) Special meetings of the Board may be called by the Chairman and in his or her absence by the Vice-Chairman, or by any three Trustees. By unanimous consent of all of the Trustees, special meetings of the Board may be held without written notice at any time and place; otherwise, notice of all special meetings of the Board shall be mailed to each Trustee at least ten days prior to the time fixed for the meeting. The Administrator shall receive notice of all meetings. All notices of special meetings of the Board shall state the purpose thereof.

(D) To the extent permitted by Section 286.011, Florida Statutes, telephonic regular or special meetings by conference call or other method of electronic voice transmission which permits each participant to hear every other participant and join in the discussion are specifically authorized.

(E) To the extent permitted by Section 286.011, Florida Statutes, in the event all of the Trustees shall severally or collectively consent in writing to any action taken or to be taken by the Trust, such action is a valid action as though it had been authorized at a formal meeting.

(F) The Board shall meet not less than semiannually.

(G) Absence of any Trustee for three consecutive meetings in a year without justification, excuse or good cause shall be deemed a resignation by such Trustee and the organization responsible for such Trustee's appointment may declare vacant the position, which shall be filled in the manner indicated above.

SECTION 3.04. QUORUM AND VOTING. A quorum for the transaction of business at any regular or special meeting of the Board shall consist of a majority of the Trustees then in office, but shall never be less than four Trustees; provided however, that a majority of the Trustees present may act to continue the meeting to any time and date specified in such action. Each Trustee shall be entitled to one vote at any meeting of the

Board. No vote by proxy shall be permitted. The affirmative vote of not less than four Trustees shall be required for any action of the Board.

SECTION 3.05. CONFLICTS OF INTEREST. No Trustee shall vote on any matter which inures to his or her special private gain, or the special gain of any principal, other than a Participant, by whom he or she is retained. Such Trustee shall, prior to a vote being taken, disclose the nature of his or her interest in the matter from which he or she is abstaining from voting.

SECTION 3.06. BOOKS AND RECORDS. The books and records pertaining to the Trust shall be "public records" within the meaning of Section 119.01(1), Florida Statutes, and any subsequently enacted statute defining the term "public records." The Trustees hereby individually and collectively agree to comply with all provisions of law applicable to "public records."

SECTION 3.07. OFFICERS OF THE BOARD. Officers of the Board required by this Agreement shall be elected at the annual meeting held in accordance with Section 3.03(A) of this Agreement. In addition, the Board may elect such other officers from their number as it deems advisable. Notwithstanding their stated terms, all officers shall serve at the pleasure of the Board.

(A) The Board shall elect a Chairman from their number, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. The Chairman shall be the chief executive officer of the Trust, shall preside at all meetings of the Board, shall have general supervision over the affairs of the Trust and over the other officers, and shall perform all such other acts and duties as are incident to the Chairman's responsibilities as chief executive officer.

(B) The Board shall elect a Vice-Chairman from their number, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. In case of the absence or disability of the Chairman, the Chairman's duties shall be performed by the Vice-Chairman. The Vice-Chairman shall perform such additional duties as are authorized by the Board.

(C) The Board shall elect a Secretary from their number, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. The Secretary shall record and circulate the minutes of all meetings, shall prepare agendas and records, and perform such additional duties as are authorized by the Board.

SECTION 3.08. COMPENSATION. No Trustee shall be compensated for service as a Trustee. A Trustee may be reimbursed for out-of-pocket expenses in

attending meetings or for other authorized travel on behalf of the Trust. No Trustee shall be employed or engaged by the Board to provide professional or other services to the Trust.

SECTION 3.09. STANDARD OF CARE. The Trustees shall use ordinary care and reasonable diligence in the administration of the Trust. Nothing contained in this Agreement, either expressly or by implication, shall be deemed to impose any duties or responsibilities on the Trustees other than those expressly set forth in this Agreement.

SECTION 3.10. LIABILITY. A Trustee shall not be personally liable for monetary damages to any person for any statement, vote decision, or failure to act, regarding the management or policy of the Trust unless:

- (A) the Trustee breached or failed to perform his or her duties as a Trustee; and
- (B) the Trustee's breach of, or failure to perform, his or her duties constitutes:

- (1) A violation of the criminal law, unless the Trustee had reasonable cause to believe such conduct was lawful or had no reasonable cause to believe such conduct was unlawful. A judgment or other final adjudication against a Trustee in any criminal proceeding for violation of the criminal law shall estop that Trustee from contesting the fact that such breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the Trustee from establishing that such Trustee had reasonable cause to believe that such conduct was lawful or had no reasonable cause to believe that such conduct was unlawful;

- (2) A transaction from which the Trustee derived an improper personal benefit, either directly or indirectly; or

- (3) Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

For the purposes of this Section 3.10, the term "recklessness" means the acting or omission to act, in conscious disregard of a risk: (i) known, or so obvious that it should have been known to the Trustee; and (ii) known to the Trustee, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

SECTION 3.11. INDEMNIFICATION.

(A) The Trust shall, to the extent permitted by law, indemnify any person who was or is a party (other than an action by, or in the right of, the Trust), by reason of the fact that such person is or was a Trustee, officer or direct employee of the Trust against liability incurred in connection with such proceedings on behalf of the Trust, including

any approval of such proceedings, if such person acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the Trust and, with respect to any criminal action or proceedings, had no reasonable cause to believe such conduct was unlawful. The termination of any proceedings by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the Trust, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(B) In case any claim shall be made or action brought against any person in respect of which indemnity may be sought against the Trust, such indemnified person shall promptly notify the Trust in writing setting forth the particulars of such claim or action. The indemnified person shall be entitled to select and retain counsel of his or her choice. The Trust shall be responsible for the payment or immediate reimbursement for all reasonable fees and expenses incurred in the defense of such claim or action.

SECTION 3.12. LEGAL TITLE TO TRUST PROPERTY. Title to all Trust Property shall be vested in the Trust on behalf of the Participants who shall be the beneficial owners. The Trustees shall have full and complete power to cause legal title to any Trust Property to be held, on behalf of the Participants, by or in the name of any other entity or person as nominee, on such terms, in such manner, and with such powers as the Trustees may determine; provided that the interests of the Trust are adequately protected as a consequence thereof.

