

**CITY OF BROOKSVILLE  
REGULAR CITY COUNCIL MEETING  
COUNCIL CHAMBERS  
201 HOWELL AVENUE**

**AGENDA  
"AMENDED"**

August 1, 2011

7:00 P.M.

**A. CALL TO ORDER**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

**1. Police Department Accreditation Recognition**

Presentation: Police Chief

**2. Police Department Phoenix Gun Range**

Presentation: Police Chief

**D. CITIZEN INPUT**

**E. CONSENT AGENDA**

**1. Minutes**

- a) April 18, 2011 Regular Meeting
- b) May 2, 2011 Regular Meeting

**2. Energy Systems Group (ESG) Change Order No. 1**

Consideration of reduction of the ESG Agreement in the amount of \$1,094,876 and authorize the Mayor to sign the change order.

**3. CDBG - Neighborhood Revitalization Water Improvement Grant**

Consideration of budget amendment for an estimated expenditure of up to \$50,000 of grant funds during the FY2010/11 Budget.

**4. Dumpster Supply Purchase**

Consideration of approval to purchase replacement dumpsters for commercial accounts via piggybacking on the City of Largo's bid award to Iron Container for an amount not-to-exceed the \$12,360 approved by Council in the FY2010/11 Budget.

**5. Personnel Policy Amendments**

Consideration of updates to the Personnel Policy with amendments as directed by Council at their meeting of 7/18/11.

- a) 5.03 E-mail & Computer Usage
- b) 7.01 Vacation Leave
- c) 7.02 Sick Leave

# REGULAR COUNCIL MEETING – August 1, 2011

## CONSENT AGENDA APPROVAL (✓)

Recommendation: Approval of Consent Agenda  
Action: Motion to Approve  
Attachments: 1) Minutes; 2) Memo from Director of Public Works dated 07/07/11, letter from ESG dated 06/20/11, Material Proposals; 3) Memo from Director of Community Development dated 07/18/11, Budget Amendment Form; 4) Memo from Director of Public Works dated 07/20/11, Letters of Authorization from the City of Largo dated 07/12/11 and Iron Container, LLC dated 07/19/11, Quote and Bid Documentation; 5) Memo from City Attorney dated 08/01/11, Policies

## F. PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

1. **Ordinance No. 819 - Sign Regulations Chapter 125 of the Code of Ordinances**  
Staff report and consideration of options relating to the Code of Ordinances Chapter 125 regarding signs.  
**[First Reading 7/18/11]**

Presentation: City Planner & Director of Community Development  
Recommendation: Approval of **Second Reading** of Ordinance No. 819 upon roll call vote  
Attachments: Memo from City Planner dated 08/01/11, Ordinance

2. **Ordinance No. 820 – Economic Development Incentive**  
Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.  
**[First Reading 7/18/11]**

Presentation: Director of Community Development and City Attorney  
Recommendation: Approval of **Second Reading** of Ordinance No. 820 upon roll call vote  
Attachments: Memo from Director of Community Development dated 07/20/11, Ordinance

## REGULAR COUNCIL MEETING – August 1, 2011

### 3. Ordinance No. 822 – Encore Construction, Inc.

Consideration of contract amendment Encore Construction Inc., for water reuse storage and transmission at the Cobb Road Water Reclamation Facility.

Presentation: City Attorney  
Recommendation: Approval of Ordinance No. 822 upon roll call vote and schedule second reading for 08/15/11  
Attachments: Memo from City Attorney dated 07/22/11, Ordinance, Letter from Coastal Engineering dated 7/25/11, Statement of Qualifications

## G. REGULAR AGENDA

### 1. Ordinance No. 821 – Firearms Code Change

Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.

Presentation: City Attorney  
Recommendation: Approval of **First Reading** of Ordinance No. 821 upon roll call vote and schedule second reading for 08/15/11  
Attachments: Memo from City Attorney dated 07/22/11, Ordinance

### 2. Resolution No. 2011-02 – Parks & Recreation Rules

Consideration of approval of a Resolution amending the Parks & Recreation Rules regarding the usage of firearms in the City's parks.

Presentation: City Attorney  
Recommendation: Approval of Resolution No. 2011-02 upon roll call vote  
Attachments: Memo from City Attorney dated 07/22/11, Resolution

### 3. Adoption of Current Year Proposed Millage rate for FY2011/12 Budget

Announcement of rolled-back rate of 7.1055 and establish the first budget hearing for Wednesday, September 14, 2011, at 6:00 p.m.

Presentation: Finance Director  
Recommendation: Announce roll-back rate, set tentative Millage Rate and First Budget Hearing  
Attachments: Memo from Director of Finance dated 07/18/11

## REGULAR COUNCIL MEETING – August 1, 2011

### 4. Discussion of City Council Group Seat 4

Attachments: Memo from City Attorney dated  
07/29/11, Ordinance No. 786

H. CITIZEN INPUT

I. ITEMS BY COUNCIL

J. ADJOURNMENT

### CORRESPONDENCE TO NOTE

*Meeting agendas and supporting documentation are available from the City Clerk's office, and on line at [www.cityofbrooksville.us](http://www.cityofbrooksville.us). Persons with disabilities needing assistance to participate in any proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/540-3853.*

*Any person desiring to appeal any decision with respect to any matter considered at this meeting, may need a record of the proceedings including the testimony and evidence upon which the appeal is to be based, and therefore must make arrangements for a court reporter to ensure that a verbatim record of the proceedings is made.*

**CITY OF BROOKSVILLE  
REGULAR CITY COUNCIL MEETING  
COUNCIL CHAMBERS  
201 HOWELL AVENUE  
MINUTES**

April 18, 2011

6:00 P.M.

Brooksville City Council met in regular session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members, Joe Bernardini, Lara Bradburn and Emory Pierce present. Also present were Thomas S. Hogan, Jr., City Attorney; T. Jennene Norman-Vacha, City Manager; Janice L. Peters, City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Richard Radacky, Interim Director of Public Works; George Turner, Police Chief and Tim Mossgrove, Fire Chief.

The meeting was called to order by Mayor Burnett, followed by an invocation and Pledge of Allegiance.

Mayor Burnett adjourned the regular Council Meeting to convene the Executive Session, reading the following into the record:

**EXECUTIVE SESSION PURSUANT TO F.S. CHAPTER 286.011(8)**

The purpose of the Executive Session is to discuss settlement options and litigation strategy for pending City actions. The persons attending the meeting will be Council Members Joe Bernardini, Lara Bradburn, Frankie Burnett, Joe Johnston and Emory Pierce; Attorneys for the City of Brooksville, Thomas S. Hogan, Jr., Debbie Hogan and Jennifer Rey; City Manager, T. Jennene Norman-Vacha; and court reporter C. Gail Donato of Carolyn F. Engle & Associates. The meeting is expected to last approximately thirty (30) minutes.

The Executive Session was adjourned at 6:50 p.m. and a break was taken for the 2010 Volunteer Appreciation Reception.

The regular Council Meeting reconvened at 7:12 p.m.

Mayor Burnett asked, with Council consensus to move Item G-3 Energy Systems Group Contract to Item G-1. Council concurred.

**CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

**Volunteer Appreciation Week April 10 – 16, 2011**

Presentation of proclamation declaring April 10<sup>th</sup> – 16<sup>th</sup> as National Volunteer Week and honoring our citizens that volunteer their valuable time and make a difference in the City of Brooksville.

Mayor Burnett read the proclamation in its entirety and volunteers were presented with tokens of appreciation as well as Certificates of Appreciation for 5, 10, 15 and 20 years of service.

City Manager Norman-Vacha also recognized volunteers with a special appreciation who have contributed a large part of hours served; Joe Johansen, Dennis Wilfong, Jamielove Miller and Michael Heard. She presented the Spirit Award to James Brooks and Volunteer of the Year Award to Jamielove Miller.

Council Member Bradburn commended Jamielove Miller for her volunteerism at the Brooksville Cemetery and her efforts in recycling of plant clippings.

# REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

## Arbor Day Proclamation

Presentation of proclamation supporting Arbor Day in our community, which will be recognized at a Beautification Board event to be held on April 29, 2011, 10:00 a.m. at Russell Street Park by the Good Neighbor Trail.

Mayor Burnett read the proclamation in its entirety and presented it to Beautification Board Chair Scott Renz. Council Member Bradburn suggested planting a tree to enhance the canopy on one of the City's historic streets.

## CITIZEN INPUT

Mayor Burnett asked for public input.

Jay Tinkham of Lizzie T's Coffee House indicated Code Enforcement has told him he cannot have feather flags on the streets advertising his business but other businesses have flags that have not been fined. He indicated his business has decreased by 35% since he took the flags down and he has had to lay off employees. He asked that Council consider other options, such as allowing them during business hours.

Council Member Bradburn supported feather flags for new businesses to attract customers. She recommended City staff re-examine issues pertaining to sign regulations brought forward by Mr. Tinkham for Council consideration and she felt they could come to a compromise.

Mayor Burnett agreed with Council Member Bradburn and asked City Manager Norman-Vacha look into the matter and report back to Council. He informed Mr. Tinkham a telephone call and a letter will be sent to him on Council's decision.

Council Member Bernardini stated the ordinance in place needs to be enforced to eliminate clutter of flags throughout the City and his opinion was flags do not promote business.

Pierre Desjardins commented on the issue. He agreed that there has to be regulations but the idea is to keep businesses in tough economic times.

## CONSENT AGENDA

### Minutes

November 1, 2010 Regular Meeting  
January 25, 2011 Workshop  
February 9, 2011 Workshop

### Surplus Equipment

Consideration to surplus obsolete/inoperable equipment.

### Florida Junior Golf Council/First Tee National School Program Agreements

Consideration of approval of a Grant through the Florida Junior Golf Council with the hopes of securing funds to implement the First Tee National School Program in the remaining five (5) elementary schools in Hernando County. Approval of Agreement allowing use of the funds to implement said programs.

### July 4<sup>th</sup> Fireworks Event by Friends of the Children

Consideration of request to allow alcohol sales at the event scheduled for Saturday, July 2<sup>nd</sup> in Tom Varn Park.

### FY2010/11 Budget Amendment

Consideration of budget amendment incorporating \$20,000 held in trust pursuant to the terms of

## REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

the Settlement Agreement dated October 28, 2010, between the City of Brooksville, bond Safeguard Insurance and CaSHP 1, LLC.

### Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of Consent Agenda. Motion carried 5-0.

## REGULAR AGENDA

### Energy Systems Group Contract

Consideration of Guaranteed Energy Savings Performance Contract with Financing Agreement and Surety Bond.

Chris Summers of Energy Systems Group reviewed the contract, financing agreement and surety bond. He asked for approval of the performance based contract and reminded Council that the contract will be paid for over a period of time with the savings.

Council Member Pierce asked that the pages be numbered in the final document. Referencing Schedule C, he expressed concern that one or two of the conservation measures would be carrying the others and asked that the breakdown be attached to the contract.

Mr. Summers reviewed the process after the signing of the contract takes place. He advised an annual audit of the contract will take place.

Referencing Schedule D, Council Member Pierce recommended the same person who does the report each year sign off that the savings are being realized. He felt an independent audit should be in place. Mr. Summers advised the information is what is needed to form the report. The City can have anyone review internally or a third party review. He strongly recommended a city employee be involved in gathering of the information.

In Schedule F, Sections 3.3 and 3.7, Council Member Pierce indicated additional savings changes the contract. Mr. Summers indicated Section 3.3 references that anytime there are other savings possibilities, they can bring it to the City's attention and it would be at the City's discretion as to implementation. Mr. Summers next referenced Section 3.7 and indicated this references change the City needs to make which will affect the functionality of the structure and will need to be addressed.

Referencing 4.0 Table A, Guaranteed Savings, Council Member Pierce asked for clarification. Mr. Summers indicated it is strictly referencing dollar savings.

Council Member Pierce would like irrelevant information deleted under Section 10. He stated since the City is a public entity, no income tax is paid and asked if it is relevant. Mr. Summers advised the Energy Policy Act of 2005 allows governments to enter into the agreement and the design firm to collect tax credits. Council Member Pierce requested a 50/50 share be considered. Mr. Summers indicated a 50/50 share will be looked at.

Schedule H Baseline; Council Member Pierce asked that references to the Cobb Road Treatment Plant be removed as well as Appendix C which refers to the Police Department. Mr. Summers confirmed he will remove the Cobb Road Treatment Plant. City Manager Norman-Vacha indicated the Police Department is part of the original Investment Grade Audit and not slated as a project here.

Council Member Bernardini indicated he is concerned with the Surety Bond provisions, which should be removed, and that the company stands to make \$3.3 million dollars by providing this service largely due to the automated water meters, which could have been implemented by the City without Energy Systems Group.

## REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

Vice Mayor Johnston agreed with Council Member Bernardini about the bond worth but pointed out benefits of the proposal such as an opportunity for financing of water meters installation while paying for itself over time as well as other cost and energy savings.

Council Member Bradburn asked would new and improved technology be brought forward to the City in the future and revision of the agreement to implement those changes. Mr. Summers confirmed he would advise City Council on changing opportunities as long as it is a great fit for the City and is cost effective.

Council Member Pierce referenced the compensation schedule and asked if there is less than anticipated radio read meters replaced would the City pay less. Mr. Summers confirmed the City would pay less and pointed out there is a detailed list as part of the Investment Grade Audit where the price will be adjusted accordingly.

Attorney Jennifer Rey indicated the agreement has been reviewed and there have been modifications regarding terms of the bond forms incorporated into the agreement as well as a provision that the City retains final approval of any final form bond that is provided but without guarantee of performance bond litigation occurring. She indicated Schedule L, the financing agreement with SunTrust Bank, is not complete at this time. In addition, there is further negotiation on schedule for completion and prioritization of conservation measures. Also, there is contemplation of a payment bond which is the energy savings guarantee bond in the event that Energy Systems Group is not in a financial position to satisfy their guarantee for any unrealized energy savings. The bond is intended to be the full face value of the contemplated savings over the life of the agreement. As the years pass and those obligations are met that bond would be released on a prorated basis. A comprehensive agreement has interworking parts, including the Investment Grade Audit Report which establishes the basis for the project savings, and increased revenues in the water meters and baseline adjustments as Mr. Summers represented. There are some contemplated potential changes in this agreement if the energy savings are not realized. Based on the assumptions, there is an opportunity for reassessment which will come back to City Council for approval.

City Attorney Rey said review of a lengthy document recently provided by SunTrust delayed the final financing agreement coming to Council until the next meeting.

City Manager Norman-Vacha clarified that approval of the contract is being sought in all schedules with the exception of Schedule L; the financing agreement.

Attorney Hogan referenced paragraph 3.3, additional savings, and clarified that whatever savings can be achieved will be included in the annual energy savings guarantee report and will be a credit towards Energy System Group's obligation to produce savings for the City. Mr. Summers pointed out the intent in this paragraph is for no additional cost to the City. Attorney Hogan advised it is optional for the company to include other energy saving measures that may not be contemplated tonight. Vice Mayor Johnston suggested "will" be changed to "may" and Council Member Pierce agreed. Council Member Bradburn stated she would encourage Energy Systems Group to seek other energy saving measures.

Attorney Hogan stated the government encourages energy savings through a tax incentive and asked could a tax exempt government transfer the tax credits. Mr. Summers clarified it is a tax deduction. Attorney Hogan asked Mary Beth Gary how the City would get back the value of a tax deduction.

Mary Beth Gary of Oliver and Company stated that when the company is able to claim a deduction it is not considered savings but less of income and is taxed at the company's marginal rate. She further indicated 50% back to the City by agreement would have to be by reduced cost to the City or cash refund.

## REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

Attorney Hogan indicated that with a tax deduction under Section 179-D the City would be able to designate the company as the beneficiary of that deduction then calculate the dollar value giving the City 50% of the value of the deduction to Energy Systems Group.

Mr. Summers explained calculating the value of the deduction is based on efficiency standards set by the Federal government and must exceed 25% of that standard before qualifying for a tax deduction.

Attorney Hogan referenced the bond section that states “Whenever companies shall be and declared by the owner to be in default under the contract the owner having performed owner’s obligations thereunder” he would like to add “...not withstanding any City of Brooksville Ordinance to the contrary.”

Council Member Bradburn asked Mary Beth Gary her opinion of the program. Ms. Gary stated without having read all the details of the contract she advised it is a very positive step if the City has the ability to obtain financing for a project using a master lease agreement and has a way of quantifying the savings with a guarantee that is equivalent to or greater than the cost of the project.

Attorney Hogan pointed out that the contract will be contingent upon the financing agreement with SunTrust.

Council Member Bradburn asked should savings be earmarked. Council consensus was to wait until the savings are realized.

### **Motion:**

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval as verbally amended below, excluding Schedule L and subject to financing. City Manager Norman-Vacha reviewed the five items for changes:

1. *Schedule F Section 3.3* – Changing the terms “will be” to “may be included at the agency’s approval”.
2. *Schedule F Section 4.0* – The note at the bottom of Table A to include removal of the words “fuel type”.
3. *Schedule F Section 10* – Documentation of 179-D Tax Deduction to reflect the calculation value of the deduction to be shared with the City of Brooksville at 50% dollar value in cash.
4. *Schedule H* – Changing the base line eliminating the section referring to Cobb Road.
5. *Schedule M Bond Section* – To add verbiage “not withstanding any City Code, Ordinance or Policy”.

Motion carried 4-1 with Council Member Bernardini voting in opposition.

### **Audited Financial Statements**

Review and acceptance of Annual Audit for Fiscal Year ended 09/30/10 prepared by Oliver & Joseph Auditors, P.A.

Mary Beth Gary of Oliver & Joseph reviewed the annual audit. She stated the audit was completed and accepted by management. All the reports are dated March 28<sup>th</sup> and finalized to the State as required. The opinion letter was unqualified and the overall financial statements were also positive with no material weaknesses or significant deficiencies as summarized in the report. This year’s grant funding required single audit procedures focusing on controls and compliance with respect to the City’s expenditures of federal and/or state funds. A major program, the Clean Water State revolving fund, had no reportable findings or issues. Overall, the audit took longer than past years but it went extremely well.

Council Member Bradburn stated last year internal inefficiencies and inconsistencies were cited and asked if there has been improvement. Ms. Gary clarified it is not a finding but an auditor’s

## REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

preference to have certain types of systems in place for the recording of payables and is recommended annually due to changes of Council Members. She further stated there have not been any findings of problems as a result and these efficiency procedures continue to improve over the years and commended staff. She pointed out a finding that continues to be in the report from last year regarding a centralized purchasing system. However, City management has determined it is not cost effective at this point. Council Member Bradburn agreed but pointed out there are risks associated with not having a centralized purchasing system.

Council Member Bradburn thanked Ms. Gary and stated there will be further discussions. She predicted the most challenging budget this year not because of decrease in revenues but citizens are requesting certain levels of service in areas that she is not sure can be provided. She stated Ms. Gary's insight will be invaluable.

Mary Beth Gary encouraged Council Members to contact her with questions after review of the report.

### **Motion:**

Motion was made by Vice Mayor Johnston and seconded by Council Member Pierce for approval. Motion carried 4-1 with Council Member Bernardini voting in opposition as he had not been able to review the report.

Council Member Bradburn indicated she based her vote on the City's auditor being in agreement with staff recommendation.

Mayor Burnett thanked the City Manager and Finance Department for their diligence in trying to improve and do better.

### **Ordinance No. 817 - Pain Clinic Moratorium**

Consideration of proposed Ordinance with submission to the Planning and Zoning Advisory Board for review and recommendation.

Director of Community Development Bill Geiger briefly reviewed the history of the ordinance.

Planner Steve Gouldman reviewed requirements proposed by the ordinance. The Planning and Zoning Commission reviewed on April 13<sup>th</sup> and concurred with staff recommendation.

Council Member Bradburn stated there has been significant activity recently in the legislature regarding pain clinics and illicit prescription drugs. She indicated the House Bill has been set aside but the Senate's drug monitoring Bill is moving forward to greatly restrict distribution. City Planner Steve Gouldman indicated if the Senate Bill passes there will be no changes required to this proposal.

Council Member Bernardini indicated there are often staging areas at these clinics to avoid large groups gathering. Some have also changed names to "Wellness Management Clinics" and advised due diligence in reviewing applications. City Attorney Rey clarified the definition of a pain management clinic will be the basis during application review for permitting these types of clinics.

Vice Mayor Johnston pointed out the ordinance head note needs to be changed from Ordinance Number 818 to Ordinance Number 817. City Clerk Peters confirmed she will make the change accordingly.

### **Motion:**

Motion was made by Council Member Bernardini and seconded by Council Member Pierce for approval.

# REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

City Clerk Peters read Ordinance No. 817 by title, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING AUTHORITY, LEGISLATIVE FINDINGS OF FACT AND ESTABLISHING INTENT AND PURPOSE FOR PERMITTING CERTAIN PAIN MANAGEMENT CLINICS; AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 137, “LAND USE AND ZONING,” ARTICLE I, SECTION 137-2, “DEFINITIONS” AND SECTION 137-9, “SPECIFIC USE REGULATIONS;” AMENDING ARTICLE II, SECTION 137-46, “ADMINISTRATIVE FEES AND COST OF PUBLIC NOTICE;” PROVIDING FOR CONFLICT AND SERVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

Motion carried 5-0 upon roll call vote, as follows:

Council Member Bradburn	Aye
Council Member Bernardini	Aye
Council Member Pierce	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Mayor Burnett stated the second reading of the ordinance is scheduled for May 2, 2011.