SECTION 3.13. EXECUTION OF DOCUMENTS. All documents or instruments which require the signature of the Trustees shall be signed by the Chairman of the Board of Trustees (as Trustee) or by such other person as designated by resolution of the Trustees.

SECTION 3.14. BY-LAWS. The Trustees may adopt and from time to time, amend or repeal by-laws for the conduct of the business of the Trust. The by-laws, among other things, may define the duties of the respective officers, agents, employees and representatives of the Trust.

SECTION 3.15. SEAL. The Trustees shall have full and complete power to adopt and use a seal for the Trust, but unless otherwise required by the Trustees, it shall not be necessary for the seal to be placed on, and its absence shall not impair the validity of any document, instrument or other paper executed and delivered by or on behalf of the Trust.

SECTION 3.16. SURETY BONDS. No Trustee shall be obligated to give any bond, surety or other security for the performance of any of his or her duties as

Trustee, except as otherwise determined by the Board of Trustees if necessary to protect the Trust.

SECTION 3.17. RECITALS. Any written instrument duly creating an obligation of the Trust shall be conclusively taken to have been executed by the Trustees, a Trustee or an officer, employee or agent of the Trust only in his or her capacity as a Trustee under this Agreement or in his or her capacity as an officer, employee or agent of the Trust. Any written instrument duly creating an obligation of the Trust shall refer to this Agreement and contain a recital to the effect that the obligations thereunder are not personally binding upon, nor shall resort be had to the property of, any of the Trustees, Participants, Treasurers, officers, employees or agents of the Trust; that only the Trust Property or a specific portion thereof shall be bound; and that such written instrument may contain any similar recital which may be deemed appropriate; provided that the omission of any recital pursuant hereto shall not operate to impose personal liability on any of the Trustees, Participants, Treasurers, officers, employees or agents of the Trust.

SECTION 3.18. RELIANCE ON EXPERTS. Each Trustee and officer of the Trust shall, in the performance of his or her duties, be fully and completely justified and protected with regard to any act or any failure to act resulting from reliance in good faith upon the books of account or other official records of the Trust, upon an opinion of Trust Counsel, or upon official reports made to the Trust by any of its officers or employees or by the Investment Advisor, Administrator, Custodian, accountants, appraisers or other experts or consultants selected with reasonable care by the Trustees or officers of the Trust.

ARTICLE IV

POWERS OF TRUSTEES

SECTION 4.01. GENERAL. The Trustees shall have, without other or further authorization, full, exclusive, and absolute power, control and authority over the Trust Property and over the affairs of the Trust to the same extent as if the Trustees were the sole and absolute owners of the Trust Property in their own right, and with such powers of delegation as may be permitted by this Agreement. The Trustees may do and perform such acts and things as in their sole judgment and discretion are necessary and proper for conducting the affairs of the Trust or promoting the interests of the Trust and the Participants in accordance with the objectives of this Trust as set forth in this Agreement. The Trustees shall invest the Trust Property with that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of the capital, the need for liquidity, and the probable income to be derived from such investment. The enumeration of any specific power or authority herein shall not be construed as limiting the aforesaid general power or authority or any other specific power or authority provided by law. The Trustees may exercise any power authorized and granted to them by this Agreement. Such powers of the Trustees may be exercised without any further consent of the Participants, unless otherwise provided herein, or the necessity of any order of, or resort to, any court. Notwithstanding any other provision hereof, the Trustees are authorized to establish more than one Investment Fund in which the assets of the Trust are held and to establish separate investment criteria for each Investment Fund.

SECTION 4.02. INVESTMENT FUNDS.

(A) Government Fund

(1) The initial Investment Fund established pursuant to this Agreement shall be known as the "Government Fund." Participants shall be entitled to redeem funds from the Government Fund upon provision of notice to the Trust not later than the second Business Day prior to the date of redemption.

(2) The following instruments shall comprise the Permitted Investments for the Government Fund; provided however, that Government Fund assets shall not be invested in any instrument or instruments rated lower than A- by Standard and Poor's and one other nationally recognized rating agency, provided that the overall rating of the Government Fund must always be maintained at the highest rating category (AAA or equivalent) by at least one of the three nationally

recognized rating agencies. In the event that the two rating agencies assigned separate ratings to a particular security, the lower of the two ratings prevail:

(a) direct obligations of the United States Treasury, Federal agencies and instrumentalities of the United States;

(b) repurchase agreements with a term of 30 days or less that are fully collateralized by obligations described in Section 4.02(A)(2)(a), provided that the institution or broker transacting the repurchase agreement shall (a) execute and perform as stated in a master repurchase agreement and (b) take delivery of such collateral either directly or through an authorized custodian;

(c) commercial paper rated "prime-1" by Moody's Investors Service and "A-1" or "A-1+" by Standard and Poor's Corporation, provided that the Government Fund shall not purchase more than 10 percent of the outstanding principal amount of any specific issue of commercial paper;

(d) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency; provided however, that the investment of Government Fund assets in a money market mutual fund shall not exceed one percent of the Government Fund assets unless such investment is made (a) on an overnight basis pending investment on the next Business Day, (b) in amounts required to pay the purchase price of an investment previously purchased, the purchase price of which has not been paid, or (c) at the express direction of the Investment Advisor;

(e) Asset-backed securities in fully-registered form;

(f) domestic corporate debt obligations and bonds denominated in US Dollars and issued in the United States by foreign banks and corporations (yankee bonds), provided that not more 2 percent of the Government Fund shall be invested in the debt obligations of any specific issuer.

No Permitted Investment shall mature later than five years following its purchase; provided however, that if a Permitted Investment has a put or reset date or trades on its average maturity, the applicable put date, reset date, or date of average maturity or duration shall be used in lieu of the actual maturity date; and

(g) Taxable and non-taxable municipal securities, provided that, on a per issue basis, the minimum issue size is \$50 million and the portfolio cannot own more than 10% of the issue.

(3) To be classified as Permitted Investments for the Government Fund, collateralized mortgage obligations shall be part of a tranche structured to have a projected stable average life over a wide range of interest rate movement and rate of prepayment, as evidenced by compliance with the average life test, average life sensitivity test and price sensitivity test promulgated by the Federal Financial Institutional Examination Council.