## CITIZEN INPUT

Mayor Burnett asked for public input.

Kojak Burnett referenced the Energy Systems Group Contract and stated it was a good plan. He next referenced the Audited Financial Statements and commended Ms. Gary, City Manager Norman-Vacha and the Finance Department staff on the report.

## ITEMS BY COUNCIL

### City Attorney Rey

#### Executive Session

City Attorney Rey, with concurrence of Council, asked for an Executive Session on May 2<sup>nd</sup> at 6:00 p.m. prior to the next Regular City Council Meeting.

### T. Jennene Norman-Vacha, City Manager

#### Next Regular City Council Meeting

City Manager Norman-Vacha stated the next meeting is scheduled on May 2<sup>nd</sup> at 6:00 p.m.

#### Art in the Park Event

She announced Art in the Park event on Saturday, April 30<sup>th</sup> and Sunday, May 1<sup>st</sup>.

### Joe Bernardini, Council Member

#### Recycling Pick-up on Wednesdays

Council Member Bernardini asked for an update on his recycling request from January 25<sup>th</sup>. City Manager Norman-Vacha indicated staff is seeking a sorting source with a potential provider as a viable alternative in hopes of increasing the level of recyclables. Vice Mayor Johnston suggested

## REGULAR COUNCIL MEETING MINUTES – APRIL 18, 2011

different color bags or labeling bags to separate recyclables. City Manager Norman-Vacha pointed out the City does not have a recyclable truck to sort the items during collection. She expects to present an alternative to Council soon and encouraged other ideas to make it work such as purchasing a recycling vehicle or a provider that takes mixed recyclables.

### Council Mail Box

He requested nothing be put in his box unless contacted by staff. Mayor Burnett requested City Manager Norman-Vacha have staff leave Council correspondence in her office for pick-up.

### Emory Pierce, Vice Mayor

#### Recycling

Council Member Pierce stated recycling was intended to be a minimal cost program and this change will be costly.

### Lara Bradburn, Council Member

#### Rain Barrel Event/Water Conservation Month

Council Member Bradburn stated she and Vice Mayor Johnston attended the event and she thanked Jeanne Griffin-Moore and her husband for their hard work getting materials and making the barrels.

#### Quarry Project Workshop

She clarified a recent newspaper article surrogated an impression that the City guaranteed support for three (3) years up to \$300,000. She stated rather each project would be reviewed individually by Council with no guarantee for the future.

### Joe Johnston, Vice Mayor

#### Red Light Runners

Vice Mayor Johnston stated there were two (2) red-light runners in front of him since he last reported. He stated the majority of infractions are at Martin Luther King Boulevard and Broad Street but also occurred on Mildred Avenue.

### Frankie Burnett, Mayor

#### Happy Easter

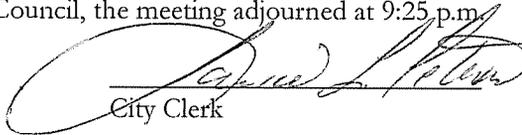
Mayor Burnett wished everyone a Happy Easter.

#### Staff Appreciation

He personally thanked department heads and staff for what they do and thanked City Manager Norman-Vacha for her part in leading the way.

## ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:25 p.m.

  
City Clerk

Attest: \_\_\_\_\_  
Mayor

**CITY OF BROOKSVILLE  
REGULAR CITY COUNCIL MEETING  
COUNCIL CHAMBERS  
201 HOWELL AVENUE  
MINUTES**

May 2, 2011

6:00 P.M.

Brooksville City Council met in regular session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members, Joe Bernardini and Emory Pierce present. Also present were Thomas S. Hogan, Jr., City Attorney; T. Jennene Norman-Vacha, City Manager; Janice L. Peters, City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Richard Radacky, Interim Director of Public Works; George Turner, Police Chief and Tim Mossgrove, Fire Chief. Council Member Bradburn was not present.

The meeting was called to order by Mayor Burnett, adjourned and convened in Executive Session.

**EXECUTIVE SESSION PURSUANT TO F.S. CHAPTER 286.011(8)**

The purpose of the Executive Session is to discuss settlement options and litigation strategy for pending City actions. The persons attending the meeting will be Council Members Joe Bernardini, Lara Bradburn, Frankie Burnett, Joe Johnston & Emory Pierce; Attorneys for the City of Brooksville, Thomas S. Hogan, Jr., Debbie Hogan and Jennifer Rey; City Manager, T. Jennene Norman-Vacha; and court reporter C. Gail Donato of Carolyn F. Engle & Associates. The meeting is expected to last approximately thirty minutes.

The Executive Session was adjourned and the meeting was reconvened by Mayor Burnett, followed by an invocation and Pledge of Allegiance.

**CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

**Law Week Proclamation**

Presentation of Proclamation designating May 1-7, 2011, as Law Week.

Mayor Burnett read the proclamation in its entirety and presented it to Jennifer Rey of The Hogan Law Firm. Attorney Rey reviewed events happening in honor of Law Week.

**Law Enforcement Awareness Proclamation**

Presentation of Proclamations to Officers and representatives of the Brooksville Police Department, Hernando County Sheriff's Office, Florida Highway Patrol and Florida Department of Law Enforcement designating and supporting the month of May as Law Enforcement Awareness Month.

Mayor Burnett read the proclamation in its entirety and presented it to Todd Cloud of the Florida Highway Patrol, who read a poem, "A Part of America Died", Brooksville Police Chief George Turner and Hernando County Sheriff Al Nienhuis.

Council Member Bernardini pointed out the Game and Fresh Water Commission was not included in the presentation and he would like recognition be given to them also. Mayor Burnett requested City Manager Norman-Vacha make note of this and a proclamation will be personally presented to them.

## REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

### Arson Awareness Week Proclamation

Presentation of Proclamation designating the week of May 2, 2011, as Arson Awareness Week.

Mayor Burnett read the proclamation in its entirety and presented it to Fire Chief Tim Mossgrove.

### CITIZEN INPUT

Mayor Burnett asked for public input; there was none.

### CONSENT AGENDA

#### Hernando County Fire and Rescue District's Renewal Application for Certificate of Public Convenience & Necessity (COPCN)

Consideration for Council to recommend that Hernando County Board of County Commissioners grant renewal of COPCN for Hernando County Fire and Rescue District, for the period of May 6, 2011 through May 7, 2014.

#### Motion:

Motion was made by Council Member Bernardini and seconded by Vice Mayor Johnston for approval of Consent Agenda. Motion carried 4-0.

### PUBLIC HEARINGS

Entry of Proof of Publication into the Record

Mayor Burnett called for proof of publication. City Clerk Peters indicated Item G1 was published on Friday, April 22, 2011, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavit for the record.

#### Ordinance No. 817 - Pain Clinic Moratorium

Consideration of proposed Ordinance with submission to the Planning and Zoning Advisory Board for review and recommendation.

**[First Reading 04/18/11]**

Director of Community Development Bill Geiger briefly reviewed the Ordinance.

Mayor Burnett asked for public input; there was none.

#### Motion:

Motion was made by Council Member Bernardini and seconded by Vice Mayor Johnston for approval.

City Clerk Peters read Ordinance No. 817 by title, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING AUTHORITY, LEGISLATIVE FINDINGS OF FACT AND ESTABLISHING INTENT AND PURPOSE FOR PERMITTING CERTAIN PAIN MANAGEMENT CLINICS; AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 137, "LAND USE AND ZONING," ARTICLE I, SECTION 137-2, "DEFINITIONS" AND SECTION 137-9, "SPECIFIC USE REGULATIONS;" AMENDING ARTICLE II, SECTION 137-46,**

## REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

### **“ADMINISTRATIVE FEES AND COST OF PUBLIC NOTICE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.”**

Motion carried 4-0 upon roll call vote, as follows:

Council Member Bradburn	Absent
Council Member Bernardini	Aye
Council Member Pierce	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Council Member Bernardini stated this Ordinance will not fix all problems that pain clinics create and advised City staff to be diligent with enforcement.

Council Member Bradburn arrived for the meeting at 7:35 p.m.

### **REGULAR AGENDA**

#### **Ordinance No. 777-A – Flagstone Pavers**

Consideration of ordinance establishing requirements of Flagstone Pavers’ Tax Exempt Exemption.

Director of Community Development Bill Geiger briefly reviewed the Ordinance.

Council Member Bradburn clarified a recent misleading newspaper article which omitted that Flagstone Pavers achieved only one less than their stated goal for employees and had done an additional \$100,000 expansion. She further stated that is the reason for the prorated amount which she believed is fair and accurate.

#### **Motion:**

Motion was made by Vice Mayor Johnston and seconded by Council Member Pierce for approval.

City Clerk Peters read Ordinance No. 777-A by title, as follows:

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING ORDINANCE NO. 777 WHICH PROVIDED A TAX ABATEMENT FOR UP TO TEN YEARS FOR THE EXPANSION OF A QUALIFIED MANUFACTURING BUSINESS ON PROPERTY OWNED BY FLAGSTONE PAVERS, INC., LOCATED AT 9070 OLD COBB ROAD, BROOKSVILLE, FLORIDA 34601-9300; AMENDING SECTION 1 OF SAID ORDINANCE BY REDUCING THE LEVEL OF TAX EXEMPTION PROVIDED BY SAID ORDINANCE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Motion carried 5-0 upon roll call vote, as follows:

Council Member Bernardini	Aye
Council Member Pierce	Aye
Council Member Bradburn	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

# REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

Mayor Burnett indicated the second reading is scheduled for May 16<sup>th</sup>.

## **Ordinance No. 818 – Cemetery Code Change – Green Burials**

Consideration of Code change incorporating the Green Burial concept at the Brooksville Cemetery.

Director of Parks, Facilities & Recreation Mike Walker reviewed the proposed Ordinance.

Council Member Bradburn stated the legislature was proposing additional laws in regard to green burials and she asked is staff staying current with that. Parks Director Walker confirmed that he is and that there is nothing at this time that governs green burials.

## **Motion:**

Motion was made by Council Member Bernardini and seconded by Vice Mayor Johnston for approval.

City Clerk Peters read Ordinance No. 818 by title, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA,  
AMENDING CHAPTER 18, ARTICLE II BROOKSVILLE CITY  
CEMETERY OF THE CITY OF BROOKSVILLE CODE OF  
ORDINANCES, PROVIDING FOR CONFLICT AND SEVERABILITY;  
PROVIDING FOR CODIFICATION; AND PROVIDING AN  
EFFECTIVE DATE.**

Motion carried 5-0 upon roll call vote, as follows:

Council Member Pierce	Aye
Council Member Bradburn	Aye
Council Member Bernardini	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Mayor Burnett indicated the second reading is scheduled for May 16<sup>th</sup>.

## **Sign Regulations Chapter 125 of the Code of Ordinances**

Staff report and consideration of options relating to the Code of Ordinances Chapter 125 regarding signs.

City Planner Steve Gouldman reviewed the options allowed by Hernando County; one permanent banner, three (3) permanent flags for each lot or parcel zoned non-residential and multi-family, one permanent flag, pennant or streamer on each lot with three hundred (300) or more feet of roadway frontage a maximum of six (6) times per year no more than sixty (60) days per year, and new businesses can file for twenty-one (21) days to advertise with a pennant or flag. The City of Largo recently enacted the “Economic Stimulus Program” which applies to temporary signs and allow forty-five (45) days for flags and pennants every three (3) months. Another city allows flags and pennants for two (2) weeks for every three (3) months. He stated the bottom line is to determine the level of clutter in the community and at what cost. He pointed out code enforcement will have to monitor different intervals. He recommended no changes and feels current code is adequate. He advised new businesses could be extended from a thirty (30) day period to sixty (60) or forty-five (45) days.

Council Member Bradburn pointed out this was brought up to address feather flags and she is concerned with visual clutter. She indicated code enforcement is not consistent on citing violations from business to business. Her opinion is that a temporary sign should not be out after hours or during inclement weather but pennants are semi-permanent and cannot be easily removed. She

## REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

would support leeway to new businesses to extend the time period. She would also like more information on the City of Largo ordinance. City Planner Gouldman further elaborated on the ordinance. He pointed out code enforcement does not work after hours so it would not be feasible to change code to reflect removal of signs at night.

Council Member Pierce agreed to allow two (2) each forty-five (45) day periods within a 365 calendar day period for new businesses to deviate from the existing sign ordinance; can be consecutive and must be permitted with no fees for the purpose of tracking. There should be no restrictions on the size, square footage or percentage of coverage except for blinking lights or noise. City Planner Gouldman confirmed that is already prohibited in current code. Council Member Pierce continued on to say established businesses also need periods to advertise for special sales or events.

Council Member Bernardini indicated that when the original sign ordinance was adopted it was an ordeal. Studies have proven that the banners over a period of time are not as effective as they proclaim to be. He reviewed the sign ordinances of other towns and indicated he is not in favor of changing what has already been established. He wants to keep the quaint appearance of Brooksville without sign clutter.

Vice Mayor Johnston agreed with Council Member Bernardini there was a lot of compromise to get the sign ordinance in place and initially did not favor any changes, but would be willing to consider Option 3.

City Manager Norman-Vacha read into the record a statement from the City's Ambassador of Commerce and Employment Dennis Wilfong in favor of allowing the temporary signage.

Council Member Bradburn further commented on the proposed changes and was generally in favor of greater sign restrictions for uniformity particularly in the historic district. She supported Option 3 to help establish new businesses. She advised businesses be educated on regulations of sandwich boards.

Council Member Bernardini cautioned Council on changing regulations to allow more signs as this could get out of control. There are studies that show both sides of how effective signs are. He referenced the County Impact Fees reduction to stimulate development was not effective. He is in favor of extending to sixty (60) days for new business but prefers not to change it at all.

Council Member Pierce asked what can be done for existing businesses since they are experiencing an income decline. Council Member Bradburn encouraged businesses to utilize sandwich boards more in the downtown area. City Planner Steve Gouldman stated banners are allowed for a special event without a permit. Council Member Pierce suggested an informational mailing to local businesses on what is allowable.

Mayor Burnett advised all new businesses have indicated that there is not sufficient time to advertise with temporary signage and recommended increasing to sixty (60) allowable days to advertise and asked all Council Members support this change.

Mayor Burnett asked for public input.

Juanita Ezell of Happy House Produce spoke in favor of signage and indicated it makes a major difference in sales. She preferred her custom made signs over sandwich boards and confirmed that she takes the signs in at night.

Jay Tinkham of Lizzie T's Coffee House stated he experienced an increase in revenue by having a sign out for one day, which proved that signage is effective. He agreed there needs to be regulations in place with equal enforcement but he would like the opportunity to have detailed advertising.

Pierre Desjardins of Hill House Bed and Breakfast advised there has to be a compromise between

## REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

City sign regulations and businesses and was in favor of equal enforcement. He finds many legal signs throughout the City offensive along with political signs that are not enforced and dilapidated buildings at all major corridors of the City are an eyesore.

Council Member Bradburn asked for input from Council Members on consideration of a trial period to experiment with a temporary ordinance in place.

Director Geiger advised that whatever changes are made need to be clear and could be done on a temporary basis. He indicated signage is the most difficult to address for Code Enforcement. The Code Enforcement Officer works well with businesses and educates them on allowable signage and offers suggestions when appropriate. He asked Council to also consider modifications to clarify how subdivisions and multi-family properties are handled which differs from commercial.

Council Member Bradburn pointed out other cities have separate ordinances to address historic district and highway commercial and this would also work well for the City of Brooksville with its different quadrants. She would like more restrictive signs downtown.

Council Member Johnston advised a temporary ordinance if reversed would cost businesses for signs that would no longer be allowed.

Council Member Pierce recommended consideration of Option 3 increasing from thirty (30) to sixty (60) consecutive days with an approved permit to include new and existing businesses within a one year period for banners, flags, pennants, streamers and spinners. Vice Mayor Johnston did not support a temporary basis but would support a permanent basis and pointed out it will be difficult to enforce. Mayor Burnett clarified Council consensus has been changing to sixty (60) days on a permanent basis. Council Member Bernardini would not support this change as it allows an extensive combination of signage. Council Member Bradburn suggested a narrowed list would get her support.

City Manager Norman-Vacha clarified that the discussion is about changing temporary signage not permanent signage. She pointed out compared to permanent signage flags and banners are less of an investment for a business and they will be aware that the ordinance will be on a temporary basis. The City of Largo experimented for a year with a temporary ordinance and got results of economic impact with specific requirements. She advised restrictions be placed on size, aesthetics and time limit as feasible. Vice Mayor Johnston requested a copy of Largo's temporary ordinance be distributed to Council for further review.

Mayor Burnett recommended the information be given to Council and placed on the June 6<sup>th</sup> regular meeting agenda.

Council Member Bradburn clarified Council is not looking to rewrite the entire sign ordinance or eliminate restrictions overall but simply address a specific need in the community.

Council Member Pierce asked staff to propose a temporary economic incentive sign ordinance based on the Hernando County ordinance and other ordinances to shorten the process. Mayor Burnett advised Council Members contact the City Manager with input. City Manager Norman-Vacha will provide preliminary documents of Hernando County and the City of Largo prior to the proposed policy for Council review.

Council Member Pierce stated he would support a temporary ordinance for a year with one-year renewal option to provide additional leeway for business advertisement during bad economy.

Mayor Burnett commended City Code Enforcement Officer Mark Caskie for his due diligence.

# REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

## CITIZEN INPUT

Mayor Burnett asked for public input; there was none.

## ITEMS BY COUNCIL

### Emory Pierce, Council Member

#### Surveying on West Jefferson

Council Member Pierce asked Public Works Director Radacky did he receive preliminary plans from Florida Department of Transportation on road widening and drainage.

Director Radacky indicated he has not but Parsons has the work that includes Jefferson and part of State Road 41 from Mildred Avenue to Croom Road. They are currently gathering data and plans are expected next summer.

Council Member Pierce advised sufficient budgeting to have the City's lines located by vacuum excavation and have same entity responsible for the surveyor resulting in significant savings.

Council Member Bradburn advised she has emphasized to the County and Florida Department of Transportation it is the City's desire to enhance the intersection at US98 for right-of-way and utilities anticipating additional traffic with the Quarry Preserve subdivision. The developer has agreed to repave a section of US98 creating a bottleneck effect at the City limits which will result in a moratorium.

Council Member Bernardini stated due to new State changes to the Growth Management Program the developer no longer has to indicate whether or not there is an impact on roads and schools. Council Member Bradburn indicated those agreements are already in place and DCA had already granted a pass to the Quarry Preserve developers and did not comply with principles outlined in the 2005 Growth Management Legislation. This will be detrimental as the City will have to deny anyone who wants to develop along the US98 corridor in order to avoid a moratorium resulting in an economic disaster at taxpayers' expense.

### Lara Bradburn, Council Member

Council Member Bradburn referred to the letter from the Supervisor of Elections Office and asked is this in regards to replacing the church by the park with the Jerome Brown Center as the polling location in Precinct 4. City Manager Norman-Vacha confirmed that it is and was placed on Correspondence to Note for Council to be aware of the request.

### Joe Bernardini, Council Member

#### Sign Ordinance

Council Member Bernardini referred to Section 125-2 and asked that purpose and intent be reviewed before revising the ordinance or adding a temporary ordinance.

### Joe Johnston, Vice Mayor

#### Art in the Park

Vice Mayor Johnston reminded all the event was held this past weekend and was well attended.

#### Red light runner

He stated after the last meeting of his reporting he saw the first red light runner in front of him the following morning. Mayor Burnett indicated he had observers at Martin Luther King Boulevard, the truck by-pass and near Wal-Mart for an hour and they reported there was not one person who ran a red light.

# REGULAR COUNCIL MEETING MINUTES – MAY 2, 2011

## Frankie Burnett, Mayor

### Relay For Life

Mayor Burnett reminded all the event will be on Friday, May 6<sup>th</sup> at 5:30 p.m. at the Hernando High School stadium.

### Blueberry Gala

He reminded all the event will be on Saturday, May 7<sup>th</sup> at 6:00 p.m. at the airport hangar.

### Hurricane Expo

He reminded all the event will be on Saturday, May 7<sup>th</sup> at 10:00 a.m. at Weeki Wachi.

### Mother's Day

He reminded all Mother's Day is on Sunday, May 8<sup>th</sup> and asked all Council Members submit a mother's name for presentation of a certificate to the City Manager's Office by Wednesday at noon.

### Hogan Law Firm's Annual Fishing Tournament

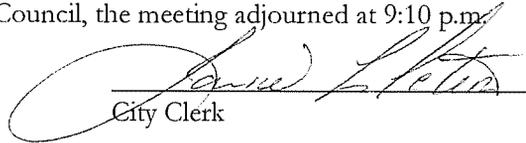
Council Member Bradburn reminded all the event will be on Saturday morning to benefit Hospice.

### George Foster of Creative Environmental Solutions, Inc.

Mayor Burnett expressed condolences to George Foster whose mother passed away. The viewing is Friday evening and services Saturday morning at 11:00 a.m. at Faith Presbyterian Church.

## ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:10 p.m.

  
City Clerk

Attest: \_\_\_\_\_  
Mayor



## CONSENT AGENDA ITEM MEMORANDUM

**TO:** THE HONORABLE MAYOR AND CITY COUNCILMEN  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER  
**FROM:** RICHARD W. RADACKY, PUBLIC WORKS DIRECTOR  
**SUBJECT:** ENERGY SYSTEMS GROUP - CHANGE ORDER 1

**DATE:** July 7, 2011

**GENERAL SUMMARY/BACKGROUND:** On June 20, 2011, City Council during regular session approved the direct purchase of radio read meters and the Daikin Variable heat recovery and air conditioning system and related equipment for City Hall. As you recall, the direct purchase radio read water meters resulted in a cost savings to the City. The quote from Sunstate Meter and Supply to Energy Systems Group (ESG) was \$939,814. Adding sales tax at seven (7) percent (\$65,787) the total purchase cost to ESG would be \$1,005,601; but by piggybacking on Hernando County's bid with Sunstate, the cost to the City was \$847,486 for a total savings to the City for radio read meters of \$158,115.

Also, the direct purchase of a Daikin Variable Refrigerant Volume Series heat recovery and air conditioning system and related equipment and an air handling unit which resulted in a cost savings to the City. The heat recovery and air conditioning system and the air handling unit is \$130,752 and \$24,310 respectively, which are the lowest and best bid for the purchase of these items. Due to the City Council allowing direct purchase of the equipment we were able to save \$10,079 in sales tax at six and one half (6.5) percent.

Schedule D - Compensation to Company and Deliverables of the Guaranteed Energy Savings Performance Contract (the "Contract") by and between ESG and the City sets forth the payments to ESG for purchase and installation of the equipment as part of the delineated Conservation Measures. The total contract sum as noted in Schedule D is \$3,333,022. We are requesting approval of the Change Order to ESG.

The total cost savings of Change Order 1 by direct equipment purchase is \$168,194. Approval of Change Order 1 will reduce the original total contract sum with ESG by \$1,094,876 which includes a reduction of Conservation Measure 3 from \$996,069 to \$841,007 and a reduction of Conservation Measure 1 from \$1,943,887 to \$1,004,073. The new contract sum with ESG will be \$2,238,146. Change Order 1, if approved, shall amend Schedule D of the Contract to reflect the new amounts.

**BUDGET IMPACT:** Approval of Change Order 1 will allow the City to reduce the overall project costs for our energy savings capital expenditures project. The total reduction, as a result of approval of Change Order 1, will be \$1,094,876. The total savings, by the City purchasing the equipment, is \$168,194.

**LEGAL REVIEW:** The City Council has home-rule authority (Article VIII, 2(b), Florida Constitution, Section 166.011, Florida Statutes) to consider matters of fiscal and intergovernmental benefit. Section 11.3 of the Contract provides that all modifications, additions or replacements of the Conservation Measures or revisions to operating or other procedures shall be made by written amendment to the Contract. Pursuant to Section 2.IV of the City's Purchasing Policy the Council may authorize adjustments of quantities in order to expend loan funds. Pursuant to Section 5.04 of the City Charter, competitive bidding is required except to the extent that Council authorizes otherwise by ordinance. Pursuant to Sec. 2-304(a), the amount of expenditure for which the city may obligate itself without competitive bidding by the City is increased provided that (1) it is recommended to the City Council that a specific purchase be made by "piggy-backing" on an award by another governmental entity's competitive bidding process; and (2) the other governmental entity's competitive bidding process provides substantially equivalent procedural guarantees of fairness and competitiveness to those of the City.

**STAFF RECOMMENDATION:** Staff recommends that the Council approve Change Order 1 for a reduction of the Energy Services Agreement with Energy Services Group, in the amount of \$1,094,876, and authorize the Mayor to execute Change Order 1 on behalf of the Council.

**ATTACHMENT:** Change Order 1



17757 US Highway 19 North  
Suite 210  
Clearwater, FL 33764-6592  
Tel 727-533-0403  
Fax 727-533-0723

June 20, 2011

T. Jennene Norman-Vacha  
City of Brooksville  
City Manager  
201 Howell Avenue  
Brooksville, FL 34601

RE: City of Brooksville Energy Services Agreement – Change Order #1 – Direct  
Material Purchases

Jennene:

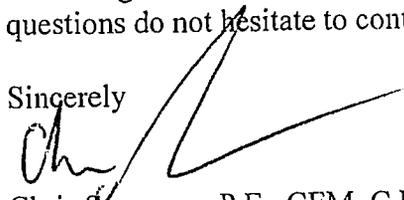
ESG, LLC is submitting to the City this deductive change order for the direct purchase of the material presented in the attachments. The city will purchase the materials directly from the specified vendors for this project. ESG will receive these materials when delivered to insure that the material is not damaged and the correct quantities delivered.

Original Contract Sum	\$3,333,022
Net Change by previous authorized Change Order	\$0
The Contract Sum prior to this Change Order was	\$3,333,022
The Contract Sum will be <u>Decreased</u> by this Change Order in the amount of	(\$1,094,875.71)
The new Contract Sum including this Change Order will be	\$2,238,146.29

Contract Time will be Unchanged

Please sign and return this change order to ESG as soon as possible and if you have any questions do not hesitate to contact me if you have any further questions.

Sincerely



Chris Summers, P.E., CEM, C.B.C.  
Regional Director  
Energy-Systems-Group, LLC

Name:

Date:

# ATTACHMENT A MATERIAL PROPOSALS

May 12, 2011

Mr. Chris Summers  
Energy Systems Group, Inc. -Clearwater, Fl.  
772-533-0704 / csummers@energysystemsgroup.com

**RE: NEPTUNE R900i WATER METERS – BROOKSVILLE, FL. JOB – REVISION #2**

Mr. Summers,

Listed below are the prices that you have requested:

<u>Qty.</u>	<u>Description</u>	<u>Unit Price</u>	<u>Total</u>
3,490	5/8"x3/4" T10 R900i Pit Gallon Meter Complete	\$180.85	\$631,166.50
875	5/8" T10 R900i Pit Gallon Register Only	\$159.50	\$139,562.50
43	1" T10 R900i Pit Gallon Meter Complete	\$215.00	\$9,245.00
91	1" T10 R900i Pit Gallon Register Only	\$159.50	\$14,514.50
43	1 1/2" T10 SE R900i Pit Gallon Meter Complete	\$312.00	\$13,416.00
10	1 1/2" T10 R900i Pit Gallon Register Only	\$159.50	\$1,595.00
45	2" T10 SE R900i Pit Gallon Meter Complete	\$411.50	\$18,517.50
1	2" T10 Flanged R900i Pit Gallon Meter Complete	\$411.50	\$411.50
14	2" T10 R900i Pit Gallon Register Only	\$159.50	\$2,333.00
3	3" Compound Low Side R900i Register (5/8" T10)	\$159.50	\$478.50
3	3" Compound High Side R900i Register (3" TT)	\$159.50	\$478.50
6	3" Tru Flo R900i Compound Meter Complete	\$1,563.70	\$9,382.20
2	4" Tru Flo R900i Compound Meter Complete	\$2,103.31	\$4,206.62
5	6"x1 1/2" HPPIII R900i Compound Meter Complete	\$6,875.95	\$34,379.75
1	6" HP Turbine R900i Pit Gallon Register Only	\$159.50	\$159.50
2	8" HPPIII Low Side R900i Register (2" T10)	\$159.50	\$319.00
2	8" HPPIII High Side R900i Register (8" HPPIII)	\$159.50	\$319.00
1	3" Compound Low Side Chamber (5/8" T10)	\$25.76	\$25.76
1	3" Compound Low Side Chamber Gasket (5/8" T10)	\$.64	\$.64
1	3" Compound Main Case Gasket	\$5.32	\$5.32
2	8" HPPPIII Low Side Chamber (2" T10)	\$193.20	\$386.40
2	8" HPPPIII Low Side Chamber Gasket (2" T10)	\$7.26	\$14.52
1,200	R900 Thru-Lid Extended Range Antenna	\$39.50	\$47,400.00

Required Additional Reading Equipment:

1	Neptune, MRX920 Version II Mobile Data Collector (less laptop)	\$9,975.00
1	Neptune, MRX920 On-Site Implementation & Training	\$2,000.00
	Total	\$939,813.71

I hope that this quotation meets with your approval. If you have any questions please do not hesitate to contact me.

Delivery: 3-5 weeks ARO

Freight Allowed on complete order.

Respectfully submitted,  
*Jeff Kimbrough*  
Sunstate Meter and Supply, Inc.  
Ph: 352-516-9791



MANUFACTURERS REPRESENTATIVE  
WITH LOCAL PARTS AND SERVICE

DATE: June 9, 2011 – Revised

PROPOSAL TO: Energy Systems Group  
17757 US Hwy 19 North, Suite 210  
Clearwater, Florida 33764-6592  
PH: (727) 533-0704

SUBJECT: Brooksville City Hall

We are pleased to offer the following equipment per our attached terms and conditions and the attached terms and conditions of the manufacturer; F.O.B. factory, net 30 days, terms subject to credit approval, sales tax is not included in the pricing. Pricing valid for forty-five (45) days from date of proposal. The billing may be split between Carroll Air Systems, Inc. and the manufacturer.

**VRV-III (208-3) THREE PIPE HEAT RECOVERY - MULTIPLE EVAPORATOR, DIRECT EXPANSION (DX), AIR-COOLED, VARIABLE CAPACITY, SPLIT SYSTEM**

- QTY. 1 REYQ240PBTJ
- QTY. 1 REYQ240PBTJ
- QTY. 1 REYQ216PBTJ
- QTY. 1 REYQ240PBTJ

Connects with:

- QTY. 7 DUCT MOUNTED MEDIUM STATIC Unit MN: FXMQ\_\_MVJU
- QTY. 12 DUCT MOUNTED STANDARD STATIC (DC) Unit MN: FXMQ\_\_PVJU
- The system is capable of refrigerant piping up to 540 actual feet or 620 equivalent feet from the outdoor unit to the furthest indoor unit, a total combined liquid line length of 3,280 feet of piping between the condensing and fan coil units with 295 feet maximum vertical difference, without any oil traps.

**SYSTEM DESCRIPTION**

- The variable capacity, heat recovery air conditioning system is a Daikin Variable Refrigerant Volume Series (heat and cool model) split system as specified. The system will consist of multiple evaporators, branch selector boxes, REFNET™ joints and headers, a three pipe refrigeration distribution system using PID control, and Daikin VRV® outdoor unit. The outdoor unit is a direct expansion (DX), air-cooled heat recovery, multi-zone air-conditioning system with variable speed driven compressors using R-410A refrigerant. The outdoor unit may connect an indoor evaporator capacity up to 200% of the outdoor condensing unit capacity. All zones are

each capable of operating separately with individual temperature control. Two-pipe systems requiring separation of the gas and liquid refrigerant are not acceptable.

- The Daikin outdoor unit is interconnected to indoor unit models FXFQ, FXHQ, FXSQ, FXMQ, FXLQ, FXNQ, FXOQ, FXDQ, FXZQ and FXAQ and will range in capacity from 7,500 Btu/h to 48,000 Btu/h in accordance with Daikin's engineering data book detailing each available indoor unit. The indoor units are connected to the outdoor utilizing Daikin's REFNET™ specified piping joints and headers.
- **Operation of the system will permit either individual cooling or heating of each fan coil simultaneously or all of the fan coil units associated with one branch cool/heat selector box (BSVQ). Each fan coil or group of fan coils is able to provide set temperature independently via a local remote controller, an Intelligent Controller, an Intelligent Manager or a BMS interface.**
- **Branch selector (BS) boxes are located as shown on the drawing. The branch selector boxes will have the capacity to control up to 60 MBH (cooling) down stream of the BS box. The BS box will consist of five electronic expansion valves, refrigerant control piping and electronics to facilitate communications between the BS box and main processor and between the BS box and fan coils. The BS box will control the operational mode of the subordinate fan coils. The use of five EEV's ensures continuous heating during defrost, no heating impact during changeover and reduced sound levels. Use of multi-port branch selector boxes will not be acceptable.**

#### OUTDOOR UNIT MODELS:

- QTY. 1 REYQ240PBTJ
- QTY. 1 REYQ240PBTJ
- QTY. 1 REYQ216PBTJ
- QTY. 1 REYQ240PBTJ

- Tagged: CU-1, CU-2, CU-3 and CU-4

#### General

- The outdoor unit is designed specifically for use with VRV III series components
- The outdoor unit is factory assembled and pre-wired with all necessary electronic and refrigerant controls. The refrigeration circuit of the condensing unit will consist of Daikin scroll compressors, motors, fans, condenser coil, electronic expansion valves, solenoid valves, 4-way valve, distribution headers, capillaries, filters, shut off valves, oil separators, service ports and refrigerant regulator.
- High/low pressure gas line, liquid and suction lines must be individually insulated between the outdoor and indoor units
- The outdoor unit can be wired and piped with outdoor unit access from the left, right, rear or bottom
- The connection ratio of indoor units to outdoor unit is permitted up to 200%
- Each outdoor system is able to support the connection of up to 41 indoor units dependant on the model of the outdoor unit

- The sound pressure level standard is that value as listed in the Daikin engineering manual for the specified models at 3 feet from the front of the unit. The outdoor unit is capable of operating automatically at further reduced noise during night time.
- The system will automatically restart operation after a power failure and will not cause any settings to be lost, thus eliminating the need for reprogramming
- The unit will incorporate an auto-charging feature and a refrigerant charge check function
- The outdoor unit is modular in design and should allow for side-by-side installation with minimum spacing
- The following safety devices are included on the condensing unit; high pressure switch, control circuit fuses, crankcase heaters, fusible plug, high pressure switch, overload relay, inverter overload protector, thermal protectors for compressor and fan motors, over current protection for the inverter and anti-recycling timers
- To ensure the liquid refrigerant does not flash when supplying to the various fan coil units, the circuit is provided with a sub-cooling feature
- Oil recovery cycle is automatic occurring 2 hours after start of operation and then every 8 hours of operation
- The outdoor unit is capable of heating operation at 0°F dry bulb ambient temperature without additional low ambient controls
- The system will continue to provide heat to the indoor units in heating operation while in the defrost mode

Unit Cabinet:

- The outdoor unit is completely weatherproof and corrosion resistant. The unit is constructed from rust-proofed mild steel panels coated with a baked enamel finish.

Fan:

- The condensing unit will consist of one or more propeller type, direct-drive 350 and 750 W fan motors that have multiple speed operation via a DC (digitally commutating) inverter
- The condensing unit fan motor will have multiple speed operation of the DC (digitally commutating) inverter type, and be of high external static pressure and is factory set as standard at 0.12 in. WG. A field setting switch to a maximum 0.32 in. WG pressure is available to accommodate field applied duct for indoor mounting of condensing units.
- The fan is a vertical discharge configuration with a nominal airflow maximum range of 6,700 CFM to 14,120 CFM dependant on model specified
- The fan motor will have inherent protection and permanently lubricated bearings and be mounted
- The fan motor is provided with a fan guard to prevent contact with moving parts

Condenser Coil:

- The condenser coil is manufactured from copper tubes expanded into aluminum fins to form a mechanical bond
- The heat exchanger coil is of a waffle louver fin and rifled bore tube design to ensure high efficiency performance
- The heat exchanger on the condensing units is manufactured from Hi-X seamless copper tube with N-shape internal grooves mechanically bonded on to aluminum fins to an e-Pass Design
- The fins are to be covered with an anti-corrosion acrylic resin and hydrophilic film type E1
- The pipe plates are treated with powdered polyester resin for corrosion prevention. The thickness of the coating must be between 2.0 to 3.0 microns.

Compressor:

- The Daikin inverter scroll compressors are variable speed (PAM inverter) controlled which is capable of changing the speed to follow the variations in total cooling and heating load as determined by the suction gas pressure as measured in the condensing unit. In addition, samplings of evaporator and condenser temperatures are made so that the high/low pressures detected are read every 20 seconds and calculated. With each reading, the compressor capacity (INV frequency or STD ON/OFF) is controlled to eliminate deviation from target value.
- The inverter driven compressor in each condensing unit is of highly efficient reluctance DC (digitally commutating), hermetically sealed scroll “G-type” with a maximum speed of 7,980 rpm
- Neodymium magnets are adopted in the rotor construction to yield a higher torque and efficiency in the compressor instead of the normal ferrite magnet type. At complete stop of the compressor, the neodymium magnets will position the rotor into the optimum position for a low torque start.
- The capacity control range is as low as 6% to 100%
- Each non-inverter compressor will also be of the hermetically sealed scroll type
- Each compressor is equipped with a crankcase heater, high pressure safety switch, and internal thermal overload protector
- Oil separators are standard with the equipment together with an intelligent oil management system
- The compressor is spring mounted to avoid the transmission of vibration
- Units sized 8-12 ton will contain a minimum of 2 compressors, 14-16 ton units will contain a minimum of 3 compressors and 18-20 ton will contain a minimum of 4 compressors. In the event of compressor failure the remaining compressors will continue to operate and provide heating or cooling as required at a proportionally reduced capacity. The microprocessor and associated controls are designed to specifically address this condition.
- In the case of multiple condenser modules, conjoined operation hours of the compressors are balanced by means of the Duty Cycling Function, ensuring sequential starting of each module at each start/stop cycle, completion of oil return, completion of defrost or every 8 hours

Electrical:

- The power supply to the outdoor unit is 460 volts, 3 phase, 60 hertz +/- 10%
- The control voltage between the indoor and outdoor unit is 16VDC non-shielded, stranded 2 conductor cable
- The control wiring is a two-wire multiplex transmission system, making it possible to connect multiple indoor units to one outdoor unit with one 2-cable wire, thus simplifying the wiring operation
- The control wiring lengths is 6,665 ft from outdoor to indoor unit, 3,330 ft from outdoor to central controller unit, 1,665 ft from indoor unit to remote control. Wire type is 16 AWG, 2 wire, non-polarity, non-shielded, stranded.

### QUALITY ASSURANCE

- The units are listed by Electrical Laboratories (ETL) and bear the cETL label
- All wiring is in accordance with the National Electric Code (NEC)
- The system will be produced in an ISO 9001 and ISO 14001 facility, which are standards set by the International Standard Organization (ISO). The system is factory tested for safety and function.
- The outdoor unit will be factory charged with R-410A

### WARRANTY

#### LIMITED WARRANTY

- The units will have a manufacturer's warranty for a period of one (1) year from date of installation. The units will have a limited labor warranty for a period of five (5) years from date of installation. The compressors will have a warranty of six (6) years from date of installation. During the stated period, should any part fail due to defects in material and workmanship, it is repaired or replaced at the discretion of Daikin AC (Americas), Inc. according to Daikin's terms and conditions. All warranty service work is performed by a Daikin factory trained service professional.

### INSTALLATION REQUIREMENTS

- The system must be installed by a Daikin factory trained contractor/dealer. The bidders are required to submit training certification proof with bid documents. The mechanical contractor's installation price is based on the systems installation requirements. The mechanical contractor bids with complete knowledge of the HVAC system requirements.

## **(7) INDOOR FAN COIL UNIT MODEL FXMQ\_MVJU – DUCT MOUNTED MEDIUM STATIC, each complete with:**

- Tagged: VRV-1-4, VRV-1-5, VRV-3-1, VRV-3-2, VRV-3-4, VRV-3-5 and VRV-3-6

#### General:

- Daikin indoor unit FXMQ is a built-in ceiling concealed fan coil unit, operable with refrigerant R-410A, equipped with an electronic expansion valve, for installation into the ceiling cavity. It is constructed of a galvanized steel casing. It is a horizontal discharge air with horizontal return air configuration. All models feature a low height (15-3/8") cabinet making them applicable to ceiling pockets that tend to be shallow. Computerized PID control is used to control superheat to deliver a comfortable room temperature condition. The unit is equipped with a programmed drying mechanism that dehumidifies while inhibiting changes in room temperature when used with Daikin remote control BRC2A71. The indoor units sound pressure ranges from 41 dB(A) to 45 dB(A) at low speed measured 5 feet below the ducted unit.

#### Indoor Unit:

- The Daikin indoor unit FXMQ is completely factory assembled and tested. Included in the unit is factory wiring, piping, electronic proportional expansion valve, control circuit board, fan motor thermal protector, flare connections, self-diagnostics, auto-restart function, 3-minute fused time delay, and test run switch. The unit has an adjustable external static pressure switch.

- Indoor unit and refrigerant pipes will be charged with dehydrated air prior to shipment from the factory
- Both refrigerant lines must be insulated from the outdoor unit
- The indoor unit is equipped with a return air thermistor
- The indoor unit is separately powered with 208~230V/1-phase/60Hz

Unit Cabinet:

- The cabinet is located into the ceiling and ducted to the supply and return openings
- The cabinet is constructed with sound absorbing foamed polystyrene and polyethylene insulation
- Optional air filter kits are available for each model unit, field installed

Fan:

- The fan is direct-drive Sirocco type fan, statically and dynamically balanced impeller with high and low fan speeds available
- The fan motor operates on 208/230 volts, 1 phase, 60 hertz with a motor output range 0.21, 0.36 and 0.58 HP respectively
- The airflow rate is available in high and low settings
- The fan motor is thermally protected

Coil:

- Coils are of the direct expansion type constructed from copper tubes expanded into aluminum fins to form a mechanical bond
- The coils are of a waffle louver fin and high heat exchange, rifled bore tube design to ensure highly efficient performance
- The coil is a 3-row cross fin copper evaporator coil with 13 fpi design completely factory tested.
- The refrigerant connections are flare connections and the condensate will be 1-1/4 inch outside diameter PVC
- A thermistor will be located on the liquid and gas line

Electrical:

- A separate power supply will be required of 208/230 volts, 1 phase, 60 hertz
- Transmission (control) wiring between the indoor and outdoor unit is a maximum of 3,280 feet (total 6,560 feet)
- Transmission (control) wiring between the indoor unit and remote controller has a maximum distance of 1,640 feet

Control:

- The unit has controls provided by Daikin to perform input functions necessary to operate the system

Accessories:

- **BRC2A71: Navigation remote controller, wall mounted**

**( 12 ) INDOOR FAN COIL UNIT MODEL FXMQ\_PVJU – DUCT MOUNTED MEDIUM STATIC, each complete with:**

- Tagged: VRV-1-1VRV-1-2, VRV-1-3, VRV-1-6, VRV-2-1, VRV-2-2, VRV-2-3, VRV-2-4, VRV-2-5, VRV-2-6, VRV-2-7, VRV-3-3

General:

- Daikin indoor unit FXMQ\_P is a built-in ceiling concealed fan coil unit, operable with refrigerant R-410A, equipped with an electronic expansion valve, direct-drive DC (ECM) type fan with auto CFM adjustment at commissioning, for installation into the ceiling cavity. It is constructed of a galvanized steel casing. It is available in capacities from 7,500 Btu/h to 48,000 Btu/h. Model numbers are FXMQ07PVJU, FXMQ09PVJU, FXMQ12PVJU, FXMQ18PVJU, FXMQ24PVJU, FXMQ30PVJU, FXMQ36PVJU and FXMQ48PVJU to be connected to outdoor unit model RXYQ / RXYMQ / RWEYQ heat pump and REYQ / RWEYQ heat recovery model. It is a horizontal discharge air with horizontal return air configuration. All models feature a low height cabinet making them applicable to ceiling pockets that tend to be shallow. Computerized PID control is used to control superheat to deliver a comfortable room temperature condition. The unit is equipped with a programmed drying mechanism that dehumidifies while limiting changes in room temperature when used with Daikin remote control BRC2A71. Included as standard equipment, a condensate drain pan and drain pump kit that pumps to 18-3/8” from the drain pipe opening. The indoor units sound pressure shall range from 29 dB(A) to 40 dB(A) at low speed measured 5 feet below the ducted unit.

Indoor Unit:

- The Daikin indoor unit FXMQ\_P is completely factory assembled and tested. Included in the unit is factory wiring, piping, electronic proportional expansion valve, control circuit board, fan motor thermal protector, flare connections, self-diagnostics, auto-restart function, 3-minute fused time delay, and test run switch. The unit is equipped with an automatically adjusting external static pressure logic selectable during commissioning. This adjusts the airflow, based on the installed external static pressure.
- Indoor unit and refrigerant pipes will be charged with dehydrated air prior to shipment from the factory.
- Both refrigerant lines must be insulated from the outdoor unit.
- The indoor units is equipped with a condensate pan and condensate pump. The condensate pump provides up to 18-3/8” of lift from the center of the drain outlet.
- The indoor units is equipped with a return air thermistor.
- The indoor unit will be separately powered with 208~230V/1-phase/60Hz.
- The voltage range will be 253 volts maximum and 187 volts minimum.

Unit Cabinet:

- The cabinet is located into the ceiling and ducted to the supply and return openings.
- The cabinet is constructed with sound absorbing foamed polystyrene and polyethylene insulation.
- Optional air filter kits are available for each unit, field installed

Fan:

- The fan has a direct-drive DC (ECM) type fan, statically and dynamically balanced impeller with three fan speeds available.

- The unit is equipped with an automatically adjusting external static pressure logic selectable during commissioning.
- The fan motor shall operate on 208/230 volts, 1 phase, 60 hertz with a motor output range of 0.12 to 0.47 HP respectively.
- The airflow rate is available in three settings.
- The fan motor is thermally protected.
- The fan motor is equipped as standard with adjustable external static pressure (ESP) settings.

Coil:

- Coils are of the direct expansion type constructed from copper tubes expanded into aluminum fins to form a mechanical bond.
- The coil is of a waffle louver fin and high heat exchange, rifled bore tube design to ensure highly efficient performance.
- The coil has a 3 row cross fin copper evaporator coil with 13 fpi design completely factory tested.
- The refrigerant connections are flare connections and the condensate will be 1-1/4" outside diameter PVC.
- A condensate pan is located under the coil.
- A condensate pump with a 18-3/8" lift is located below the coil in the condensate pan with a built in safety alarm.
- A thermistor will be located on the liquid and gas line.

Electrical:

- A separate power supply will be required of 208/230 volts, 1 phase, 60 hertz. The acceptable voltage range is 187 to 253 volts.
- Transmission (control) wiring between the indoor and outdoor unit has a maximum of 3,280 feet (total 6,560 feet).
- Transmission (control) wiring between the indoor unit and remote controller is a maximum distance of 1,640 feet.

Control:

- The unit shall have controls provided by Daikin to perform input functions necessary to operate the system.
- The unit is compatible with interfacing with connection to LonWorks networks or interfacing with connection to BMS system.
- The unit is compatible with a Daikin intelligent Touch advanced multi-zone controller or an intelligent Manager III customizable BMS. Consult with Daikin prior to applying controls.

Optional Accessories Available:

- **BRC2A71: Navigation Remote Controller, wall mounted**
-

**WARRANTY**  
**LIMITED WARRANTY**

- The units will have a manufacturer’s warranty for a period of one (1) year from date of installation. The units will have a limited labor warranty for a period of five (5) years from date of installation. During the stated period, should any part fail due to defects in material and workmanship, it is repaired or replaced at the discretion of Daikin AC (Americas), Inc. according to Daikin’s terms and conditions. All warranty service work is preformed by a Daikin factory trained service professional.

**TOTAL PRICE, F.O.B. FACTORY, FREIGHT ALLOWED.....\$ 130,752.00**

**(SALES TAX IS NOT INCLUDED)**

**AIR COOLED DX SPLIT SYSTEM-100% OUTSIDE AIR**

( 1 ) ADDISON MODEL RCA, complete with:

- Tagged: OAC-1
- Cabinet constructed of heavy duty G-90 galvanized steel
- Bases are minimum 16 gauge, corner posts minimum 18 gauge, access panels are minimum 20 gauge and top panels are 18-gauge minimum
- Cabinet mounted on two steel rails to facilitate rigging and installation
- Paint finish constructed of hot dipped galvanized G-90 steel that is chemically treated with zinc phosphate, coated with 0.2 to 0.3 MIL polyurethane primer then finished with .07 to .08 MIL polyester top coat meeting ASTM B117 97 1,000 hour Salt Spray Test
- Unit base pans are fabricated from 16 gauge G-90 galvanized steel
- Exterior nuts, bolts and washers are stainless steel
- Exterior screws are either stainless steel or steel coated with Magnigard Silver 17, an epoxy finish containing aluminum flake pigment that meets ASTM B117 97 1,000 hour Salt Spray Test
- Fan motors are direct-driven 1075rpm PSC and are fitted with permanently lubricated/sealed ball bearings protected with shaft mount rain shields
- 208V/3Ø/60Hz
- Propeller fans are constructed with plated steel spider and formed aluminum blades securely riveted together
- Fan guards are vinyl coated
- Condenser coils are aluminum plate-finned formed on multiple rows of seamless copper tubing arranged in a staggered tube configuration
- Refrigeration circuit including condenser fan cycling head pressure control, accumulator, filter-drier, high pressure safety control (manual-reset), low pressure safety control/loss of charge protector (auto-reset), hot gas bypass valve with solenoid and dual gauge connections for high and low pressure readings, and 24V pump down solenoid valve (shipped loose with the condensing unit to be field installed in the liquid line) **Note:** the refrigerant circuit is charged with dry nitrogen that can be vented to the atmosphere

- (If optional reheat coil is used) Valve will be factory installed in the air handler
- Welded hermetic compressor (models 051 thru 141)
- Semi-hermetic compressor (models 171 thru 361)
- Compressor protection including crankcase heaters and internal overheat-overload protection
- (Semi-hermetic compressors are also equipped with) Serviceable isolation valves, oil pressure failure protection, hot gas bypass capacity reduction and cylinder unloading
- Internally wired controls include compressor anti-short cycle timer, fan contactor and compressor motor contactor/starter and a 24V transformer mounted in the sheet metal control panel (24V control circuit includes a low voltage terminal board)
- Programmable thermostat
- Hot gas reheat dependent operation with VARISPEED™ head pressure control
- **Start up by manufacturer's factory trained service technicians**
- Manufacturer's standard first year parts only warranty from date of equipment start-up not to exceed eighteen (18) months from date of shipment, whichever occurs first
- Manufacturer's extended four (4) year compressor parts only warranty from date of equipment start-up not to exceed sixty-six (66) months from date of shipment, whichever occurs first

**AIR HANDLING UNIT-VERTICAL-COOLING ONLY-DX SPLIT SYSTEM-100% OUTSIDE AIR**

(1) ADDISON MODEL VCA, complete with:

- Tagged: OAH-1
- Cabinet constructed of heavy duty G-90 galvanized steel
- Bases, top pans and squaring posts are minimum 18 gauge, and access panels are minimum 20 gauge
- Interior of the indoor airside is thermally insulated with one (1") inch closed cell foam with aluminum inner walls
- Evaporator coil is aluminum plate-finned formed on multiple rows of seamless copper tubing arranged in a staggered tube configuration
- Tubes are mechanically expanded firmly bonding the tube to the shoulder of each fin
- Stainless steel sloped condensate drain complying with ASHRAE Standard 62-1089R
- Drain pan bottom is insulated with one (1") inch thick fiberglass insulation
- Drain pan is furnished with (single) (dual) MPT drain fittings positioned at the exterior of the cabinet
- Factory installed refrigerant piping includes thermal expansion valve and hot gas bypass tee
- Expansion valve has adjustable superheat and distributors to meter the refrigerant evenly to the evaporator refrigerant circuits
- Pump down solenoid valve shipped with the condensing unit is to be field installed in the liquid line (**Note:** the refrigerant circuit is charged with dry nitrogen that can be vented to the atmosphere)

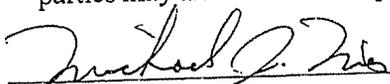
- 208V/3Ø/60Hz
- Paint finish constructed of hot dipped galvanized G-90 steel that is chemically treated with zinc phosphate, coated with 0.2 to 0.3 MIL polyurethane primer then finished with .07 to .08 MIL polyester top coat meeting ASTM B117 97 1,000 hour Salt Spray Test
- High efficiency blower motors are forward-curved, statically and dynamically balanced DWDI centrifugal blower(s)
- Blower wheel is mounted on a solid steel shaft supported by sealed ball bearings
- Shaft is belt driven with adjustable drive sheaves connected to a 1725-RPM motor with sealed ball bearings (sealed bearings on both the blower shaft and motor do not require lubrication)
- Motors (up to 3 horsepower) are internally protected (auto-reset)
- **Two (2") inch thick aluminum metal mesh filters** are included at the air inlet (**Note:** deep pleat or other filter media that is subject to moisture damage is not recommended)
- Control kit (shipped loose for field mounting next to the air handler) includes starter with overload heaters
- Hot gas reheat coil
- Liquid subcooling coil
- Electric heater 30 kW, field installed
- **Start up by manufacturer's factory trained service technicians**
- Manufacturer's standard first year parts only warranty from date of equipment start-up not to exceed eighteen (18) months from date of shipment, whichever occurs first

**TOTAL PRICE, F.O.B. FACTORY, FREIGHT ALLOWED.....\$ 24,310.00**

**(SALES TAX IS NOT INCLUDED)**

**Notes and Exclusions:**

1. The above price is for equipment only and does not include smoke detectors, roof curbs, curb adapters, corrosion coating, hurricane straps, gauges, sensors, extra sheaves, external/vibration isolation, start up, labor warranty, unloading, installation, piping, wiring, mounting or rigging, unless noted above.
2. All controls, wiring, or end devices shall be by others, unless noted above.
3. All refrigerant piping and specialties not specifically listed above shall be by others.
4. All electrical disconnect switches and motor starters shall be by others unless noted above.
5. Only (1) set of filters and belts are provided in the above price, unless noted above.
6. This proposal acknowledges (0) addendum.
7. This proposal acknowledges plans dated 3/29/11 without specifications and the above price includes only the items specifically noted above. Any deviation from the above items by any parties may affect the listed price.

BY:   
Michael Nies

ACCEPTED BY: \_\_\_\_\_

DATE: \_\_\_\_\_ P.O. \_\_\_\_\_

Addison.doc



8/1/11

## CONSENT AGENDA ITEM MEMORANDUM

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA  
CITY MANAGER 

**FROM:** BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR 

**SUBJECT:** COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) BUDGET AMENDMENT

**DATE:** JULY 18, 2011

**GENERAL SUMMARY/BACKGROUND:** On July 19, 2010, the City Council approved Resolution No. 2010-11 authorizing the submittal of a CDBG application to fund a water system improvement project within the South Brooksville area. On May 31, 2011, the City of Brooksville was awarded a CDBG-NR grant in the amount of \$750,000 for this purpose.

At this time a budget amendment is required to recognize the receipt of the grant and to facilitate the processing of funds for this project within the current fiscal year. Specifically, the budget amendment reflects an anticipated expenditure of \$50,000 for the 2010-2011 FY (Expense Account Fund #409-000-169-19049), which will be offset on the revenue side by a \$50,000 reimbursement from the grant funds (Revenue Account #409-000-334-44900). The balance of the grant project (\$700,000) will be incorporated into the 2011-2012 FY budget.

**BUDGET IMPACT:** The City anticipates accomplishing this project using 100% CDBG-NR grant funds. No fiscal impact is anticipated other than the staff time allocated to oversee the grant project.

 **LEGAL NOTE:** The City Council has home-rule authority (Art. VIII, (2), Fla Const/Section 166.011, F.S.) to consider matters of fiscal and intergovernmental benefit. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services to include matters of fiscal impact. Ordinance No. 814 which set the Fiscal Year 10/11 Budget provides for budget amendments and transfer of funds. Pursuant to Section IV of Ordinance No. 814, “[c]onsent and approval of the City Council may be given during a duly called and constituted session of said Council identifying said budget amendments or adjustments.”

**STAFF RECOMMENDATION:** Approve the budget amendment recognizing the estimated expenditure of up to \$50,000 of the grant funds during the 2010-2011 FY, with the balance of the grant project (\$700,000) to be incorporated into the 2011-2012 FY budget.

**ATTACHMENT:** Budget Amendment Form

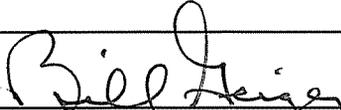
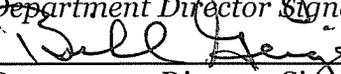
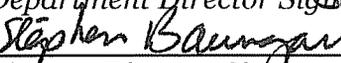
# BUDGET AMENDMENT FORM

## Fiscal Year 2010 - 2011

Account Name/Dept	Account Number	Approved Budget FY 2010-11*		Increase	Decrease	Amended Budget FY 2010-11
Construction in Progress/Water & Wastewater	409-000-169-19049	\$750,000	*	\$50,000		\$800,000
Other State Grants/Water & Wastewater	409-000-334-44900	\$513,825	**	\$50,000		\$563,825
						\$0
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<b>TOTAL</b>		<b>\$1,263,825</b>		<b>\$100,000</b>	<b>\$0</b>	<b>\$1,363,825</b>

\*Approved budget as previously amended.

Reason for Amendment: This amendment represents the projected expenditures for 2010/11 for the South Brooksville Water system improvement projected funded by the Community Development Block Grant (CDBG). See memo from Bill Geiger dated 7/18/11 for further details.

  
 Department Director Signature  
  
 Department Director Signature  
  
 Finance Director Signature  
 \_\_\_\_\_  
 City Manager Signature

\_\_\_\_\_  
 Date 7/21/11  
 \_\_\_\_\_  
 Date 7/21/11  
 \_\_\_\_\_  
 Date 7-21-11  
 \_\_\_\_\_  
 Date

**Approved by City Council, during Regular Session:**

\_\_\_\_\_  
Date

\*\$750,00 represents ARRA and SRF Sewer Rehabilitation approved in original 10/11 Budget  
 \*\*\$513,825 represents State Funding (grant portion) of ARRA & SRF Sewer Rehabilitation approved in original 10/11 Budget



**CONSENT AGENDA ITEM  
MEMORANDUM**

**TO:** THE HONORABLE MAYOR AND CITY COUNCILMEN  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER *[Signature]*  
**FROM:** RICHARD W. RADACKY, PUBLIC WORKS DIRECTOR *[Signature]*  
**SUBJECT:** GARBAGE DUMPSTER PURCHASE  
**DATE:** JULY 20, 2011

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**GENERAL SUMMARY/BACKGROUND:** The Sanitation Division of the Public Works Department is requesting approval to purchase dumpsters for commercial accounts. The new dumpsters will replace aging dumpsters and restock inventory for new accounts. Purchase would be made by piggybacking on the City of Largo, Bid Number 11-B-356 (attached).

On November 1, 2010, City Council approved \$24,931 to be used for purchasing dumpsters by piggybacking on the City of Clearwater, Bid Number 05-10. The first purchase was from Wastequip Manufacturing, Inc., in the amount of \$12,280, leaving a balance of \$12,651. The City of Clearwater exercised their authority to cancel Bid Number 05-10 with Wastequip Manufacturing, Inc., making Bid Number 05-10 no longer usable.

The City of Largo recently awarded Bid Number 11-B-356 to Iron Container LLC. of Miami, Florida. The bid price is less than the City of Clearwater bid. The dumpsters would be purchased from Iron Container, LLC. for the not-to-exceed amount of \$12,360 (quote attached). Attached are letters from the City of Largo and Iron Container to authorize the purchase and piggybacking on the purchase.

*sb* **BUDGET IMPACT:** A total of \$24,931 was approved by the City Council in the Fiscal Year 2011 Budget for the purchase of dumpsters. Account Number 403-022-534-54317 would be the funding source.

*jt* **LEGAL NOTE:** The City Council has home-rule authority (Article VII, (2), Florida Constitution/Section 166.011, Florida Statutes) to consider matters of fiscal and intergovernmental benefit. Pursuant to Section 5.04 of the City Charter, competitive bidding is required except to the extent Council authorizes otherwise by ordinance. Pursuant to Section 2-304, (a), (1) and (2), of the Code of Ordinances, the amount of expenditures for which the City may obligate itself without competitive bidding by the City is increased provided: (1) the City Manager recommends to the City Council that a specific purchase be made by piggybacking on an award by another governmental entity's competitive bidding process; and (2) the other governmental entity's competitive process provides substantially equivalent guarantees of fairness and competitiveness to those of the City.

Pursuant to Subsection 274.05, Florida Statutes, titled Surplus Property, the City Council has the authority and discretion to classify as surplus any of its property that is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function. In addition, within the reasonable exercise of its discretion and having consideration for the best interest of the City, the value and condition of property classified as surplus, and the probability of such property's being desired by a prospective bidder in the event of surplus, the City Council may offer surplus property to other governmental units in the County for sale or donation or sale at a recycling center.

**STAFF RECOMMENDATION:** Staff recommends Council consider approval for the purchase of replacement dumpsters by piggybacking on the City of Largo Bid for the not-to-exceed amount of \$12,360 and to surplus aging dumpsters by sale to the highest quote of a recycling center.

- ATTACHMENTS:**
1. Letter from Iron Containers
  2. Quote from Iron Container
  3. Letter from City of Largo
  4. Copy of City of Largo Bid

POST OFFICE BOX 296  
LARGO, FLORIDA  
33779-0296

# CITY of LARGO



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LARGO, FLORIDA EST. 1905

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July 12, 2011

City of Brooksville  
Attn: Mike  
Public Works Department

This letter is to allow your City to use of Bid #11-B-356, Front-end Loader Containers. This bid was awarded by the City of Largo on May 17, 2011 to Iron Containers LLC.

The bid document does contain a clause allowing the use of this bid by other entities.

If I can provide you with any additional information, please advise.