Collateralized mortgage obligations shall not be classified as Permitted Investments if they are secured by principal or interest only, or if they bear interest at an inverse floating rate.

(4) Not less than 30 percent of the Government Fund assets shall be invested in direct obligations of the United States Treasury, federal agencies and instrumentalities.

(B) Short Term Liquidity Fund

(1) There is hereby established the Short Term Liquidity Fund. Participants shall be entitled to redeem funds from the Short Term Liquidity Fund upon provision of notice to the Trust as provided in Section 7.04 hereof.

(2) The objectives of the Short Term Liquidity Fund are a stable share price and as high a level of current income as is consistent with preservation of principal and liquidity.

(3) Except as otherwise provided in this Section 4.02(B), all Permitted Investments for the Short Term Liquidity Fund must satisfy the following criteria:

(a) Such Permitted Investments must be securities eligible to be held in an investment fund regulated and controlled by Securities and Exchange Commission Rule 2a-7;

(b) Such Permitted Investments must have a maturity of not more than 397 days, except for government issued and FDIC-backed floating rate notes which must have a maturity of not more than 762 days;

(c) A minimum of 50% of such Permitted Investments must have an A-1+ rating from Standard & Poor's Corporation and a maximum of 50% of such Permitted Investments must have an A-1 rating from Standard & Poor's Corporation;

(d) Except for government or agency securities, no more than 5% of the Short Term Liquidity Fund's market value will be invested in securities of any single issuer; and

(e) The instruments must be Fixed-Income securities.

(4) Subject to Section 4.02(B)(3) above, the following Fixed-Income instruments shall comprise the Permitted Investments for the Short Term Liquidity Fund:

(a) Obligations of U.S. or foreign Governments or their agencies payable in U.S. Dollars;

(b) U.S. Dollar-denominated Corporate securities;

(c) Money-market instruments including repurchase agreements with minimum 102% collateral of US Treasury and Agency securities only; and

(d) Obligations of U.S. state and local entities.

(e) Notwithstanding anything to the contrary in this Section 4.02(B), investments in asset-backed and mortgage-backed securities shall be limited to a combined maximum of 5% of the Short Term Liquidity Fund's market value, and each asset-backed and mortgage-backed security must have a maximum "final" maturity of 397 days and minimum credit rating of A-1 or equivalent."

(C) Additional Investment Funds may be established by the Board. The action creating any additional Investment Fund shall specify the applicable Permitted Investments and redemption requirements. The Trustees shall not modify the list of Permitted Investments or the period of advance notice required for the redemption of Shares for any Investment Fund without (1) providing 30 day's written notice to each Participant holding Shares in such Investment Fund and (2) permitting each Participant to redeem its Shares in such Investment Fund

SECTION 4.03. ACQUISITION AND DISPOSITION OF ASSETS.

(A) The Trustees shall have full and complete power to establish and maintain Investment Funds for Participants. For such consideration as they may deem proper and as may be required by law, the Trustees shall be authorized to purchase, subscribe for, invest in, sell, assign, transfer, exchange, distribute and otherwise deal in or dispose of Permitted Investments and to contract for and enter into agreements with respect to the purchase and sale of Permitted Investments.

(B) The Trustees shall have full and complete power to sell, exchange or otherwise dispose of any and all Trust Property free and clear of any and all trusts and restrictions, at public or private sale, with or without advertisement, for cash or on terms, and subject to such restrictions, stipulations, agreements and reservations as they shall deem proper, and to execute and deliver any deed, power, assignment, bill of sale or other instrument in connection with the foregoing, including giving consents and making contracts relating to Trust Property or its investment, use or disposition.

SECTION 4.04. DELEGATION. The Trustees shall have full and complete power (consistent with their continuing exclusive authority over the management and administration of the Trust and their duties and obligations as Trustees) to delegate from time to time to one or more Trustees (who may be designated as a Committee of the Trustees) or to officers, employees or agents of the Trust (including the Investment Advisor, the Administrator, the Custodian and the Trust Counsel) such authorities, the performance of such acts and things, the execution of such instruments either in the name of the Trust or as their attorney or attorneys, and such other responsibilities as the Trustees may from time to time deem expedient and appropriate in the furtherance of the business affairs and purposes of the Trust. The provisions of this Section 4.04 shall be deemed to permit the delegation of administrative, ministerial and operational matters, but shall not be deemed to permit the delegation of the authority to determine policies and procedures of the Trust.

SECTION 4.05. COLLECTION. The Trustees shall have full and complete power: (A) to collect, sue for, receive and receipt for all sums of money or other property due to the Trust; (B) to consent to extensions of time for payment or the renewal of any securities, investments or obligations; (C) to engage or intervene in, prosecute, defend, compromise, abandon, or adjust by arbitration or otherwise any actions, suits, proceedings, disputes, claims, demands or things relating to the Trust Property; (D) to foreclose any collateral, security or instrument securing any investment, note, bill, bond, obligation or contract by virtue for which any sums of money are owed to the Trust; (E) to exercise any power of sale held by them and to convey good title thereunder free of any and all trusts, and in connection with any such foreclosure or sale, to purchase or otherwise acquire title to any property; (F) to be parties to any reorganization and to transfer to and deposit with any corporation, committee, voting trustee or other person any securities, investments, or obligations of any person which form a part of the Trust Property, for the purpose of such reorganization or otherwise; (G) to participate in any arrangement for enforcing or protecting the interests of the Trustees as the owners or holders of such securities, investments or obligations and to pay any assessment levied in connection with such reorganization or arrangement; (H) to extend the time (with or without security) for payment or delivery of any debts or property and to execute and enter into releases, agreements, and other instruments; and (I) to pay or satisfy any debts or claims upon any evidence that the Trustees shall deem sufficient.

SECTION 4.06. PAYMENT OF EXPENSES. The Trustees shall have full and complete power (A) to incur and pay Operating Expenses, Development Expenses and Education Expenses and (B) to reimburse others for the payment thereof. The Trustees shall fix the compensation, if any, of all officers and employees of the Trust. The Trustees shall not be paid compensation for their general services as Trustees hereunder but may be reimbursed for their authorized travel and other out-of-pocket expenses reasonably incurred on behalf of the Trust. Except as set forth in Section 7.08 hereof relative to any expenses associated with defective redemption requests, Operating Expenses, Development Expenses and Education Expenses shall be paid from earnings of the Trust.

SECTION 4.07. BORROWING AND INDEBTEDNESS. The Trustees shall not have the power to borrow money or incur indebtedness whether or not the proceeds thereof are intended to be used to purchase Permitted Investments, except as a temporary measure to facilitate withdrawal requests which might otherwise require unscheduled dispositions of portfolio investments and only as and to the extent permitted by law. No such indebtedness shall have a maturity later than that necessary to avoid the unscheduled disposition of portfolio investments.

SECTION 4.08. DEPOSITS. The Trustees shall have full and complete power to deposit, in accordance with the law, any monies or funds included in the Trust Property and intended to be used for the payment of expenses of the Trust, with one or more entities in the State which are eligible under the laws of the State to be a depository for public funds, whether or not such deposits will draw interest. Such deposits are to be subject to withdrawal in such manner as the Trustees may determine, and the Trustees shall have no responsibility for any loss which may occur by reason of the failure thereof. With respect to such deposit, each such entity shall comply with all applicable requirements of law.

SECTION 4.09. VALUATION. The Trustees shall have full and complete power to determine conclusively, in good faith, the value of any Trust Property and to revalue the Trust Property as more specifically set forth in Article IX herein.

SECTION 4.10. FISCAL YEAR AND CHART OF ACCOUNTS. The Trustees shall have full and complete power to determine the fiscal year of the Trust and the method or form in which its accounts shall be kept, and from time to time to change the fiscal year or method or form of accounts. Unless otherwise determined by the Trustees, the fiscal year of the Trust shall commence on October 1 of each year and terminate on September 30 of the following calendar year.

SECTION 4.11. CONCERNING THE TRUST AND AFFILIATES. The Trust shall not enter into separate transactions with or make investments in any Affiliate of the Trust or of any Trustee, Investment Advisor (except as otherwise permitted by written agreement), Administrator, officer, employee or agent of the Trust; provided that

the Trust may purchase and sell Permitted Investments from and to the Custodian or and Affiliate of the Custodian.

SECTION 4.12. INVESTMENT POLICY. The Trustees shall use their best efforts to obtain, through the Investment Advisor or other qualified persons, a continuing and suitable general investment policy for each Investment Fund, consistent with the investment objectives of the Trust set forth herein. The Trustees shall be responsible for reviewing and approving or rejecting all investment policies presented by the Investment Advisor or such other persons.

SECTION 4.13. AGENTS AND EMPLOYEES. The Trustees shall have full and complete power to appoint, employ, retain or contract with any person of suitable qualification (including any corporation, partnership, trust or other entity) as the Trustees may deem necessary or desirable for the transaction of the affairs of the Trust, including any person or persons who, under the supervision of the Trustees, may among other things: (A) serve as the Investment Advisor and consultant in connection with policy decisions made by the Trustees; (B) serve as the Administrator; (C) serve as Trust Counsel; (D) furnish reports to the Trustees and provide research, economic and statistical data in connection with the Trust's investments; (E) act as consultants, accountants, technical advisors, brokers, corporate fiduciaries, escrow agents, depositories, custodians, agents for collection, insurers or insurance agents, registrars for Shares, or in any other capacity deemed by the Trustees to be necessary or desirable; (F) act as attorney-in-fact or agent in the purchase, sale or other disposition of investments and in the handling, prosecution or other enforcement of any lien or security securing investments; and (G) assist in the performance of such ministerial functions necessary in the management of the Trust as may be agreed upon with the Trustees.

SECTION 4.14. INSURANCE. The Trustees shall have full and complete power to purchase and pay for insurance policies or bonds insuring the Trust and the Trustees, officers and direct employees of the Trust individually against all claims and liabilities of every nature arising by reason of holding or having held any such office or position or by reason of any action alleged to have been taken or omitted by the Trust or any such person as Trustee, officer or employee, including any action taken or omitted that may be determined to constitute negligence, whether or not the Trust would have the power to indemnify such person against such liability.

SECTION 4.15. ANNUAL REPORTS. The Trustees, through the Administrator, shall cause to be prepared annual financial reports of the details of the operations of the Trust. Such Annual Report shall include: (A) a report of financial conditions containing a statement of assets and liabilities and statements of operations and of changes in net assets of the Trust prepared in conformity with generally accepted accounting principles; (B) an opinion of an independent certified public accountant on such financial statements based on an examination of the books and records of the Trust made in accordance with generally accepted auditing standards; and (C) sufficient

information to establish compliance with the investment policy established pursuant to this Agreement. A signed copy of such report and opinion shall be filed with the Trustees within 60 days after the close of the period covered thereby. Copies of such reports shall be mailed to all Participants. In addition, the Trustees shall furnish to the Participants a quarterly report containing an unaudited statement of assets and liabilities for such accounting period and statements of operations and of changes in net assets of the Trust for the period from the beginning of the then current Fiscal Year to the end of such current accounting period.

SECTION 4.16. PURSUIT OF REMEDIES. Notwithstanding any provision in this Agreement, when the Trustees deem that there is a significant risk that an obligor to the Trust may default or is in default under the terms of any obligation to the Trust, the Trustees shall have full and complete power to pursue any remedies permitted by law which, in their sole judgment, are in the interests of the Trust. The Trustees shall have full and complete power to enter into any investment, settlement, compromise, commitment or obligation on behalf of the Trust resulting from the pursuit of such remedies as are necessary or desirable to dispose of property acquired as a result thereof.

SECTION 4.17. INFORMATION STATEMENT. The Trustees shall have full and complete power to prepare, publish and distribute an Information Statement regarding the Trust and to amend or supplement the same from time to time.

SECTION 4.18. TAXES. The Trustees shall have full and complete power: (A) to pay all taxes or assessments, of whatever kind or nature, validly and lawfully imposed upon or against the Trust or the Trustees in connection with the Trust Property, or upon or against the Trust Property or income or any part thereof; (B) to settle and compromise disputed tax liabilities; and (C) for the foregoing purposes to make such returns and do all such other acts and things as may be deemed by the Trustees to be necessary or desirable.