Sincerely,

Joan Wheaton  
Procurement Analyst



IRON CONTAINER, LLC  
NEW AND USED CONTAINERS · INVENTORY ON HAND ·

July 19, 2011

Attn: Michael McQuown  
Sanitation Operations Supervisor  
City of Brooksville Public Works Dept.  
600 S. Brooksville Ave.  
Brooksville, FL 34601

Dear Mr. McQuown,

We hereby extend to the City of Brooksville the opportunity to purchase steel waste containers under the same terms of the City of Largo agreement. Please find a copy of the City of Largo bid and a purchase order from the City of Largo attached with this letter, outlining the prices and other details. If you need anything else please let me know

Regards

Julian Charles  
Sales Manager  
Iron Container, LLC



# Iron Container,

3230 NW 42 Street  
Miami, FL

Phone # 305-726-2150

Fax # 305-400-4822

# Quote

Date	Quote #
7/19/2011	3805

<b>Name / Address</b>
City of Brooksville Mike McQuown 201 Howell Avenue, Brooksville, FL 34601-

<b>Ship To</b>
City of Brooksville Mike McQuown 201 Howell Avenue, FL 34601-

P.O. No.	Terms	Due Date	FOB	Rep	Project
	Net 30	8/18/2011	Miami		
Qty	Item	Description	Cost	Total	
6	FEL2CYS	2 Cubic Yard Front End Loader Slant Top+ Black Lids	353.00	2,118.00	
11	FEL4CYS	4 Cubic Yard Front End Loader Slant Top+ Black Lids	483.00	5,313.00	
2	FEL6CYS	6 Cubic Yard Front End Loader Slant Top+ Black Lids	671.00	1,342.00	
4	FEL6CYHB	6 Cubic Yard Front End Loader Hatched Back + Black Lids + Sliding Doors	706.00	2,824.00	
1	FEL8CYS	8 Cubic Yard Front End Loader Slant Top+ Black Lids	763.00	763.00	
		Delivered			
Thank you for the opportunity to provide you with a quotation.			<b>Total</b>	\$12,360.00	

Accepted By: \_\_\_\_\_

POST OFFICE BOX 296,  
LARGO, FLORIDA  
33779-0296

# CITY *of* LARGO



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LARGO, FLORIDA EST. 1905

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**CITY COMMISSION  
LARGO, FLORIDA  
INVITATION FOR BID**

**Bid #: 11-B-356**

**Date: February 25, 2011**

Competitive sealed bids will be accepted by the City of Largo Office of Management and Budget, Largo City Hall, Post Office Box 296, (201 Highland Avenue, 33770), Largo, Florida, 33779-0296, until

**2:30 p.m., local time  
MARCH 24, 2011**

at which time all bids received shall be publicly opened and read aloud in the Office of Management Budget, Largo City Hall, for

**FRONT-END LOADER CONTAINERS**

Bids must conform to the Specifications and Instructions to Bidders. Any deviation from the specifications must be shown.

The City reserves the right to reject any or all bids received, to waive any irregularities or informalities. If you are interested in bidding, please complete the Invitation for Bid Form(s) and return to this office by the date indicated. Non-conformance with these instructions is grounds for rejection of bid. Late Bids will be rejected.

Questions of a technical nature should be directed to Gene Ginn, Assistant Solid Waste Manager, at 727-587-6760.

Questions concerning this Bid should be directed to Joan Wheaton, Procurement Analyst, Office of Management and Budget at (727) 587-6727.

**BY ORDER OF THE CITY COMMISSION  
LARGO, FLORIDA**

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Joan Wheaton, Procurement Analyst  
Office of Management and Budget

**Please indicate BID number  
on your response envelope.**

**BID and ADDENDUM DOCUMENTS CAN BE DOWNLOADED FROM THE CITY WEBSITE  
[www.largo.com](http://www.largo.com) - click the Business Tab - click on Bid/Rfp listings - click view list of current bids/rfps.**



**CONSENT AGENDA ITEM  
MEMORANDUM**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA  
CITY MANAGER 

**FROM:** JENNIFER C. REY, ESQ.  
THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY 

**CC:** TELINA DOWDELL, HUMAN RESOURCES SPECIALIST

**SUBJECT:** PERSONNEL POLICIES AND PROCEDURES

**DATE:** AUGUST 1, 2011

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**GENERAL SUMMARY/BACKGROUND:**

Over the past two years, the City has undertaken a comprehensive review of its personnel policies and procedures. The proposed policies, if approved, shall apply to all employees except those employees in collective bargaining units unless the union waives its right to bargain on these policies, the union has approved these policies, or as provided in a collective bargaining agreement.

At the Regular Council Meeting on July 18, 2011, the City Council reviewed and provided feedback to the proposed Personnel Policies and Procedures. Staff has made adjustments and changes to reflect Council's feedback and therefore submit the following to Council for final approval:

- **Section 5.03 Email and Computer Use.** This proposed policy incorporates the provisions of and will replace Official Policy 08-1997 and 8-97A and addresses use of the City's email, computer and other electronic mediums.
- **Section 7.01 Vacation Leave.** This proposed policy replaces Section 6.00, 6.01 and 6.03 of the current policy manual. The proposed policy maintains the similar vacation rates, but adds requirements and limitations with respect to accrual based on hours worked, cash-out and payment at separation.
- **Section 7.02 Sick Leave/Extended Leave/Short-term Disability Bank.** This proposed policy replaces Section 6.02 and 6.03 of the current policy manual. The proposed policy implements a carry-forward cap, a separation Cash-out Cap, and implements an extended illness bank.

Following consideration of the proposed policies noted above, there are several policies remaining which will be brought forward at an upcoming city council meeting. These remaining policies include: (1) On-call Pay; (2) Communications and Cell Phone Use, (3) Leave of Absence Without Pay, (4) Exposure Control and (5) Tobacco Free Workplace. Section 1.01, Definition of Terms, will be compiled from approved policies and be incorporated into the final personnel manual.

To recap, the following personnel policies have been approved to date:

- Purpose and Scope of Personnel Policies (November 15, 2010)
- Grievance Procedure (July 6, 2009)
- Equal Employment Opportunity (May 4, 2009)
- Recruitment (May 4, 2009)
- Employment of Family Members (May 4, 2009)
- Personnel Records (April 20, 2009)
- Hours and Pay (November 15, 2010)
- Salary Administration (November 15, 2010)
- Employee Orientation and Training (November 15, 2010)
- Employee Performance Evaluation (May 18, 2009)
- Travel Allowances (June 1, 2009)
- Tuition Reimbursement Program (November 15, 2010)
- Identification and Licensure (April 20, 2009)
- City Property, Equipment, & Information (November 15, 2010)
- City Vehicle and Take Home Vehicle Policy (No Change)\*
- Conduct Standards (June 1, 2009)
- Conflict of Interest (June 1, 2009)
- Dress and Appearance (June 1, 2009)
- Prohibition of Harassment (January 5, 2009)
- Disciplinary and Corrective Action (July 6, 2009)
- Holidays (April 6, 2009)
- Civil Leave and Jury Duty (February 2, 2009)
- Bereavement Leave (February 2, 2009)
- Family and Medical Leave (February 2, 2009)
- Military Leave (February 2, 2009)
- Domestic Violence Leave (January 5, 2009)
- Administrative Leave or Investigatory Leave (June 1, 2009)
- Group Insurance Plan (April 20, 2009)
- Drug Free Workplace (February 2, 2009)
- Safety and Accident Reporting (August 3, 2009)
- Workplace Violence Prevention (August 3, 2009)
- Separation of Employment (July 6, 2009)

\*The City's Vehicle and Take Home Vehicle Policy will remain unchanged; however it will be incorporated into the revised personnel manual as Section 5.02.

**BUDGET IMPACT:** There is no budget impact as a result of the adoption of the proposed policies.

**LEGAL REVIEW:** Council has the legal authority to set policy for operations and management of its employees. With respect to collective bargaining units the proposed policies will not apply to members of the collective bargaining units until such time as the policies are approved by the union, the union waives its right to bargain on the policy, or until a collective bargaining agreement is in place.

**STAFF RECOMMENDATION:** Staff recommends approval and adoption of the personnel policies as proposed. Section 7.01 and 7.02 shall become effective as of the first pay period including October 1, 2011, all other policies shall be effective upon adoption; except that policy changes will not apply to bargaining unit members until such time as the policies are approved by the union, or the union waives its right to bargain on the policy.

**ATTACHMENTS:**

- 1) Section 5.03 Email and Computer Use
- 2) Section 7.01 Vacation Leave
- 3) Section 7.02 Sick Leave/Extended Leave/Short-term Disability Bank

# ***Attachment 1***

Section 5.03 Email and Computer Use

## SECTION 5.03 COMPUTER, EMAIL AND INTERNET USE POLICY (Replaces Official Policy 8-1997 and 8 -1997A)

### I. POLICY

This policy applies to all Internet access, electronic communications software, social media, and computer equipment attached to or used on the City's network system and applies to all City owned software and hardware regardless of location or connectivity. Use of city computers and communication devices must comply with federal law, Florida law, and the City's policies. City computers and communication devices may not be used for commercial, profit-making, or political purposes, or to disseminate unsolicited information regarding religious or political beliefs. Site access, e-mail, social media and other communications may be considered public records and distribution, use, and retention are subject to statutory and City requirements. Employees are advised of this policy and will be asked to acknowledge the policy prior to being allowed access to the City's electronic communications equipment.

### II. DEFINITIONS

- A. Federal Copyright Law - Federal law granting the owner of intellectual work such as computer programs and manuals, the exclusive right, known as a copyright, to reproduce and distribute the work.
- B. State and Federal Trade Secret Laws - State and federal laws protecting the unauthorized disclosure of intellectual works such as computer programs and manuals considered by their owner to be "trade secrets".
- C. Software License Agreement - A license agreement granting a specific user or group of users the right to operate a computer program and make additional copies of the program.

### III. PROCEDURE

#### A. Computer Software

- 1. The City of Brooksville provides computers to its employees with software pre-installed and encourages them to use this technology to enhance their efficiency and effectiveness in performing their job functions. The City uses a fully integrated network system, and any change to a single computer can affect the rest of the City's network system, therefore the following procedures are mandatory:
  - a. All software on any computer attached to the City network or any other computer owned by the City must be installed or uninstalled by the City's designated Network Administrator.

- b. All software must be configured and/or updated by the Network Administrator.
  - c. No Employee is authorized to download any software, application or program unless expressly authorized by the Network Administrator.
2. The City will not permit the use of unauthorized copies of software on City computers. Any person illegally reproducing software can be subject to civil and criminal penalties including fines and imprisonment.
3. The City does not condone illegal copying of software under any circumstances and anyone who knowingly makes, uses, or otherwise acquires unauthorized software shall be appropriately disciplined up to and including termination of employment.
4. No Employee shall give City software to anyone.
5. Any Employee who suspects that there may be a misuse of software within the City shall immediately notify their Department Director, or City Manager.
6. All software used by City Employees on City computers will be purchased by the City using approved purchasing procedures.

B. Employee Responsibilities.

1. Internet service and e-mail are provided to Employees for conducting City business. Employees have the responsibility of maintaining and enhancing the City's public image in a positive and productive manner and to use the City e-mail and the Internet solely for City purposes and to accomplish job functions.
2. Employees on the City's Internet service and e-mail may not transmit copyrighted materials. All users obtaining access to another company or individual's materials must respect all copyrights and may not copy, retrieve, modify, or forward copyrighted materials, except with express, written permission, or as a single copy for reference purposes only.
3. Access to the City Internet service and e-mail is a privilege, not a right, which may be revoked for inappropriate conduct.
4. It is the responsibility of every user to report any known misuse of the City Internet service or e-mail to the Department Director or City Manager.

### C. Ownership

1. All messages or files created, sent, retrieved or downloaded over the City's e-mail/Internet system are the property of the City.
2. With the exception of information made confidential by Florida Statute, the City reserves the right to access and monitor all messages and files on the City's email/Internet system.
3. Do not assume electronic communications are private. Do not transmit highly confidential data using this medium, without appropriate security measures. Deleted e-mails and a history of accessed web sites can be retrieved.
4. All electronic communications systems and all information transmitted by, received from, or stored in these systems are the property of the City of Brooksville.
5. City Employees and other users of the City's electronic communications systems should have no expectation of privacy or any personal privacy right in connection with the use of these systems, or with the transmission, receipt, or storage of information in these systems.

D. Monitoring. Department Directors have the authority to request the Network Administrator to inspect the contents of any equipment, files, calendars, or electronic mail of their subordinates in the normal course of their managerial responsibilities. Such inspection may occur without notice to the Employee.

E. Public Records. Release of electronic records pursuant to a request for public information is governed by Chapter 119, Florida Statutes and should be referred to the City Clerk's office.

### F. Acceptable Uses

1. All communications sent electronically by Employees via the City's Internet service and e-mail must comply with this and other City policies and may not disclose any confidential or proprietary City information.
2. The following is a non-exhaustive list of acceptable uses of the City Internet and e-mail services:
  - a. Communication and information exchange directly related to the duties or responsibilities of the Employee's department.
  - b. Communication for professional development, to obtain continuing education or training, or to discuss issues related to the Employee's public duties or responsibilities.

- c. Announcement of new departmental regulations, procedures, policies, rules, services, programs, or activities.

#### G. Unacceptable Uses

1. The following is a non-exhaustive list of uses of the Internet and e-mail that shall be deemed unacceptable unless the use was made by or at the specific request of a Department Director for a legitimate work City purpose:
  - a. City Internet service and e-mail must not be used for knowingly transmitting, retrieving or storing any communications that contain the following:
    - i. Discriminatory or harassing language
    - ii. Obscene, pornographic or x-rated material
    - iii. Defamatory, abusive, threatening, profane, or offensive language
    - iv. Chain letters and other non-business oriented mass e-mails
    - v. Derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, or physical attributes
    - vi. Racial and/or sexual slurs or jokes
    - vii. Material related to gambling
    - viii. Any material which is illegal or against City policy
  - b. Attempting to read or hack into other systems or other person's log-ins, to crack passwords, or breach computer or network security measures.
  - c. Developing programs designed to harass other users or infiltrate a computer or computer network or to damage or alter hardware or software.
  - d. Using City computer or network services in a manner that is likely to cause network congestion or significantly hamper the ability of others to access and use the service or equipment.
  - e. Intentionally seeking access to or copies of information, files or data that is confidential under federal, state, or local law, unless specifically

authorized to do so as part of your job functions or once the legal conditions for release are satisfied.

- f. Attaching private equipment and/or using private services for the express purpose of circumventing this policy.
- g. Participating in the development, propagation, or forwarding of computer viruses.
- h. Allowing or providing access for unauthorized personnel to use the City's network system including Internet service and e-mail.

H. Identity Masking: No e-mail or other electronic communication may be sent which:

- 1. Attempts to hide the identity of the sender or represents the sender as someone else
- 2. Adopts the identity of another person
- 3. Uses another person's password
- 4. Misrepresents the Employee's affiliation with the City

I. Business Use: All use of City Internet service and e-mail must be for the benefit of the City and must not be used for the following:

- 1. Any personal profit or gain.
- 2. For purposes not directly or indirectly related to the job duties or responsibilities of the Employee before, after, or during normal business hours.
- 3. For any non-city commercial or promotional purpose, including personal messages offering to buy or sell goods or services.
- 4. To sell or distribute City information, software, or services for personal gain or profit.
- 5. In such a way that causes the City to be charged a fee by another person or entity.

J. Restricted Information: The City's Internet service and e-mail must not be used for the following:

- 1. To copy, retrieve or forward copyrighted material (such as software, database files, documentation, articles, graphics files, and downloaded information) unless the Employee has the right to copy or distribute such material.

2. To communicate confidential information, unless expressly authorized to do so.

#### K. Violations

1. Violation of this policy can lead to internal disciplinary action, up to and including termination of employment. In addition, criminal or civil administrative penalties may be imposed.
2. In the event that the City incurs a cost due to an Employee's negligence or misuse of City computers and/or communication devices, the Employee will be responsible for reimbursement of that cost.
3. There are a number of state and federal laws regarding computer crimes. Certain violations may result in a person being charged with a criminal offense.

# ***Attachment 2***

## Section 7.01 Vacation Leave

**Section 7.01 VACATION LEAVE**  
(Replaces Sections 6.00, 6.01 and 6.03)

I. POLICY

The City encourages its Employees to take vacation as paid time off away from work at scheduled times coordinated through management.

II. DEFINITIONS

- A. Accrue means to accumulate or increase.
- B. Pro-Rate means to calculate based on a unit of time or portions of units of time.
- C. Employment Anniversary Date means the annual date coinciding with the Employee's date of hire without a break in service or employment.
- D. Full-time Employee is defined as an Employee who is regularly scheduled to work thirty (30) or more hours per workweek.
- E. Regular Employee shall mean an Employee who is regularly scheduled to work each workweek or pay period and has been employed continuously for at least sixty (60) calendar days; this does not include temporary or seasonal employees.
- F. New Employee shall mean an Employee that has been continuously employed for less than sixty (60) calendar days.
- G. Pay Period shall mean the period of time, typically two workweeks, in which an Employee is compensated.

III. PROCEDURE

- A. Eligibility.
  - 1. Full-Time, Regular Employees shall earn and accrue Vacation Leave.
  - 2. New Employees shall earn and accrue Vacation Leave, but are not eligible to use accumulated Vacation Leave until the first of the month following sixty (60) days of employment from date of hire.
  - 3. Part-time Employees are not eligible to earn or accrue Vacation Leave.

4. Temporary, Reserve and Seasonal Employees are not eligible to earn or accrue Vacation Leave.

B. Use of Leave.

1. An Employee may use his/her Vacation Leave for the following purposes:
  - a. Vacation;
  - b. Absence for transaction of personal business which can not be conducted during off-duty hours;
  - c. Religious holidays other than those designated by City Council;
  - d. Family activities;
  - e. Upon exhaustion of Sick Leave, for an absence:
    - i. Due to illness of Employee;
    - ii. Due to illness of an Employee's Immediate Family Member or for a family member not otherwise covered by the policy;
    - iii. for medical appointments.
  - f. In conjunction with the use of Bereavement Leave, for an absence due to death of an Immediate Family Member; or the death of an extended family member not otherwise covered by the Bereavement Leave policy;
  - g. To supplement income for time lost due to work-related injury, illness or disability where statutory worker's compensation payments are being received, provided that the combination shall not exceed 100% of the Employee's regular base rate of pay;
  - h. To supplement income for time lost due to non-work related injury, illness or disability where the Employee is receiving disability insurance benefits, provided that the combination shall not exceed 100% of the Employee's regular base rate of pay; or
  - i. Any other approved leave of absence.
2. Vacation Leave is available for use by eligible Employees as it is earned, scheduled, and approved by the Department Director or designee.
3. Vacation Leave may be taken in no less than hourly increments, but use of Vacation Leave in increments of days and weeks is encouraged.
4. Vacation Leave must be used:
  - a. before unpaid leave will be considered or approved.

- b. To supplement an Employee's income when the Employee is receiving worker's compensation or other disability benefits.
5. Holidays occurring while an Employee is on an approved Vacation Leave shall not be charged against his or her accrued Vacation Leave balance.

#### C. Scheduling Leave.

1. Vacation Leave must be approved and scheduled with the Employee's Department Director, or designee, as set forth in the Departmental procedures regarding chain of command.
2. Employees should use Vacation Leave each year.
3. Employees should request Vacation Leave with as much advanced notice as possible using the established Leave Request procedure; when requesting Vacation Leave in blocks of time or for several consecutive days, Employees should submit requests not less than five (5) days prior to the commencement date on Vacation Leave. Additional documentation in support of certain Vacation Leave requests may be required from the Employee prior to approval.
4. Approval for all Vacation Leave is subject to departmental policies/practices, and operational issues. Due to scheduling issues related to City operations, Department Directors, or designees, may require more advanced notice for requests for several consecutive days or weeks.
5. Approval of Leave Requests is in the sole discretion of the Department Director or designee.

#### D. Payment of Vacation Leave.

1. Vacation Leave hours are paid at the Employee's Regular Rate of Pay.
2. *Payment When Vacation Leave Is Used.* In order to be appropriately compensated for Vacation Leave, Employees must have received approval through the Leave Request procedure.
3. *Vacation Leave Buy-Back.* Employees are not paid for accrued Vacation Leave in lieu of taking such leave during any calendar year, unless deemed in the best interest of the City and approved by the City Manager.

4. *Payment of Vacation Leave Upon Termination.*

- a. Employees terminated while in a New Employee Status shall not receive pay for any Vacation Leave accrued during their New Employee Status.
- b. For those Employees who have completed sixty (60) days of continuous employment, 100% of the remaining leave balance of earned, but unused, Vacation Leave will be paid at termination.
- c. In the rare event that an Employee would have a negative Vacation Leave balance upon termination his/her final paycheck shall be deducted to reimburse the City for the negative balance.

E. **Accrual.** Eligible Employees accrue Vacation Leave based on the following provisions.

1. Vacation Leave is Accrued based on years of service in accordance with the following:
  - a. The Employee's Employment Anniversary Date is used for calculating years of service to determine the appropriate accrual rate.
  - b. For purposes of calculating years of service, only those monthly-periods in which an Employee was consecutively employed for the entire monthly-period will be considered in computing years of service.
  - c. New Accrual Rates commence at the start of the first pay period following the Employee's Employment Anniversary Date.
2. Non-Exempt/Hourly Employees earn Vacation Leave Pro-Rated, on a Pay Period basis, based on Regular Hours and other approved paid time off or paid leave of absence as provided within the City's personnel policy, not to include worker's compensation or disability benefits.
3. Exempt Employees earn Vacation Leave each Pay Period based on a Pro Rated amount of Vacation Leave hours earned per year as set forth in the table below.

4. Vacation Leave shall not be accrued by an Employee during a Leave of Absence Without Pay, a suspension, or when the Employee is otherwise in a non-pay status.
5. Accrual Rate Schedule. The following table is for demonstration purposes only and does not guarantee that each Employee will earn the number of hours identified. The table is merely an approximation of hours that may be earned.

Average Regular Hours Worked	Years of Service					
	Less than Seven		Seven Up to But Not including Twelve		Twelve or More	
	Hourly Accrual Rate	Hours Per Year	Hourly Accrual Rate	Hours Per Year	Hourly Accrual Rate	Hours Per Year
40	.03846	80	.05769	120	.07692	160
42	.03846	84	.05769	126	.07692	168
56	.03846	112	.05769	168	.07692	224

F. Balance Cap and Carry Forward of Vacation Leave.

1. Employees are encouraged to take Vacation Leave within the year in which it is earned. However, a maximum of Vacation Leave hours accrued may be carried forward from one calendar year to the next as noted in the table below. The Carry Forward Cap will be applied with the first pay date in January.

Average Regular Hours Worked	Maximum Hours Cap
40	160
42	168
56	224

- A. *Return to Work Following Approved Vacation Leave.* Unless the Employee provides prior notice to the Employee's Department Director of their inability to return as scheduled from Vacation Leave, or the Employee has obtained approval of the City Manager, or designee, for other leave benefits prior to the expiration of the approved Vacation Leave, failure to return to work as scheduled may be deemed a voluntary resignation.

## ***Attachment 3***

Section 7.02 Sick Leave/Extended  
Leave/Short-term Disability Bank

**SECTION 7.02 SICK LEAVE AND  
EXTENDED LEAVE/SHORT TERM DISABILITY BANK**  
(Replaces Sections 6.02 and 6.03)

I. POLICY

The City offers paid leave to Employees to use during times of illness or medical treatment and will administer this leave benefit based on established guidelines.

II. DEFINITIONS.

- A. Accrue means to accumulate or increase.
- B. Pro-Rate means to calculate based on a unit of time or portions of units of time.
- C. Employment Anniversary Date means the annual date coinciding with the Employee's date of hire without a break in service or employment.
- D. Full-time Employee is defined as an Employee who is regularly scheduled to work thirty (30) or more hours per workweek.
- E. Regular Employee shall mean an Employee who is regularly scheduled to work each workweek or pay period and has been employed continuously for at least sixty (60) calendar days; this does not include temporary or seasonal employees.
- F. New Employee shall mean an Employee that has been continuously employed for less than sixty (60) calendar days.
- G. Pay Period shall mean the period of time, typically two workweeks, in which an Employee is compensated.
- H. Immediate Family Member shall mean, for the purposes of this Sick Leave procedure, the Employee's spouse, child/children, parent, a legally recognized ward, or any other relative currently residing in the same household.

III. PROCEDURE

A. Eligibility.

- 1. Full-Time, Regular Employees shall earn and accrue Sick Leave.

2. New Employees earn and accrue Sick Leave, but are not eligible to use accumulated Sick Leave until the first of the month following sixty (60) calendar days of employment from date of hire.
3. Part-time Employees are not eligible to earn and accrue Sick Leave.
4. Temporary, Reserve and Seasonal Employees are not eligible to earn or accrue Sick Leave.

B. Use of Sick Leave.

1. An Employee may use his or her Sick Leave in hourly increments for the following purposes:
  - a. Personal illness or injury of the Employee not connected with work.
  - b. Medical or dental consultation or treatment of the Employee or Immediate Family Member.
  - c. Qualifying FMLA illnesses, injuries or serious health conditions.
  - d. To supplement income for time lost due to work-related injury, illness or disability where statutory worker's compensation payments are being received, provided that the combination shall not exceed 100% of the Employee's regular base rate of pay.
  - e. To supplement income for time lost due to non-work related injury, illness or disability where the employee is receiving disability insurance benefits, provided that the combination shall not exceed 100% of the Employee's regular base rate of pay.
2. Sick Leave may not be used or taken until earned.
3. Sick Leave is available for use by eligible Employees as it is earned and authorized by the Department Director or designee.
4. Prohibited Uses. An Employee may not secure part or full-time employment elsewhere while on Sick Leave. Such employment may lead to disciplinary action up to and including termination.

C. Requesting Sick Leave.

1. Employees are to request Sick Leave using the established Leave Request procedure.

2. Employees shall notify their Department Director or designee promptly of the Leave Request and, in the event of unplanned leave, shall provide as much advanced notice as possible, but no less than one (1) hour prior to the normal starting time of the work day in which the Sick Leave is to be taken.
3. In the event that an Employee should become ill at work, or should she or he come to work ill, then the Department Director or designee shall have the authority to require the Employee to take Sick Leave for the balance of that day.
4. Employees failing to appropriately notify and report his or her absence to his or her Department Director or designee shall be considered to have voluntarily resigned from employment with the City, unless the Employee obtains the City Manager, or designee, for other leave benefits prior to the expiration of the approved Sick Leave or in the event of extenuating circumstances.
5. Proof of Illness.
  - a. When Sick Leave appears to be abused, or when an Employee consistently uses Sick Leave as it is earned, the Employee requesting Sick Leave may be required to furnish competent proof of necessity of such absence, i.e. medical certification or doctor's note.
  - b. The City reserves the right in all cases of illness or reported illness to require the Employee to furnish a certification, in a form acceptable to the City, from the Employee's medical provider.
  - c. Abuse of Sick Leave privileges shall constitute grounds for disciplinary action up to and including termination.
  - d. Employees submitting a false claim to obtain Sick Leave will be subject to disciplinary action up to and including termination.

#### D. Payment of Leave.

1. Sick Leave hours are paid at the Employee's Regular Rate of Pay.
2. *Payment for Sick Leave When Used.* In order to be appropriately compensated for Sick Leave, Employees must have received approval through the Leave Request Procedure.

3. *Sick Leave Buy-Back.*

- a. Effective with the first pay period ending each October, Employees shall have the option of converting up to fifty percent (50%) of the unused sick leave earned during the previous twelve (12) months, to cash payment based on the Employee's then current Regular Rate of Pay. Payments under this Buy-Back provision will be paid with the first pay period ending in December.
- b. Except as provided in 3(a) above, Employees are not paid for accrued Sick Leave in lieu of taking such leave during any calendar year, unless deemed in the best interest of the City and approved by the City Manager.

4. *Payment of Sick Leave Upon Separation.*

- a. Employees resigning or terminated while in a New Employee Status shall not receive pay for any Sick Leave accrued during their New Employee Status.
- b. In accordance with the following table, a portion of the balance of earned, but unused Sick Leave will be paid upon an Employee's voluntary resignation or retirement.

Years of Service	Percentage of Balance Eligible
Up to But Not Including Three	0%
Three Up to But Not Including Seven	25%
Seven Up to But Not Including 15	35%
15 or More	50%

- c. In the rare event that an Employee would have a negative Sick Leave balance upon voluntary resignation, retirement or termination, his or her final paycheck shall be deducted to reimburse the City for the negative balance.

E. **Accrual.** Eligible Employees accrue Sick Leave based on the following provisions:

- 1. Sick Leave is Accrued based on years of service in accordance with the following:
  - a. The Employee's Employment Anniversary Date is used for calculating years of service to determine the appropriate accrual rate.

- b. For purposes of calculating years of service, only those monthly-periods in which an Employee was consecutively employed for the entire monthly-period will be considered in computing years of service.
  - c. New Accrual Rates commence at the start of the first pay period following the Employee's Employment Anniversary Date.
2. Non-Exempt/Hourly Employees earn Sick Leave Pro-Rated based on a Pay Period basis, based on Regular Hours and other approved paid time off or paid leave of absence as provided within the City's personnel policy, not to include worker's compensation or disability benefits.
  3. Exempt Employees earn Sick Leave each Pay Period based on a Pro-Rated amount of Sick Leave hours earned per year as set forth in table below.
  4. Sick Leave shall not be earned by an Employee during a Leave of Absence Without Pay, a suspension, or when the Employee is otherwise in a non-pay status.
  5. Accrual Rate Schedule. The following table is for demonstration purposes only and does not guarantee that each Employee will earn the number of hours identified. The table is merely an approximation of hours that may be earned.

Approximate Hours Worked	Hourly Accrual Rate	Leave Hours Per Year
40	.03846	80
42	.03846	84
56	.03846	112

F. Balance Cap and Carry Forward of Sick Leave.

1. A maximum of accrued Sick Leave may be carried forward from one calendar year to the next in accordance with the following table. The Carry Forward Cap will be applied with the first pay date in January.

Average Regular Hours Worked	Maximum Hours Cap
40	160
42	168
56	224

2. Any Sick Leave hours in excess of the Carry Forward Cap will be credited to the Employee's Extended Illness/Short-term Disability Bank.

G. Extended Illness/Short-term Disability Bank (EIB).

1. *Eligibility.* Employees eligible for Sick Leave under this policy are eligible for an Extended Illness/Short-term Disability Bank which is funded by an Employee's Sick Leave balance in excess of the Carry Forward Cap.

2. Use of EIB.

- a. EIB may be taken in hourly increments for the same purposes as set forth in the Use of Sick Leave provision of this procedure.

- b. The Extended Illness/Short-term Disability Bank may be accessed only after a full pay-period of absence without any Hours Worked.

- c. Proof of Illness.

- i. The City reserves the right in all cases of illness or reported illness to require the Employee to furnish a medical certification, in a form acceptable to the City, from the Employee's medical provider.

- ii. Abuse of EIB privileges shall constitute grounds for disciplinary action up to and including termination.

- iii. Employees submitting a false claim to obtain EIB will be subject to disciplinary action up to and including termination.

3. Payment of Leave.

- a. EIB Hours are paid at the Employee's Regular Rate of Pay.

- b. *Payment for EIB When Used.* EIB hours must be approved by the Department Director or designee before payment for leave may be authorized.

- c. *EIB Buy-Back.* Employees are not paid for EIB in lieu of taking such leave.

d. *Payment of EIB Upon Termination.* Any earned but unused hours in the EIB Bank are not eligible for cash-out.

4. *Balance Cap.* A maximum of 480 hours may be accrued and retained in the Extended Illness/Short-term Disability Bank at any one time.

H. Return to Work Following Sick Leave or Extended Illness

1. Failure to return from an approved leave under this policy may be deemed a voluntary resignation, unless the Employee obtains approval of the City Manager for use of other leave benefits prior to the expiration of the approved leave.
2. Employees returning from an approved leave under this policy may be required to provide a fitness-for-duty certification from the Employee's medical provider, in a form acceptable to the City, authorizing the Employee to return-to-work.



AGENDA ITEM NO. F-1  
8/1/11

## AGENDA ITEM MEMORANDUM

**TO:** Honorable Mayor and City Council

**VIA:** T. Jennene Norman-Vacha, City Manager 

**VIA:** Bill Geiger, Community Development Director 

**FROM:** Steve Gouldman, AICP, City Planner 

**SUBJECT:** Temporary Sign Ordinance No. 819

**DATE:** August 1, 2011

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### GENERAL SUMMARY/BACKGROUND:

At the April 18, 2011 City Council meeting, the Council, in response to a local business owner's request, directed staff to provide to them for review and discussion the City's current regulations regarding banners, flags and pennants. The City's current regulations, Hernando County's regulations and several options for addressing the City's sign provisions were presented to City Council on May 2, 2011, June 6, 2011 and June 20, 2011. Also presented to City Council at the June 6, 2011 meeting was a proposed temporary Ordinance addressing temporary signs similar to that adopted by the City of Largo.

Following discussion of the temporary Ordinance on June 20, 2011, the City Council directed staff to provide one modification to the proposed regulations. As is demonstrated by the attached draft Ordinance, the proposed regulations will allow each business to display one temporary banner sign a maximum of 32 square feet in size or one feather sign a maximum of 12 feet in height and 32 square feet in size. Each business will be allowed to display the sign for a maximum of 30 continuous days once every six months. New businesses will be allowed to display either of the temporary signs for the first three months of the first six-month period. A permit fee of \$50.00 is proposed. Also proposed is that the Ordinance sunset one year from adoption unless an Ordinance is adopted extending the provisions.

### BUDGET/IMPACT:

 The proposed \$50.00 fee will provide the funds necessary for implementation, and no additional staff will be required to administer the provisions of the Ordinance. Any additional financial impacts will be the result of enforcement of the regulations.

### LEGAL REVIEW:

 Florida Statutes § 163.3202(1) requires that each county and each municipality must adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan. Florida Statutes § 163.3202(2) mandates

*Sign Regulations*

*August 1, 2011*

*Page 2*

that Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan.

**STAFF RECOMMENDATION:**

It is recommended that City Council evaluate the proposed Ordinance providing for the display of temporary signs and approve the second reading of the Ordinance as proposed.

**CITY COUNCIL ACTION:**

On July 18, 2010 the City Council reviewed and approved the first reading of Ordinance No. 819 to allow for the display of additional temporary signs. The City Council also authorized the public hearing for the second and final reading of Ordinance No. 819.

**ATTACHMENT:** Ordinance No. 819

ORDINANCE NO. 819

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING TEMPORARY SIGN OPPORTUNITIES FOR COMMERCIAL USES; PROVIDING STANDARDS AND ADMINISTRATIVE PROCEDURES FOR PERMITTING TEMPORARY SIGNS; PROVIDING FOR AN EFFECTIVENESS REVIEW; AND PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

**WHEREAS**, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

**WHEREAS**, the City Council recognizes that the ongoing recession and the condition of the economy challenges local businesses to seek new and better ways to advertise and promote their business; and

**WHEREAS**, the City Council understands that certain businesses would benefit from additional promotional opportunities; and

**WHEREAS**, the City Council has enacted sign regulations as part of the Code of Ordinances; and

**WHEREAS**, the Code of Ordinances sign regulations currently allow temporary signs during grand opening and special events of limited duration only; and

**WHEREAS**, the City Council wishes to continue to protect the safety of motorists, pedestrians, and others from distractions caused by signs; and

**WHEREAS**, the City Council wishes to continue to preserve the aesthetic beauty of the City of Brooksville; and

**WHEREAS**, the City Council wishes to assist local businesses by providing temporary sign opportunities for businesses operating in the City of Brooksville;

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:**

**SECTION 1. TEMPORARY SIGNS.** In order to provide temporary sign opportunities for Brooksville businesses the following provisions are hereby adopted:

1. The following temporary signs shall be allowed for businesses on parcels zoned as PDP with commercial and/or office uses and in the C1, C2, C3, C4, CIS-1, I-1, I-2 and P-1 zoning districts as well as any new commercial, office and industrial zoning district not in existence as of the effective date of this ordinance:
  - A. One banner sign per business not to exceed 32 square feet securely affixed to a building; or
  - B. One fabric sign per business attached to a vertical pole (“feather sign”) not to exceed 12 feet in height and 32 square feet in total area which shall be located on private

property and set back from right-of-way lines such that it does not obstruct required sight triangles.

- 2. Temporary signs may be displayed for a maximum of 30 continuous days once every six months beginning on the effective date of this ordinance. New businesses shall be allowed to display a banner or fabric sign the first three months of the initial six month period, provided that the new business has not been in operation more than 12 months prior to the request for a temporary sign permit.
- 3. A temporary sign permit shall be required which shall be effective for the duration of this ordinance.
- 4. A \$50 annual fee for the temporary sign permit is hereby established.
- 5. The City Manager is hereby authorized to establish administrative procedures necessary to permit and regulate temporary signs allowed under this ordinance consistent with the intent and purpose of this ordinance.

**SECTION 2. EFFECTIVENESS.** The City Council hereby directs staff to review the effectiveness of the temporary sign provisions in providing economic stimulus and to report their findings to the City Council 90 days prior to the termination of this ordinance.

**SECTION 3. CONFLICTS.** The City Council expressly intends that the sign regulation provisions of the City of Brooksville Code of Ordinances, Chapter 125, shall remain in effect except to the extent allowed by this ordinance, through the termination of this ordinance as set forth in Section 5.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

**SECTION 5. TERMINATION DATE.** This ordinance shall sunset one year from its effective date and the program shall terminate one year from the effective date of this ordinance unless an ordinance is adopted extending the program.

**CITY OF BROOKSVILLE**

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

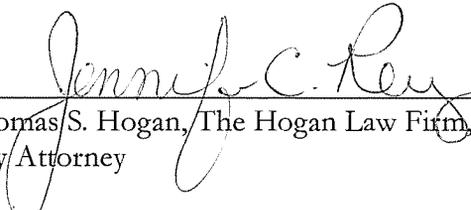
By: \_\_\_\_\_  
Frankie Burnett, Mayor

PASSED on First Reading July 18, 2011

NOTICE Published on July 22, 2011

PASSED on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

  
\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney

VOTE OF COUNCIL:

Bernardini	_____
Bradburn	_____
Burnett	_____
Johnston	_____
Pierce	_____

8/1/11

**AGENDA ITEM  
MEMORANDUM**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA  
CITY MANAGER

**FROM:** BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR &  
JENNIFER REY, THE HOGAN LAW FIRM, LLC, AS CITY ATTORNEY

**SUBJECT:** ECONOMIC DEVELOPMENT INCENTIVE ORDINANCE NO. 820

**DATE:** JULY 20, 2011

**GENERAL SUMMARY/BACKGROUND:** On June 7, 2010, the Brooksville City Council adopted Resolution No. 2010-09 authorizing the placement of a referendum question on the August 2010 Primary Election Ballot relating to tax exemption for economic development as provided for under Fla. Stat. §196.1995. The tax exemption proposed by Resolution No. 2010-09 was ratified and approved by the electorate of the City in the August 24, 2010 election and the referendum results were ratified by the City Council as reflected in Resolution 2010-17 approved on September 20, 2010.

The proposed Ordinance sets forth criteria to implement the referendum. In addition, the proposed Ordinance provides for:

- The expenditure of funds budgeted for business and industrial promotion purposes;
- Endorsing and cooperating with the Hernando County Office of Business Development for the County to provide the local match requirements offered to qualified target industries that locate within the City that meet the eligibility requirements for the County's Job Creation Grant Program; and
- Economic incentives for deferring/forgiving payment of a percentage of building permit and impact fees, subject to the availability of funds as determined by the City Council on an annual basis through the budget review and amendment process; and
- Establishing requirements for administration and procedures to be followed in conjunction with the incentive program, performance standards that must be met/monitored in order for businesses to retain incentives provided, and forfeiture of funding/incentives provided in the event of a breach or default by the business with any applicable ordinance or agreement.

**CITY COUNCIL ACTION**

The initial draft of the proposed ordinance was presented to City Council for review on March 21, 2011. At that time, City Council members provided direction to staff (some written/some verbalized) to revise the draft ordinance and bring it back at a later date for first reading consideration.

On July 18, 2011, the revised draft ordinance reflecting Council's prior direction was presented for first reading consideration. City Council approved the first reading of Ordinance No. 820, subject to updating the same based on discussion and direction given at the meeting.

Ordinance No. 820 has been updated to reflect discussion and direction given at the First Reading. The following is a synopsis of the discussion/direction and subsequent changes (found in strikethrough/underline/highlight format in the attached Ordinance) that have been made to the Ordinance since the first reading:

- On page 1 of 13, a correction was made to a Statutory reference in the second to last “WHEREAS” clause on that page.
- On page 5 of 13, an additional definition “T.” was added to Section 3 for *Higher Education and Training Institutions*, consistent with direction related to council member discussion.
- On page 6 of 13, correction was made to a reference in Section 4.H.
- On page 6 of 13, a cross-reference to Section 12 was inserted at the beginning of Section 5, consistent with direction related to council member discussion.
- On pages 6 and 8 of 13, language was highlighted related to council member discussion of Resolution No. 2003-02. In addition to recognizing the Resolution as establishing the guidelines for implementing the Ad Valorem Tax Abatement Exemption, it additionally provides language that recognizes that council may amend the guidelines from time-to-time to ensure consistency with Statute and local preference.
- On page 7 of 13, language was added to Section 6.C. that states council’s authority to exceed established limits within the Section, consistent with direction related to council member discussion.
- On page 7 of 13, a phrase was modified in Section 6.E. to reflect that protective covenants will be part of a developer’s agreement, consistent with questions and direction related to council member discussion.
- On page 8 of 13, language was added to Section 7.C. that states council’s authority to exceed established limits within the Section, consistent with direction related to council member discussion.
- On page 8 of 13, a phrase was modified in Section 7.E. to reflect that protective covenants will be part of a developer’s agreement, consistent with questions and direction related to council member discussion.
- On page 8 and 9 of 13, Section 8.A.2. was modified to provide a specific time frame for when Applications must be submitted for the Ad Valorem Tax Abatement Exemption, consistent with questions and direction related to council member discussion.
- On page 9 of 13, minor typography changes were made to Sections 8.A.5.e. & g., and a new sub-section g. was added to require a time frame to be specified in the ordinance for jobs to be created for eligibility to be maintained in order to continue to receive the tax abatement at the approved level.
- On page 10 of 13, Section 8.B.1. was highlighted to show the time frame for when an application must be filed to be certified as a TI, in response to and consistent with council member discussion.
- On page 10 of 13, in Section 8.B.3. a sentence was added providing for the council to use the same criteria as found in the ordinance to determine an appellant’s eligibility to be considered a TI, in response to and consistent with council member discussion.
- On page 11 of 13, in Section 8.B.6. the word “governmental” was added within the paragraph, in response to and consistent with council member discussion.
- On page 11 of 13, Section 8.B.8. was highlighted in conjunction with directing the applicant to follow the rules established by the Hernando County Office of Business Development to apply for and address the eligibility criteria for the Hernando County Jobs Creation Grant.

**BUDGET IMPACT:** The budget impact of adopting the ordinance will require the expenditure of budgeted public funds for promotion purposes and incentives to attract targeted industries or businesses to locate within the City. All promotional funds and incentives shall be established and capped at an amount determined via the annual budget process by the City Council. Amounts budgeted may not be exceeded without first obtaining approval by the City Council.