SECTION 4.19. RIGHTS AS HOLDERS OF TRUST PROPERTY. The Trustees shall have full and complete power to exercise on behalf of the Participants all of the rights, powers and privileges pertaining to the ownership of all or any Permitted Investments or other Trust Property to the same extent that any individual might and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice either in person or by proxy or power of attorney, with or without the power of substitution, to one or more persons, whose proxies and powers of attorney may be for meetings or actions generally, or for any particular meeting or action, and may include the exercise of discretionary powers.

SECTION 4.20. EDUCATION AND TECHNICAL ASSISTANCE. Pursuant to Section 9.04 hereof, the Trustees shall retain the following amounts to be used for education and technical assistance: (A) prior to March 1, 1998, 0.6666 basis points per month on the total Trust Property in the Government Fund; (B) between March

1, 1998 and October 31, 1998, both dates inclusive, 0.5833 basis points per month on the total Trust Property in the Government Fund; and (C) beginning November 1, 1998, 0.5000 basis points per month on the total Trust Property in the Government Fund, Notwithstanding anything to the contrary herein, the Trustees shall be authorized to modify the amounts to be retained to be used for education and technical assistance for the Government Fund and may establish amounts to be retained to be used for education and technical assistance for the Short Term Liquidity Fund and any other Investment Funds established pursuant to this Agreement. The Trustees may contract only with the County Association and the Clerk's Association for utilization of these funds, which shall be restricted to programs related to local government education and training.

SECTION 4.21. FURTHER POWERS. To the extent permitted by law, the Trustees shall have full and complete power to take all actions, do all matters and things, and execute all instruments as they deem necessary, proper or desirable in order to carry out, promote or advance the interests and purposes of the Trust, although such actions, matters or things are not herein specifically mentioned. Any determination as to what is in the best interest of the Trust made by the Trustees in good faith shall be conclusive. In construing the provisions of this Agreement, the presumption shall be in favor of a grant of power to the Trustees. The Trustees shall not be required to obtain any further consent of the Participants, unless otherwise provided herein, or any court order to deal with the Trust Property.

ARTICLE V

INVESTMENT ADVISOR, ADMINISTRATOR AND TRUST COUNSEL

SECTION 5.01. APPOINTMENT. The Trustees are responsible for the general investment policy and program of the Trust and for the general supervision and administration of the business and affairs of the Trust conducted by the officers, agents, employees, investment advisors, administrators, distributors or independent contractors of the Trust, consistent with the investment policy established in this Agreement. However, the Trustees are not required personally to conduct all of the routine business of the Trust and, consistent with their responsibility as stated herein, the Trustees may appoint, employ or contract on behalf of the Trust with an Investment Advisor, an Administrator and a Trust Counsel and may grant or delegate such authority to the Investment Advisor, the Administrator, the Trust Counsel or to any other person as the Trustees may, in their sole discretion, deem to be necessary or desirable for the efficient management of the Trust.

SECTION 5.02. DUTIES OF THE INVESTMENT ADVISOR. The duties of the Investment Advisor shall be those set forth in the Investment Advisory Agreement to be entered into between the Trustees, on behalf of the Trust, and the Investment Advisor. Such duties may be modified by the Trustees, from time to time, by the amendment of the Investment Advisory Agreement. The Trustees may authorize the Investment Advisor to effect purchases, sales or exchange of Trust Property or may authorize any officer, employee, agent or Trustee to effect such purchases, sales or exchanges pursuant to recommendations of the Investment Advisor, all without further action by the Trustees subject to the Trustee's right of disapproval. Purchases, sales and exchanges of Trust Property shall be deemed to be authorized by all the Trustees in accordance with the provisions of this Agreement unless the Investment Advisor is notified in writing by the Trustees to the contrary. The Investment Advisory Agreement may authorize the Investment Advisor to employ other persons to assist it in the performance of its duties. The Investment Advisor shall be prohibited from accepting direct or indirect monetary or in-kind compensation from any person other than the Trust in connection with the services provided under the Investment Advisory Agreement, unless such compensation is immediately paid or transferred to the Trust.

SECTION 5.03. DUTIES OF THE ADMINISTRATOR. The duties of the Administrator shall be those set forth in a agreement between the Administrator and the Trustees, on behalf of the Trust and shall include supervision of all investment activity, provision of accounting services, and performance of such other duties and responsibilities as may be from time to time declared by the Trustees.

SECTION 5.04. DUTIES OF THE TRUST COUNSEL. The duties of the Trust Counsel shall be: (A) to construe the terms and provisions of this Agreement and advise the Board with respect to its powers and duties thereunder; (B) review and approve the ordinances and joinder agreements of Public Entities desiring to become Participants; (C) attend all meetings of the Board and provide legal advise and consultation as requested; and (D) bring, prosecute, appear in, or defend, all on behalf of the Trust and in the name of the Trust any suit or administrative proceeding, for the enforcement of or arising out of or with respect to this Agreement.

SECTION 5.05. SUCCESSORS. If, at any time, the position of Investment Advisor, Administrator or Trust Counsel shall become vacant for any reason, the Trustees may appoint, employ or contract with a successor. Nothing herein shall be construed to prohibit the Trust from performing the duties of the Administrator through its own direct employees.

ARTICLE VI

CUSTODIAN

SECTION 6.01. QUALIFICATIONS. The Trustees, on behalf of the Trust, shall employ a bank or trust company organized under the laws of the United States of America as Custodian with authority as its agent, but subject to such restrictions, limitations and other requirements, if any, as may be established by the Trustees to perform to duties set forth in the Custodian Agreement to be entered into between the Trust and the Custodian. Such Custodian shall be a qualified "depository" as defined by Chapter 280, Florida Statutes, and shall invest all Trust Property in accordance therewith and in accordance with the objectives of this Trust.

SECTION 6.02. SUCCESSORS. In the event that, at any time, the Custodian shall resign or shall be terminated pursuant to the provisions of the Custodian Agreement, the Trustees shall appoint a successor thereto.

SECTION 6.03. PROHIBITED TRANSACTIONS. With respect to transactions involving Trust Property, the Custodian shall act strictly as agent for the Trust. The Trustees shall not purchase Permitted Investments from the Custodian or sell Permitted Investments to the Custodian.