 **LEGAL NOTE:** The City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services. The City is authorized under Fla. Stat. §196.1995 to grant tax exemptions and Fla Stat. §288.106 to financially participate in the total tax refund incentives as refunds become due.

**STAFF RECOMMENDATION:** Consideration to approve the second and final reading of Ordinance No. 820 (with or without modification as deemed appropriate).

**ATTACHMENT:** Ordinance No. 820

**ORDINANCE NO. 820**

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING FOR ECONOMIC DEVELOPMENT INCENTIVES; ESTABLISHING REQUIREMENTS FOR IMPLEMENTING THE AD VALOREM PROPERTY TAX ABATEMENT REFERENDUM; CREATING INCENTIVES FOR TARGETED INDUSTRY JOB CREATION AND ECONOMIC DEVELOPMENT GROWTH; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida, (“City”) is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida; and,

**WHEREAS**, the City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida; and,

**WHEREAS**, pursuant to Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City may exercise any power for municipal purposes except when expressly prohibited by law; and,

**WHEREAS**, it is the intent of the City to establish and further a sound business and industrial tax base in the City of Brooksville, of which said tax base will benefit all residents in the City by better broadening the distribution of the burden of taxes; and,

**WHEREAS**, this intent and purpose is accomplished by attracting those businesses and industries that pay equal to or greater than the average annual wage to locate in the City; and,

**WHEREAS**, the City Council adopted Resolution No. 2000-01 authorizing placement of a referendum question on the March 14, 2000 Presidential Preference Primary Ballot relating to tax exemption for economic development; and,

**WHEREAS**, the tax exemption proposed by Resolution No. 2001-01 was ratified and approved by the electorate of the City in the March 14, 2000 election; and,

**WHEREAS**, the tax exemptions authorized by Resolution 2001-01 expired as of March 14, 2010; and,

**WHEREAS**, Fla. Stat. §196.1995(7) provides that the authority to grant such tax exemptions expires ten years after the date it was approved in an election and allows for a renewal of the tax exemption, by referendum, for another ten year period; and,

**WHEREAS**, the City Council adopted Resolution No. 2010-09 on June 7, 2010 authorizing placement of a referendum question on the August 2010 Primary Election Ballot relating to tax exemption for economic development; and,

**WHEREAS**, the tax exemption proposed by Resolution No. 2010-09 was ratified and approved by the electorate of the City in the August 24, 2010 election; and,

**WHEREAS**, the referendum results were ratified by the City Council as reflected in Resolution 2010-17 approved on September 20, 2010; and

**WHEREAS**, the Legislature of the State of Florida enacted §288.106, Florida Statutes, to encourage the growth of high-wage, valued added employment in the State of Florida; and,

**WHEREAS**, Section 288.106, Florida Statutes, authorizes the Florida Office of Tourism, Trade and Economic Development (OTTED) to accept, review and approve applications for tax refunds to qualified target industry businesses; and,

**WHEREAS**, Section 288.106 Florida Statutes, requires local financial participation of the total tax refund incentive as tax refunds become due; and,

**WHEREAS**, the City desires to participate in and promote the available state and county economic development incentive programs that will assist in accomplishing the purposes of attracting targeted industries with value-added employment opportunities.

**NOW THEREFORE BE IT ORDAINED** by the City Council of the City of Brooksville, as follows:

**SECTION 1. TITLE.** This ordinance shall be known and may be cited as the “Brooksville Economic Development Incentive Ordinance.”

**SECTION 2. PURPOSES AND FINDINGS OF FACT.** The preceding recitals are true and correct, and are incorporated herein, in haec verba. It is the intent and purpose of this Ordinance to provide the authority and mechanisms within the parameters of federal, state and local laws, to allow the expenditure of public funds for promotions and incentives to attract targeted industries or businesses to locate within the City and through expansion of certain existing targeted industries or businesses, particularly when such targeted industries and businesses pay greater than the annual average wage to locate or expand in the City.

**SECTION 3. DEFINITIONS.** For the purpose of this Ordinance, the following definitions shall apply.

- A. *Above average annual wage* means one hundred fifteen (115) percent or greater of the average annual wage for Hernando County.
- B. *Average annual wage* means the average annual wage paid to workers in Hernando County as published by the State of Florida, Agency for Workforce Innovation, Labor Market Statistics, for the most current year published.
- C. *Applicant* means the industrial or business entity seeking to be certified by the City as a targeted industry pursuant to this ordinance.

- D. *Attributable tax increment* means the increased increment in the City's ad valorem and tangible property tax base attributable or apportionable to new development, redevelopment or expansion of a targeted industry.
- E. *Base Wage* means compensation received by an employee for fulfilling job functions. Compensation may include benefits such as, but not limited to medical insurance. Compensation shall not include benefits such as any mandatory federal employer contribution, state employer contribution, vacations, holidays, or sick leave.
- F. *Building permit fees* are those fees charged by the City for construction, erection, modification, repair and demolition activities within the City which are governed under the Florida Building Code and charged pursuant to section 553.80, Florida Statutes, and Section 105.44 of the City's Code of Ordinances.
- G. *Business or industry* means any business entity authorized to do business in the state and the city or the county, including all members of an affiliate group of corporations as defined in Section 220.03 (1)(b), Florida Statutes.
- H. *Business Development Activity (BDA)* means any program, activity, or venture in which the City participates as a partner, investor or grantee related to any federal, state, or local government program involving the development or creation of business or industry related enterprise, program area or development.
- I. *Business Recruitment Activity* means an activity or expense, to include but not limited to meals, hospitality, travel, meeting expense, etc., undertaken or incurred in hosting representatives of a new business or a business seeking to expand within the City
- J. *Expansion of an Existing Business or Industry* means the expansion of a business or industry by or through additions to real and personal property on a site co-located with a target industry or business operation owned by the same owner. Expansion of an existing business or industry also means a relocation within the City of a target industry or business operation presently existing within the City.
- K. *Impact fees* are those fees, excluding utility connection fees, charged by the City relating to new development and redevelopment activities within the City and charged pursuant to the City's Code of Ordinances, Resolutions and Interlocal Agreements.
- L. *Full-time* means any full-time equivalent position(s) including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through co-employment under a professional employer organization agreement.
- M. *Jobs* means full-time equivalent positions, as such terms are consistent with terms used by the state department of labor and employment security and U.S. Department of Labor for purposes of unemployment compensation tax administration and employment estimation. Jobs shall not include temporary construction jobs involved

with the construction of facilities for the project or any jobs which have been previously included in any incentive benefit provided pursuant to this Ordinance.

- N. *Industrial development* means the development, and/or redevelopment or expansion of any commercial or industrial facilities.
- O. *New Business* means a business or industry which does not exist within the City, first begins its operations on a site located within the City and is clearly separate from any other operation owned by the same business or industry.
- P. *New job* means the addition of a new full-time job which is wholly based in the City and which previously did not exist as part of the City's total job base.
- Q. *Project* means the creation of a new business or industry or the expansion of an existing business or industry.
- R. *Qualified targeted industry (QTI)* are those industries and businesses serving multi-state and/or international markets that are able to create new jobs at greater than the average annual wage for Hernando County (specifically excluding all retail activities, utilities, mining and other extraction or processing business, and activities regulated by the division of hotels and restaurants of the department of business and professional regulation) and which have been further approved by the state as a QTI pursuant to section 288.106, Florida Statutes.
- S. *Targeted industry (TI)* are those industries and businesses primarily serving markets outside of Hernando County and that are able to create new jobs at equal to or greater than average annual wage for Hernando County (and specifically excluding all retail activities, utilities, mining and other extraction or processing business, and activities regulated by the division of hotels and restaurants of the department of business and professional regulation) and which have been certified as a TI by the City. Examples of TIs include, but are not limited to:
  - 1. Aviation and aerospace industry (examples include businesses that support the aviation and aerospace industry such as aircraft manufacturing, maintenance support services, etc.);
  - 2. Clean manufacturing;
  - 3. Corporate headquarters;
  - 4. Emerging technologies;
  - 5. Financial and professional services (exclusive of retail consumer services);
  - 6. Green technologies and energy (examples include solar energy, biomass energy and bio-fuels, water energy, fuel cells, hydrogen, energy conservation waste reduction and conversion technologies);
  - 7. Information technologies (examples include information technology products/services/training, software development, modeling/simulation, photonics/lasers/optics, microelectronics and telecommunications);
  - 8. Life sciences (examples include biotechnology, medical device manufacturing, pharmaceuticals and health care equipment);
  - 9. Logistics and distribution warehousing.

In determining whether an industry or business initially qualifies as a TI, the City may take into consideration whether said industry or business is listed in the list of target industries prepared by Enterprise Florida, Inc. in connection with the QTI program; however, certification as a TI by the City is not dependent on whether the same industry or business is approved or listed as a QTI by Enterprise Florida, Inc. or the State of Florida.

- T. *Higher Education and Training Institutions* are those accredited two and four year institutions that provide for secondary education degrees in professions that would typically earn at an above-average wage level. For purposes of this Ordinance, institutions that are qualified by the City as a Higher Education and Training Institution would be eligible for consideration of receiving the same incentives, as applicable, that a TI would qualify for.

**SECTION 4. EXPENDITURE OF PUBLIC FUNDS.** The City Manager, or his or her designee, may expend funds which are budgeted for business and industrial promotion purposes in furtherance of this ordinance, and may include but not be limited to the expenditure of funds for the following:

- A. To publicize, advertise and promote the City of Brooksville;
- B. To make known the advantages, facilities, resources, products, attractions, attributes, employer opportunities, and business and development incentives of the City;
- C. To create a favorable climate of opinion concerning industrial and business development in the City;
- D. To cooperate with other agencies, public and private, including the Hernando County Office of Business Development, the State of Florida Agency for Workforce Innovation and Enterprise Florida, Inc., to accomplish these purposes;
- E. To provide for Business Recruitment Activities in the interest of promoting industrial or business development or engendering goodwill toward new industrial or business development, within the limits of funds to be budgeted for this purpose on an annual basis;
- F. To further the operations and activities of the Ambassador for Commerce and Employment;
- G. To encourage and facilitate the creation of new jobs within the City which pay equal to or greater than the average annual wage for Hernando County;
- H. To attract qualified targeted industries and targeted industries to locate to, relocate in, or expand within the City; and for the City to endorse and elicit the cooperation of the Hernando County Office of Business Development, to participate with the State of Florida Office of Tourism, Trade and Economic Development (OTTED), Enterprise Florida, Inc. and related participating entities, for Hernando County to

provide the local match requirements offered to qualified targeted industries within the City pursuant to the County's *Job Creation Grant Program*;

- I. To further the "Economic Element" of the City's Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes;
- J. To identify and define specific or targeted areas within the City or City service areas where new industrial and business development should be promoted or where City-based incentives are provided.

**SECTION 5. ECONOMIC DEVELOPMENT AD VALOREM TAX ABATEMENT AND EXEMPTION.** Subject to the provisions of Section 12 in this Ordinance, certain New Businesses or Expansions of an Existing Business or Industry meeting established eligibility criteria and creating 10 or more jobs due to relocation to the City or through expansion of existing facilities within the City may be granted an ad valorem property tax exemption of up to 100% of the increased valued added to the tax roll for up to ten (10) years as an incentive for meeting State requirements. Additionally, any new business that locates or expands within the incorporated area of the City of Brooksville/Hernando County Enterprise Zone #2701 may be eligible to receive an ad valorem property tax exemption of up to 100% of the increased value added to the tax roll for up to ten years. City of Brooksville Resolution No. 2003-02 establishes guidelines, consistent with Florida Statutes, to implement the Ad Valorem Tax Abatement Exemption. The City Council may amend and revise the guidelines established by Resolution No. 2003-02 from time-to-time to ensure continued consistency with statutory requirements and to integrate local input within the guidelines to achieve the desired results of offering this incentive.

**SECTION 6. INCENTIVES RELATING TO BUILDING PERMIT FEES.**

- A. Targeted industries that have been certified as a TI by the City and which through new development, redevelopment or expansion create at least ten (10) new full-time jobs within the City which have an average salary equal to or greater than the average annual wage for the county will be eligible to apply to the City to have up to a maximum of fifty (50) percent of its building permit fees deferred for seven (7) years, and at the end of the deferral period, have all of the building permit fees which were deferred forgiven by the City, providing the TI still meets all of the original eligibility requirements for a TI (the requirements will be specified in an agreement between the TI and the City in such form and manner acceptable to the City in its sole discretion).
- B. The City will be responsible for reviewing each application it receives for building permit fee deferral/forgiveness and shall prepare a recommendation and report to the City Council as to whether any incentive under this provision should be awarded to the TI applicant and, if so, at what amount or percentage. The City Council, acting in their sole legislative discretion, shall make the final decision as to whether to award any incentive to the TI under this provision and, if so, the amount of any such award.
- C. The amount of building permit fees deferred for all eligible targeted industries in any given fiscal year shall be capped at an amount established via the annual budget

process by the City Council. The total amount of building permit fees deferred by the City each fiscal year shall not exceed the cap without first obtaining the approval of the City Council. The City Council may elect to exceed any limits established by Section 6.A. and 6.C., giving consideration to unique circumstances that may be presented in consideration of an agreement with the TI.

- D. Funds necessary to replace the building permit fees deferred in any given fiscal year shall be appropriated from any lawful funds other than building permit fees, within the operating budget of the City, and paid to the appropriate fund at the time of permitting.
- E. In the event the TI closes its business, moves out of the City, or loses its status as a TI at any time during the seven-year deferral period, the TI will be required to pay to the City all building permit fees which have been deferred. As a condition for receiving the deferral of building permit fees, the TI, and the landowner as may be appropriate, will provide the City with a performance bond, letter of credit, or promissory note and mortgage in favor of the City (in such manner and form acceptable to the City in its sole discretion) to enable the City to enforce the restrictions and conditions in this ordinance. The covenants described in this section will be part of the developer's agreement described in Sec. 6.A above, and may be recorded against the subject property in the official public records.

#### **SECTION 7. INCENTIVES RELATING TO IMPACT FEES.**

- A. Targeted industries that have been certified as a TI by the City and which through new development, redevelopment or expansion create at least ten (10) new full-time jobs within the City which have an average salary equal to or greater than the average annual wage for the county will be eligible to apply to the City to have up to a maximum of fifty (50) percent of its impact fees deferred for seven (7) years, subject to the cap set forth herein, and at the end of the deferral period, have all of the deferred impact fees forgiven by the City providing the TI still meets all of the original eligibility requirements for a TI (the requirements will be specified in an agreement between the TI and the City in such form and manner acceptable to the City in its sole discretion).
- B. The City will be responsible for reviewing each application it receives for impact fee deferral/forgiveness and shall prepare a recommendation and report to the City Council as to whether any incentive under this provision should be awarded to the TI applicant and, if so, at what amount or percentage. The City Council, acting in their sole legislative discretion, shall make the final decision as to whether to award any incentive to the TI under this provision and, if so, the amount of such award.
- C. Notwithstanding anything to the contrary, the total amount of impact fees deferred under subsection 7.A above shall be capped at, and not exceed, ten thousand dollars (\$10,000) for each and every eligible targeted industry. This cap shall apply to each TI and is not intended as a cumulative cap where there are two (2) or more eligible TIs in any given year. In the event that an eligible TI has impact fees in excess of the established cap, said TI shall be required to pay to the City all impact fees calculated

in excess of the cap ("non-deferred impact fees") at the time of building permitting. As part of the TI's application, the TI may request to have its non-deferred impact fees (as anticipated) refunded by the City. If the City Council, in their legislative discretion, approves to refund all or any portion of the non-deferred impact fees, then the amount and terms of such refund shall be part of the approval process and be included in the agreement between the TI and the City. Each year hereunder, the TI shall be responsible for ensuring that it is in full compliance with this ordinance and its agreement with the City as a precondition of receiving any award or funds from the City. The City Council may elect to exceed any limits established by Section 7.A. and 7.C., giving consideration to unique circumstances that may be presented in consideration of an agreement with the TI.

- D. Funds necessary to replace the impact fees deferred in any given fiscal year shall be appropriated from any lawful funds other than impact fees, within the operating budget of the City, and paid to the appropriate fund at the time of permitting.
- E. In the event the TI closes its business, moves out of the City, or loses its status as a TI at any time during the seven-year deferral period, the TI will be required to pay to the City all impact fees which have been deferred and/or refunded. As a condition for receiving the deferral and/or refund of impact fees, the TI, and the landowner as may be appropriate, will provide the City with a performance bond, letter of credit, or promissory note and mortgage in favor of the City (in such manner and form acceptable to the City in its sole discretion) to enable the City to enforce the restrictions and conditions in this ordinance. The covenants described in this ordinance will be part of the developer's agreement described in Sec. 7.A above, and may be recorded in the official public records.

**SECTION 8. ADMINISTRATION AND PROCEDURES.** The following procedures and requirements shall be used in implementing the exemptions and incentives provided for in this ordinance.

- A. Economic Development Ad Valorem Tax Abatement and Exemption.
  - 1. The City shall follow the guidelines established by Resolution No. 2003-02. The rules and procedures established within the guidelines may be amended or varied by the City Council from time-to-time by resolution to include, but not be limited to establishing different criteria for eligibility factors in order to fully implement the intent of the tax abatement/exemption.
  - 2. Applications for the Economic Development Ad Valorem Tax Abatement or Exemption incentive, must be submitted for approval by the City Council within twenty-four months of the issuance of a Certificate of Occupancy by the City for improvements to real property or within twenty-four months of the purchase/installation of personal property. Applications for Ad Valorem tax abatement and exemption must be submitted by March 1 of the year following the year in which value was added to the property in order to be eligible for consideration of the exemption for that year. Failure to make

application by March 1 of any year constitutes a waiver of the exemption privilege for that year.

3. Application for an ad valorem property tax exemption shall be made on Department of Revenue form #DR-418 (as amended), and upon approval of an agreement between the City and an applicant of an eligible New Business or eligible Expansion of an Existing Business, the City may grant, in its sole and absolute discretion, an Economic Development Ad Valorem Tax Abatement/Exemption to the New Business or Expansion of an Existing Business.
4. The tax abatement/exemption described herein shall not apply to improvements to real property made by or for the use of New Businesses or Expansions of an Existing Business when such improvements have been added or increased prior to the adoption of this ordinance, unless an exemption has been previously granted by the City Council by ordinance.
5. To grant a tax abatement/exemption under this ordinance, the City Council shall adopt an ordinance granting the tax abatement/exemption and the ordinance must include the following:
  - a. the name and address of the New Business or Expansion of the Existing Business to which the exemption is granted;
  - b. the total amount of revenue available to the City from ad valorem tax source for the current fiscal year;
  - c. the total amount of revenue lost to the City for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect;
  - d. the estimated revenue loss to the City for the current fiscal year attributable to the exemption of the business named in the ordinance;
  - e. the period of time for which the exemption will remain in effect and the expiration date of the exemption;
  - f. a finding that the business name in the ordinance meets the definitional requirements of the law and the City's ordinance; and
  - g. a time frame in which the jobs commitment must be created in order to maintain eligibility for the abatement or exemption to be maintained at the level approved.
6. An annual review of the Economic Development Ad Valorem Tax Abatement and Exemption shall be prepared and submitted to the City Council each fiscal year after the adoption of this ordinance.

7. Any procedures, rules or criteria established to implement the Economic Development Ad Valorem Tax Abatement and Exemption shall be made available in the City Clerk's Office.

B. Targeted Industry Incentives and Grants.

1. Any industry or business seeking to be certified as a TI under this ordinance shall complete and file an application with the City prior to the issuance of any building or other development permit.
2. Following receipt of the application, the City will review the application for completeness and sufficiency. If the application is incomplete or additional information is required, the City will advise the applicant what is required for completeness or sufficiency. It shall be the sole responsibility of the applicant to timely correct all completeness and sufficiency deficiencies.
3. Upon the City determining that an application is complete and sufficient, the City shall make a determination whether the applicant qualifies as a TI and shall advise the applicant in writing of its determination. If the applicant is rejected as a TI, then the applicant may appeal such determination to City Council by filing a written request with the City Manager within thirty (30) calendar days of receiving its written notification of rejection. The appeal shall set forth in particularity all grounds upon which the applicant relies. The City Council will use the criteria established by this Ordinance to determine the appellant's eligibility to be considered a TI. Failure to timely appeal a decision of the City to the City Council pursuant to this ordinance shall constitute a waiver of such review.
4. If the City determines that the applicant is qualified as a TI, then it shall prepare a written recommendation and report to the City Council regarding what incentives under this ordinance, if any, should be offered to the applicant. The recommendation and report to the City Council will include a project summary (based upon the application and any other information provided to the City), the number of anticipated new jobs created by the Project, and the total gross square feet of new development or expansion that will be constructed in connection with the project. The recommendation and report will also include in its analysis:
  - a. the anticipated total ad valorem and tangible property taxes to be received by the City as a consequence of the location, relocation or expansion of the TI;
  - b. The TIs anticipated overall fiscal impact to the City's economy;
  - c. Any grants, deferrals or incentives the TI has previously received from local, state or federal government;
  - d. Other incentive applications which may be pending;

- e. The projected cost to the City associated with any grants, deferrals and/or incentives which may be proposed to the applicant under this ordinance;
- f. Availability of general revenue funds; and,
- g. Any budgetary or fiscal constraints of the City.

In addition, the City will prepare the appropriate agreement or agreements between the City and the TI applicant regarding all grants, deferrals or incentives proposed under this ordinance.