ARTICLE VII

INTEREST OF PARTICIPANTS

SECTION 7.01. GENERAL. The beneficial interest of the Participants in any Investment Fund and the earnings thereon shall, for convenience of reference, be divided into Shares which shall be used as units to measure the proportionate allocation to the respective Participants. The number of Shares that may be used to measure and represent the proportionate allocation of beneficial interest among the Participants in any Investment Fund is unlimited. All Shares in an Investment Fund shall be of one class representing equal distribution, liquidation and other rights. The beneficial interest hereunder measured by the Shares shall not entitle a Participant to preference, preemptive, appraisal, conversion or exchange rights of any kind with respect to the Trust or the Trust Property. Title to the Trust Property of every description and the right to conduct all affairs of the Trust are vested in the Trustees on behalf, and for the beneficial interest of, the Participants. The Participants shall have no interest therein other than the beneficial interest conferred hereby and measured by their Shares, and they shall have no right to call for any partition or division of any property, profits, rights or interests of the Trust.

SECTION 7.02. INVESTMENTS. Upon compliance with the procedures established by the Administrator and the Custodian, a Public Entity who has become a Participant in accordance with Section 2.03 hereof shall be entitled to invest in any Investment Fund. Participants may invest in more than one Investment Fund and may establish more than one account within a single Investment Fund. With respect to the Government Fund, the Participant shall notify the Trust of its intention to make an investment in an Investment Fund not less than one Business Day prior to the Transaction Execution Date. With respect to the Short Term Liquidity Fund, investment funds received before 11:00 am Eastern Time on a Business Day shall be invested on the same Business Day and investment funds received after 11:00 am Eastern Time may be invested on the next Business Day. With respect to any investment, Shares shall be allocated to the investing Participant by dividing the amount invested by the Share Value for the Investment Fund as of the Transaction Valuation Date. Investments may be made in fractional Shares.

SECTION 7.03. EVIDENCE OF PARTICIPANT SHARES. Evidence of the number of each Participant's Shares shall be reflected in the Share Register for each Investment Fund maintained by or on behalf of the Trust pursuant to Section 8.01 hereof. The Trust shall not issue certificates as evidence of Shares held.

SECTION 7.04. REDEMPTIONS. Payments by the Trust to Participants and the reduction of Shares resulting therefrom are, for convenience, referred to in this

Agreement as "redemptions". Any and all allocated Shares may be redeemed at the option of the Participant whose beneficial interest hereunder is measured by such Shares, upon and subject to the terms, conditions and advance notice requirements promulgated by the Trustees upon the establishment of each Investment Fund. The Trust shall, upon application of any Participant and in accordance with the redemption requirements established by the Trustees, redeem Shares from any Investment Fund. The Participant shall notify the Trust of its intention to make a redemption from an Investment Fund in accordance with the redemption requirements established by the Trustees. With respect to the Government Fund, such notice shall in no event be less than two Business Days prior to the Transaction Execution Date. With respect to the Short Term Liquidity Fund, such notice received before 11:00 am Eastern Time on a Business Day shall be fulfilled on the same Business Day and notices of redemption received after 11:00 am Eastern Time on a Business Day may be fulfilled on the next Business Day. On the Transaction Execution Date, Shares shall be redeemed at the Share Value for the Investment Fund as of the Transaction Valuation Date. The procedures for effecting redemption shall be as adopted by the Trustees. The Trustees may establish (A) penalties for early redemption of Shares; (B) procedures for resolving other contingencies which may jeopardize the earnings potential of the Trust; and (C) procedures for the prompt payment of the principal of any account at any time. Redemptions may be made in fractional Shares.

SECTION 7.05. SUSPENSION OF REDEMPTION OR PAYMENT. Each Participant, by its adoption of this Agreement, agrees that the Trustees may, without the necessity of a formal meeting of the Trustees, temporarily suspend the right of redemption or postpone the date of payment for redeemed Shares for the whole or any part of any period (A) during which there shall have occurred any state of war, national emergency, banking moratorium or suspension of payments by banks in the State or any general suspension of payments by banks in the State or any general suspension of trading or limitation of prices on the New York or American Stock Exchange (other than customary weekend and holiday closing); or (B) during which any situation exists as a result of which disposal by the Trust of Trust Property is not reasonably practicable because of the substantial losses which might be incurred or if it is not reasonably practicable for the Trust at any time to determine fairly the Share Value. Such suspension or postponement shall not alter or affect a Participant's beneficial interest hereunder as measured by its Shares or the accrued interest and earnings thereon. Such suspension or payment shall take effect at such time as the Trustees shall specify but not later than the close of business on the Business Day next following the declaration of suspension, and thereafter there shall be no right of redemption or payment until the Trustees shall declare the suspension or postponement at an end, except that the suspension or postponement shall terminate in any event on the first day on which the period specified in the clauses (A) or (B) above shall have expires (as to which the determination of the Trustees shall be conclusive). In the case of a suspension of the right of redemption or a postponement of payment for redeemed Shares, a Participant

may either withdraw its request for redemption or receive payment based on the Share Value existing after the termination of the suspension.

SECTION 7.06. MINIMUM INVESTMENT. Initially, and until changed by action of the Trustees, there shall be a five thousand dollar (\$5,000.00) minimum total investment for each Participant. If the Trustees create a minimum total investment in an amount greater than the investment of any Participant at the time that such change becomes effective, the investment of such Participant shall not be redeemed without such Participant's consent.

SECTION 7.07. MINIMUM REDEMPTION. There shall be a minimum of one share which may be redeemed at any one time at the option of a Participant.

SECTION 7.08. DEFECTIVE REDEMPTION REQUESTS. If a Participant submits a request for the redemption of a greater number of Shares than are then allocated to such Participant, such requests shall not be honored. Each Participant, by its adoption of this Agreement, agrees that the Trustees shall have full and complete power to redeem an amount of the Shares allocated to such Participant at a redemption price determined in accordance with Section 7.04 hereof sufficient to reimburse the Trust for any fees, expenses, costs or penalties actually incurred by the Trust as a result of such defective redemption request.

ARTICLE VIII

RECORD OF SHARES

SECTION 8.01. SHARE REGISTER. A Share Register for each Investment Fund shall be kept by or on behalf of the Trustees, under the direction of the Trustees, and shall contain (A) the names and addresses of the Participants, (B) the number of Shares representing their respective beneficial interests hereunder, and (C) a record of all allocations and redemptions thereof. Such Share Registers shall be conclusive as to the identity of the Participants to which the Shares are allocated. Only Participants whose allocation of Shares is recorded on such Share Registers shall be entitled to receive distributions with respect to Shares or otherwise to exercise or enjoy the rights and benefits related to the beneficial interest hereunder represented by the Shares. No Participant shall be entitled to receive any distribution, nor to have notices given to it as herein provided, until it has given its appropriate address to such officer or agent of the Trust as designated to keep the Share Registers.

SECTION 8.02. REGISTRAR. The Trustees shall have full and complete power to employ a registrar. Unless otherwise determined by the Trustees, the Share Registers shall be kept by the Administrator. The registrar shall record the original allocations of Shares in the Share Registers and shall perform the duties usually performed by registrars of certificates and shares of stock in a corporation except as such duties may be modified by the Trustees from time to time.

SECTION 8.03. OWNER OF RECORD. No person becoming entitled to any Shares as a consequence of the merger, reorganization, consolidation, bankruptcy or insolvency of any Participant or otherwise by operation of law shall be recorded as the Participant to which such Shares are allocated, unless such person is an entity qualified to participate in the Trust, in which event such person shall be substituted for the previous person upon proper application. Such person shall become entitled to the redemption value of such Shares. Such qualified person may then be designated as the Participant of record to which such Shares are allocated. Persons not qualified as Participants who become entitled to Shares and do not promptly request redemption thereof may be requested by the Trustees to present proof of entitlement and shall be required to redeem such Shares. The Trust shall not be bound by any notice of merger, reorganization, consolidation, bankruptcy, insolvency, or other such event, unless the Shares are transferred in accordance with the provisions of the Trust.

SECTION 8.04. NO TRANSFER OF SHARES. Except as provided for in Section 8.03 hereof, the beneficial interests measured by the Shares shall not be transferable, in whole or in part, other than to the Trust itself for purposes of redemption; provided that Shares may be redeemed from one Participant's account and the proceeds

deposited directly into another Participant's account upon instructions from the authorized representatives of the respective Participants.

SECTION 8.05. LIMITATION OF FIDUCIARY RESPONSIBILITY.

The Trustees shall not, nor shall the Participants or any officer, registrar or other agent of the Trust, be bound to determine the existence of any trust, express, implied, or constructive, or of any charge, pledge or equity to which any of the Shares or any interest therein are subject, or to ascertain or inquire whether any redemption of any such Shares by any Participant or its representatives is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except the Participant recorded as the Participant to which such Shares are allocated. The receipt of monies by the Participant in whose name any Share is recorded or by the duly authorized agent of such Participant shall be a sufficient discharge for all monies payable or deliverable in respect of such Shares and from all responsibility to see to the proper application thereof.

SECTION 8.06. NOTICES. Any and all notices to which any Participant hereunder may be entitled and any and all communications shall be deemed duly served or given if delivered, transmitted or mailed, postage prepaid, addressed to such Participant of record at its address or facsimile transmission telephone number as recorded on the Share Register. Any notice shall be deemed given on the date such notice is delivered by hand or facsimile transmission or three days after the date mailed.

ARTICLE IX

VALUATION OF INVESTMENT FUNDS

SECTION 9.01. ASSET VALUATION.

(A) As of the close of business on each Business Day, the investments of the Government Fund shall be valued by the Trustees, using such consistent method or basis of valuation and based upon such sources of information as will, in the Trustees' opinion, result in the fair and equitable valuation of the Government Fund and its assets. The investments of the Short Term Liquidity Fund shall be valued by the Trustees weekly, using such consistent method or basis of valuation and based upon such sources of information as will, in the Trustees' opinion, result in the fair and equitable valuation of the Short Term Liquidity Fund and its assets. The Trustees, insofar as practicable, shall utilize the following basic guidelines:

(1) The value of each security listed on generally recognized securities exchanges shall be the last sales price as reported by such exchanges on the date of valuation. Where a security is traded on more than one securities exchange, the Trustees may designate that one exchange will be used as the basis of valuations. If no sale has been so reported, the average of the bid and asked price for the date of valuation shall be used, unless in the Trustees' opinion, use of the last reported sale or the last reported bid as reported by such exchanges, whichever is more recent, would more truly reflect the value of such security. If neither a sale nor a bid and asked price has been reported for the date of valuation, then the most recent sales price shall be used.

(2) Non-listed securities shall be valued by taking the most recent published bid as of the date of valuation obtained with the Trustees' approval, from one or more reputable brokers, dealers, investment bankers or pricing or quotation services that regularly deal in or that determine and quote the value of the security being valued or by reference to a valuation supplied by a generally accepted pricing or quotation service. Alternatively, if the Trustees determine that the average of the reported bid and asked prices, if such are reported for the date of valuation, would more truly reflect the value of such security, then such average shall be used. Should no bid and asked prices have been reported for the date of valuation, the last reported sale value shall be used unless, in the Trustees' judgment, the most recent bid price would more truly reflect the value of such security.

(3) The value of marketable United States Government or government agency obligations shall be the most recent published bid as of the date of

valuation obtained from one or more recognized dealers regularly dealing in such securities.

(4) The value of any other investment shall be the market value thereof as determined by the Trustees as of the date of valuation. In determining such market value, the Trustees may obtain and consider: quotations furnished by reputable sources, such as pricing or quotation services, security dealers, brokers or investment bankers; values of comparable property; appraisals; or such other information as the Trustees deem pertinent.

(5) An investment purchased, the purchase price of which has not been paid, shall be included for valuation purposes as a security held, and the cash or any cash equivalents shall be adjusted by deducting the purchase price, including brokers' commissions and other expenses. Brokers' commissions and other expenses which may be incurred on future sales shall not be considered in valuing an Investment Fund.

(6) If, in the opinion of the Trustees, the valuations obtained by the foregoing methods do not fairly indicate the actual market value of an investment, or no reliable data is available, the Trustees shall obtain and use quotations furnished by one or more reputable brokers or investment bankers or, as a basis for such valuation, such other pertinent information, or such other method of valuation, as may, in their judgment, be necessary to determine the value as of the date of valuation. For the purposes of this Section 9.01(B)(6), information reported (a) in newspapers of general circulation, or in New York City, (b) in standard financial publications or periodicals, (c) in the records of any recognized security exchange, (d) statistical or valuation services, or (e) any one or more of such sources may be selected by the Trustees, noted in the records of the Trust, and shall be accepted as evidence thereof.

(B) Valuation of the investments in any Investment Fund may be delegated by the Trustees to the Investment Advisor, the Administrator, the Custodian or such other person as the Trustees may designate by resolution or agreement.

SECTION 9.02. COMPUTATION OF NET ASSET VALUE.

(A) To the aggregate value of investments determined in the manner required by Section 9.01, there shall be added (1) any cash or cash equivalents, adjusted as required by Section 9.01(A)(5) and (2) any other amounts properly allocable to the Investment Fund. From the total so obtained there shall be deducted all charges, reserves and liabilities due, accrued or anticipated, as described in Section 9.04, which are properly chargeable to the Investment Fund. The net amount remaining shall be deemed to be the Net Asset Value of the Investment Fund as of the date of valuation.

(B) Computation of the Net Asset Value of any Investment Fund may be delegated by the Trustees to the Investment Advisor, the Administrator, the Custodian or such other person as the Trustees may designate by resolution or agreement.

SECTION 9.03. COMPUTATION OF SHARE VALUE.

(A) At the inception of any Investment Fund, the Share Value shall be deemed to be ten dollars (\$10.00), unless the Trustees shall, in the records of the Trust, specify a different value therefor. The Share Value on any date of valuation shall be computed by dividing the Net Asset Value of the Investment Fund by the number of Shares into which the Investment Fund is then divided; provided however, that fractions of a cent per Share may be omitted.

(B) Computation of the Share Value of any Investment Fund may be delegated by the Trustees to the Investment Advisor, the Administrator, the Custodian or such other person as the Trustees may designate by resolution or agreement.

SECTION 9.04. EXPENSES, RETAINED EARNINGS AND RESERVES.

The Trustees shall retain first from earnings and profits of the each Investment Fund and, to the extent those funds are not sufficient, from the assets of each Investment Fund, such amount as they may deem necessary (A) to pay any debts of the Trust properly allocable to such Investment Fund and (B) to pay that portion of the Operating Expenses of the Trust properly allocable to such Investment Fund. In addition, the Trustees shall retain for the payment of Development Expenses and Education Expenses the amounts described in Section 4.20 herein. The Trustees shall also have the power to establish from earnings and profits such reasonable reserves as they believe may be required to protect the Trust and the Participants against contingent liabilities.

ARTICLE X

AMENDMENT OR TERMINATION OF TRUST; DURATION OF TRUST

SECTION 10.01. AMENDMENTS. The provisions of this Agreement may be amended or altered at any meeting of the Board of Trustees or pursuant to any vote of the Board called for that purpose. No such amendment shall become effective prior to (1) providing 30 day's written notice to each Participant holding Shares in any Investment Fund and (2) permitting each Participant to redeem its Shares in such Investment Fund.

SECTION 10.02. TERMINATION.

(A) The Trust or any Investment Fund may be terminated at any meeting of the Board of Trustees. The Trust shall also be terminated if either the County Association or the Clerks Association (1) notifies the Trust in writing that it will no longer appoint Trustees or (2) fails to appoint a replacement Trustee within 90 days after notification of any vacancy.

(B) The termination of the Trust or any Investment Fund shall not (1) change any rights with respect to any allocated Shares of a terminated Investment Fund by reducing the amount payable thereon upon liquidation, except with the vote or written consent of 100 percent of the Participants in such Investment Fund; (2) change the limitations on personal liability of the Participants and the Trustees; and (3) change the prohibition of assessments against Participants.

(C) Upon the termination of the Trust: (1) the Trust shall carry on no business, except for the purpose of winding up its affairs; (2) the Trustees shall proceed to wind up the affairs of the Trust, and pursuant thereto all of the powers of the Trustees under this Agreement shall continue until the affairs of the Trust shall have been concluded, including but not limited to the power to fulfill or discharge the contracts of the Trust, to collect Trust assets, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining Trust Property to one or more persons at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, to discharge or pay Trust liabilities, and to do all other acts appropriate to liquidate Trust affairs; and (3) after paying or adequately providing for the payment of all liabilities, and upon receipt of such releases, indemnities and refunding agreement as they deem necessary for the Trust's protection, the Trustees may distribute the remaining Trust Property, in cash or in kind or partly in each, among the Participants according to their respective proportionate allocation of Shares.

(D) Upon termination of the Trust and distribution to the Participants as herein provided, a majority of the Trustees shall execute and lodge among the records of the Trust an instrument in writing setting forth the fact of such termination, and the Trustees shall thereupon be discharged from all further liabilities and duties hereunder, and the right, title and interest of all Participants shall cease and be canceled and discharged.

SECTION 10.03. DURATION. The Trust shall continue in existence in perpetuity, subject in all respects to the provisions of this Article X.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. GOVERNING LAW. This Agreement is executed by the Initial Participants and delivered in the State and with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State.

SECTION 11.02. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

SECTION 11.03. RELIANCE BY THIRD PARTIES. Any certificate by an individual who, according to the records of the Trust, or of any official or public body or office in which this Agreement may be recorded, appears to be a Trustee hereunder or the Chairman of the Trust, certifying to: (A) the number or identity of Trustees or Participants; (B) the due authorization of the execution of any instrument or writing; (C) the form of any vote passed at a meeting of the Trustees; (D) the fact that the number of Trustees or Participants present at any meeting or executing any written instrument satisfies the requirements of this Agreement; (E) the form of any by-laws adopted by or the identity of any officers elected by the Trustees; or (F) existence of any fact or facts which in any manner relate to the affairs of the Trust, shall be conclusive evidence as to the matters so certified in favor of any person dealing with the Trustees or any of them or the Trust and the successors of such person.

SECTION 11.04. PROVISIONS IN CONFLICT WITH LAW. The provisions of this Agreement are severable. If the Trustees shall determine, with the advise of its counsel, that any one or more of such provisions (the "conflicting provisions") are in conflict with applicable federal or State laws, the conflicting provisions shall be deemed never to have constituted a part of this Agreement; provided that such determination by the Trustees shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted (including but not limited to the election of Trustees) prior to such determination.