- 5. At a duly noticed public hearing, the City Council shall consider the proposed incentive agreement or agreements under this ordinance. Following discussion, the City Council, in its legislative discretion, may vote to approve, amend or deny any agreement hereunder. The approval of any incentives under this ordinance shall be subject to funding availability as determined by the City Manager and the City's budget as set by the City Council.
  - 6. Any TI approved under this ordinance must be in full compliance with this and all other applicable ordinances, codes and governmental regulations, and all terms and conditions of its agreement or agreements with the City as a pre-condition of receiving any grants, deferrals and/or incentives from the City.
  - 7. Twelve (12) months after any agreement under this ordinance is concluded or terminated, the City will prepare a written report for the City Council which outlines the then present and anticipated economic impacts that the approved TI has and will have on the City.
  - 8. Applications for the Hernando County *Jobs Creation Grant* would be made directly to the Hernando County Office of Business Development and would be subject to the County's rules, requirements and eligibility determinations for the same.
- C. Additional Procedures and Rules. The City Manager is authorized to promulgate such other administrative policies, procedures and rules necessary to effectively implement the provisions of this ordinance.

**SECTION 9. PERFORMANCE DEMONSTRATION AND REVIEW.** Following adoption of an ordinance granting an Economic Development Ad Valorem Tax Abatement/Exemption or following execution of a grant agreement as required by this ordinance, the City may periodically conduct site visits and audits of the New Business or Expansion of an Existing Business to ensure that the business is satisfactorily performing under the ordinance or grant agreement and this ordinance. As a prerequisite of receiving an exemption, incentive or grant funds from the City in year one and each year thereafter, the New Business or Expansion of an Existing Business shall demonstrate:

- A. That it has fully satisfied all terms and conditions contained in the agreement as described in Sections 6.A., 7.A. and/or ordinance as described in Section 8.A.4. continuing through the subject funding period;
- B. That it has not been, nor is, in breach or default of the grant agreement or any other incentive agreement with the City pursuant to this ordinance; and,
- C. That it has created the number of eligible new jobs promised within the time frames set forth below:
  - 1. For any new construction or expansion of a building or facility to be used and occupied by the New Business or Expansion of an Existing Business, the New Business or Expansion of an Existing Business shall demonstrate that it has created the number of eligible new jobs promised no later than twelve (12) months from receiving the certificate of occupancy for its primary building or facility, or from the date of completing its expansion.
  - 2. For any existing building or facility, the New Business or Expansion of an Existing Business shall demonstrate that it has created the number of eligible new jobs promised no later than twelve (12) months from moving into its building or facility and commencing operations.

**SECTION 10. CESSATION OF OPERATIONS DURING EXEMPTION/GRANT TERM.** In the event the New Business or Expansion of an Existing Business ceases its operations, closes its business, moves out of the county, loses its status as a New Business or Expansion of an Existing Business at any time during the ordinance or agreement period, or is in breach or default of any ordinance or grant agreement with the City under this ordinance, then the New Business or Expansion of an Existing Business shall forfeit any and all funding/incentives which may be remaining under its agreement and any other incentive pursuant to this ordinance.

**SECTION 11. ELIGIBILITY FOR EXPEDITED PLAN REVIEW AND PERMITTING.** Targeted industries that qualify under this ordinance shall also be eligible for expedited plan review and permitting by the applicable City departments.

**SECTION 12. INCENTIVES NON-EXCLUSIVE.** The incentives in this ordinance are not exclusive and eligible Targeted Industries may apply for as many incentives as they qualify for in this ordinance or other provisions of the Code. Further, the incentives in this ordinance do not preclude an industry or business from applying or qualifying for or participating in other federal, state or local programs. The City Council, in its sole discretion, reserves the right to limit or restrict the number of applicants and the total number and dollar amount of all grants, deferrals and incentives under this ordinance which may be awarded in any given City fiscal year.

**SECTION 13. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 14. CONFLICTS AND REPEALER.** This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinances, in which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 15. AMENDMENT TO CODE.** This Ordinance shall amend and supplement Chapter 26 Community Redevelopment, Article I In General of the Code of Ordinances for the City of Brooksville, as directed herein.

**SECTION 16. CODIFICATION.** It is the intention of the City Council of the City of Brooksville, Florida that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 13, 14, 15, and 16, shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 17. EFFECTIVE DATE.** This Ordinance shall take effect and be in force after approval of same by the City Council of the City of Brooksville

**CITY OF BROOKSVILLE**

By: \_\_\_\_\_  
Frankie Burnett, Mayor

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

**PASSED** on First Reading July 18, 2011  
**NOTICE** Published on July 22, 2011  
**PASSED** on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR  
THE RELIANCE OF THE CITY  
OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:  
Bernardini \_\_\_\_\_  
Bradburn \_\_\_\_\_  
Burnett \_\_\_\_\_  
Johnston \_\_\_\_\_  
Pierce \_\_\_\_\_

\_\_\_\_\_  
Thomas S. Hogan, Jr., City Attorney



**AGENDA ITEM  
MEMORANDUM**

**TO:** THE HONORABLE MAYOR AND CITY COUNCILMEN  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER *[Signature]*  
**FROM:** JENNIFER REY, THE HOGAN LAW FIRM, CITY ATTORNEY *JAR*  
**SUBJECT:** ORDINANCE 822 – ENCORE CONTRACT AMENDMENT  
**DATE:** JULY 22, 2011

**GENERAL SUMMARY/BACKGROUND:** On July 18, 2011 the City Council authorized staff to move forward in negotiating an amendment to the *Engineers Joint Contract Documents Committee ("EJCDC") Suggested Form of Subagreement between Design/Builder and Subcontractor on the basis of a Fixed Price* dated January 5, 2007 by and between Hampton Ridge Developers, Inc. and Encore Construction Company (the "Subagreement").

City Council authorized negotiations such that any amended Subagreement would be for the not-to-exceed price of \$3,285,000, the estimated cost of completion of the outstanding improvements to complete a reduced scope of work for the Cobb Road Water Reclamation Facility.

In order to move forward based on City Council's direction, it is necessary for the Council to consider the attached ordinance which sets forth the legislative foundations for proceeding with Encore Construction Company as the contractor for completion of the Cobb Road Water Reclamation Facility without conducting a competitive selection process.

**BUDGET IMPACT:** There is no budget impact associated with the consideration and adoption of this ordinance. In the event the City approves an amended agreement, the budget impact will be that set forth in the amended contract price reflecting in the terms of the amended agreement.

*JAR* **LEGAL REVIEW:** The City Council has home-rule authority (Article VIII, 2(b), Florida Constitution, Section 166.011, Florida Statutes) to consider matters of fiscal and intergovernmental benefit. Pursuant to Section 5.04 of the City Charter, competitive bidding is required except to the extent that Council authorizes otherwise by ordinance.

**STAFF RECOMMENDATION:** Staff recommends that the City Council approve Ordinance No. 822 on first reading, and to schedule a second reading of Ord. No. 822 for public hearing on August 15, 2011.

- ATTACHMENTS:**
1. Ordinance No. 822.
  2. Coastal Engineering Letter
  3. Encore Statement of Qualifications

# Attachment 1

Ordinance No. 822

**ORDINANCE NO. 822**

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AUTHORIZING A CONTRACT AWARD TO ENCORE CONSTRUCTION COMPANY WITHOUT COMPETITIVE SELECTION FOR THE COMPLETION OF THE WATER REUSE FACILITY; ESTABLISHING CRITERIA FOR THE AWARD; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida, (“City”) is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida; and,

**WHEREAS**, the City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida; and,

**WHEREAS**, pursuant to Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City may exercise any power for municipal purposes except when expressly prohibited by law; and,

**WHEREAS**, the City Council of the City of Brooksville granted certain approvals to establish and authorize a planned development project, more commonly known as Southern Hills Plantation Planned Development Project (the PROJECT);

**WHEREAS**, the City, Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC entered into a development agreement dated May 28, 2003, and titled *City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the DEVELOPMENT AGREEMENT) which is recorded in the public record at Book 1855 Page 1059;

**WHEREAS**, the Development Agreement requires Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC (collectively, the DEVELOPER) to provide various public facilities including potable water, sanitary sewer capacity and service, over-sizing of certain utility lines, transportation system requirements, reservation of property for a school, and other public facilities, including providing for reuse/reclamation capacity at the City’s Cobb Road Wastewater Treatment Facility (the “WRF Project”);

**WHEREAS**, the Development Agreement was subsequently amended by the *First Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the FIRST AMENDMENT) dated October 18, 2004, and recorded in the public record at Book 1916 Page 1719 and by the *Second Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the SECOND AMENDMENT) dated November 29, 2004, and recorded in the official public record at Book 1938 Page 1758 and by the *Third Amendment to the City of Brooksville, Florida Development Agreement for Hampton Ridge Project* (the THIRD AMENDMENT) dated May 5, 2008 and recorded in the official public record book at Book 2565 Page 508;

**WHEREAS**, the City and Hampton Ridge Developers, LLC entered into that certain *Agreement Between the City of Brooksville and Hampton Ridge Developers, LLC to facilitate Cooperative Funding Provided by the Southwest Florida Water Management District for the Construction of Reclaimed Water Storage, Pumping, Transmission and Distribution Systems*, (the SUPPLEMENTAL AGREEMENT), dated May 17, 2004, and amended on July 12, 2005, which is recorded in the public record at Book 1870 Page 1517 to 1524;

**WHEREAS**, the City and Hampton Ridge Developers, LLC subsequently entered into the *Cobb Road WRF Agreement* dated December 21, 2006, and recorded in the public record at Book 2404 Page 782 (the WRF AGREEMENT). The WRF AGREEMENT was subsequently amended and restated by the *Amended and Restated Cobb Road WRF Agreement* (the AMENDED WRF AGREEMENT), dated April 21, 2008, and recorded in the public record at Book 2569 Page 432;

**WHEREAS**, pursuant to paragraph 1 of the AMENDED WRF AGREEMENT, the City approved the amount and the form of proposal from Encore Construction Company (ENCORE) to DEVELOPER dated October 27, 2006 to provide for an upgrade of the Cobb Road Wastewater Treatment Facility to provide for 3 million gallons per day of treatment capacity and add reclaim components (the WRF PROJECT);

**WHEREAS**, the DEVELOPER entered into that *Engineers Joint Contract Documents Committee ("EJCDC") Suggested Form of Subagreement between Design/Builder and Subcontractor on the basis of a Fixed Price* dated January 5, 2007 with ENCORE (the ENCORE SUBAGREEMENT) based on the amount and form approved by the City Council in the AMENDED WRF AGREEMENT;

**WHEREAS**, the City accepted Bond No. 82036733 in the amount of \$7,821,600.00, posted by the DEVELOPER, as principal, with Chubb Group Insurance Companies/Federal Insurance Company, as surety, and the City as the named obligee to secure completion of the infrastructure obligations set forth in the WRF and AMENDED WRF AGREEMENTS;

**WHEREAS**, the City and the Southwest Florida Water Management District (the SWFWMD) entered into that certain *Cooperative Funding Agreement No. 04CON000079*, (the COOPERATIVE FUNDING AGREEMENT) dated June 1, 2004, as subsequently amended, for additional funding for the WRF Project;

WHEREAS, pursuant to the COOPERATIVE FUNDING AGREEMENT, the WRF PROJECT is to be substantially completed by April 2012;

**WHEREAS**, the City and Hampton Ridge Developers, LLC also entered into a *Utility Infrastructure Agreement* (the UIA), dated June 10, 2004, which is recorded in the public record at Book 1855 Page 1041;

**WHEREAS**, the DEVELOPMENT AGREEMENT, the SUPPLEMENTAL AGREEMENT, the WRF AGREEMENT, the AMENDED WRF AGREEMENT, the COOPERATIVE FUNDING AGREEMENT and the UIA are collectively referred to as the Project Agreements (the PROJECT AGREEMENTS);

**WHEREAS**, on June 10, 2009, the DEVELOPER and their affiliated companies ("LANDMAR DEBTORS") filed for protection under Chapter 11 of the U.S. Bankruptcy Code in Austin, Texas (the "BANKRUPTCY COURT") in a case styled *In re Crescent Resources, LLC, et. al* Case No. 09-11507 (the BANKRUPTCY CASE);

**WHEREAS**, as of the commencement date of the bankruptcy petition, June 10, 2009, an automatic stay from enforcement against the LANDMAR DEBTORS or property of their estate was imposed by Sec. 362 of the U.S. Bankruptcy Code; thereby preventing the City from taking any action against the LANDMAR DEBTORS until the stay was lifted;

**WHEREAS**, the LANDMAR DEBTORS have filed a plan of reorganization and have sought permission from the BANKRUPTCY COURT to assume portions of the PROJECT AGREEMENTS, and to reject portions of the Project Agreements,

**WHEREAS**, the LANDMAR DEBTORS assigned selected assumed portions of the PROJECT AGREEMENTS to GreenPointe Communities, LLC (“GREENPOINTE”) and GREEN POINTE has rejected any assumption of obligations for waster reuse or wastewater treatment plant expansion under the DEVELOPMENT AGREEMENT, SUPPLEMENTAL AGREEMENT and the AMENDED WRF AGREEMENT;

**WHEREAS**, prior to February 23, 2011 the LANDMAR DEBTORS rejected any further obligations under the PROJECT AGREEMENTS, including the AMENDED WRF AGREEMENT;

**WHEREAS**, the Confirmation Order of the Federal Bankruptcy Court in the BANKRUPTCY CASE deemed the ENCORE SUBAGREEMENT to be rejected as of February 23, 2011;

**WHEREAS**, the City filed suit to collect on collect on Bond No. 82036733, and subsequently, the City entered into a settlement agreement with Chubb Group Insurance Companies/Federal Insurance Company to resolve the performance bond claim;

**WHEREAS**, ENCORE has partially performed its obligations under the ENCORE SUBAGREEMENT and has installed the reuse transmission pipeline between Southern Hills Plantation and the entrance to the Cobb Road Wastewater Treatment Facility;

**WHEREAS**, ENCORE has agreed to honor its obligations, under the ENCORE SUBAGREEMENT, pursuant to a letter dated June 27, 2011 which is attached hereto as Exhibit A and incorporated herein as if set forth in *haec verba* and subject to the limitations and modifications set forth herein;

**WHEREAS**, the time to competitively award the WRF PROJECT will (1) jeopardize the funding for the WRF PROJECT given the deadlines in the various agreements and permits, (2) materially increase the cost of the project, and (3) create an undue hardship on the public health, safety, or welfare;

**WHEREAS**, ENCORE is uniquely qualified to undertake the WRF PROJECT because it is currently under contract to perform work on the WRF PROJECT;

**WHEREAS**, entering into an amended agreement with ENCORE is not being done in an arbitrary or capricious manner;

**WHEREAS**, Coastal Engineering Associates, Inc., as engineer of record for the WRF PROJECT, has provided a written recommendation that the WRF PROJECT be awarded to ENCORE without competitive selection;

**WHEREAS**, the City Council held a public meeting on July 18, 2011 to considered whether or not to proceed with a the WRF PROJECT under a reduced scope of work without competitive selection; and

**WHEREAS**, by a four-fifths vote the City Council approved moving forward with the WRF PROJECT under a reduced scope of work which is reflected in the Project Budget Worksheet, attached hereto as Exhibit B and incorporated herein in *haec verba*;

**WHEREAS**, in accordance with the requirements of Section 255.20 (10), public notice was published on July 27, 2011, before final action of the City Council on this ordinance or an amended agreement with ENCORE; and

**WHEREAS**, the City Council held a public meeting on August 1, 2011 to consider this ordinance; and

**WHEREAS**, in accordance with the requirements of Section 255.20 (10), public notice was published on \_\_\_\_\_, of the City Council's intent to consider a final amended and restated agreement with ENCORE; and

**WHEREAS**, the City Council will hold a public meeting on August 15, 2011 to consider for approval a final amended agreement with ENCORE for completion of the WRF PROJECT;

**WHEREAS**, in light of the LANDMAR DEBTORS rejection of its obligations under the PROJECT AGREEMENTS and the ENCORE SUBAGREEMENT, and given the time constraints for maximizing use of available grant funds under the COOPERATIVE FUNDING AGREEMENT, the City deems it in the best interest of the health, safety and welfare of the public to assume the place of the DEVELOPER with respect to the ENCORE SUBAGREEMENT, subject to the limitations set forth in the Amended Agreement.

**NOW THEREFORE BE IT ORDAINED** by the City Council of the City of Brooksville, as follows:

**SECTION 1. PURPOSES AND FINDINGS OF FACT.** The preceding recitals are true and correct, and are incorporated herein, in *haec verba*. It is the intent and purpose of this Ordinance to provide the authority and mechanisms within the parameters of federal, state and local laws, to allow the expenditure of performance bond proceeds to fund completion of the WRF PROJECT by ENCORE CONSTRUCTION COMPANY, under a reduced scope of work and an amended contract entered into without competitive bid.

**SECTION 2. AUTHORIZATION TO PROCEED WITH CONTRACT AMENDMENT WITHOUT COMPETITIVE BID.** The City Council authorizes staff to negotiate an amendment to the ENCORE SUBAGREEMENT previously entered into by and between ENCORE CONSTRUCTION COMPANY and HAMPTON RIDGE DEVELOPERS, INC. The amendment shall reflect the reduced scope of work for the WRF PROJECT contemplated by the Project Budget Worksheet, which is attached hereto as Exhibit B and incorporated herein, and that such amendment to the contract shall be undertaken without competitive bid. Any amendment to the ENCORE SUBAGREEMENT which is proposed for City Council's consideration shall be for a not-to-exceed contract price of \$3,285,000.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4. CONFLICTS AND REPEALER.** This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinances, in which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect and be in force after approval of same by the City Council of the City of Brooksville

**CITY OF BROOKSVILLE**

By: \_\_\_\_\_  
Frankie Burnett, Mayor

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

**NOTICE** Published on July 29, 2011 per F.S. Section 255.20(10) \_\_\_\_\_

**PASSED** on First Reading \_\_\_\_\_

**NOTICE** Published on \_\_\_\_\_

**PASSED** on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR  
THE RELIANCE OF THE CITY  
OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini \_\_\_\_\_

Bradburn \_\_\_\_\_

Burnett \_\_\_\_\_

Johnston \_\_\_\_\_

Pierce \_\_\_\_\_

\_\_\_\_\_  
Thomas S. Hogan, Jr., City Attorney

City of Brooksville  
 Modifications to the Cobb Road Water Reclamation Facility  
 Phase 1 - One Reuse Conversion

Project Budget Worksheet

PROJECT COSTS	GRANT	CITY
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Construction Costs (Encore Contract)

Reuse Components - 1.0 MG Tank, Installation of Transfer & Transmission Pumps, Chlorine Contact Tank, Onsite Reuse Line and Associated Electrical & Piping	\$ 1,850,000	50%	50%
Remaining Components- Filter Installation, Chemical Equipment, Instrumentation and Associated Electrical & Piping	\$ 1,435,000	0%	100%
Subtotal -	\$ 3,285,000		

Received Equipment Balance (Stored at Cobb)

Reuse Equipment	\$ 4,666	50%	50%
Process Equipment	\$ 34,864	0%	100%
Subtotal -	\$ 39,531		

Estimated Engineering & Permitting Costs

Building Permits	\$ 65,700		
Engineering	\$ 184,685		
Subtotal -	\$ 250,385	28%	72%

Total Project Costs- \$ 3,574,916

FUNDING SOURCES	GRANT	CITY
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<u>SWFWMD Reuse Grant</u>	\$ 998,015	28%	0%
<u>City Funds</u>			
SWFWMD Retainage	\$ 137,577	-	4%
Sewer Impact Fees	\$ 1,000,000	-	28%
Bond Settlement Funds	\$ 1,439,324	-	40%
Funding Total -	\$ 3,574,916		

PROJECT BUDGET	\$3,574,916
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# Attachment 2

Coastal Engineering Letter

Dated July 25, 2011

July 25, 2011

Mr. Richard Radacky, Public Works Director  
City of Brooksville  
600 South Brooksville Ave.  
Brooksville, Florida 34601

Re: Cobb Road Water Reclamation Facility

Dear Mr. Radacky,

Coastal Engineering Associates, Inc., (Coastal) was the Engineer of Record for the Cobb Road Water Reclamation Facility (Cobb Road Facility) when it was originally constructed in Years 1999 and 2000. The Cobb Road Facility is a modern efficient facility that provides wastewater treatment for the City of Brooksville. Being a small city, Brooksville continually search for funding particularly in today's economic times.

Hernando County and the City of Brooksville, as with other counties and cities in west central Florida, have experienced water level declines. Brooksville is under a Southwest Florida Water Management District (SWFWMD) declaration of a modified water shortage order at this time. As such, it is paramount that alternative water supplies be found and capitalized on. Reuse water is an important resource for our state, county and city.

The City of Brooksville was a party to a design-build contract with a developer, Hampton Ridge Developers, and the Southwest Florida Water Management District for expanding the Cobb Road Facility, installing components for upgrading treatment to public-access reuse standards, installation of reuse transmission lines to reuse facilities in Southern Hills Subdivision, and construction of storage facilities. Coastal was proud to be part of this design and provided construction services for these projects. The developer was to provide construction of all facilities. Unfortunately, the developer no longer exists.

Due to funding and construction declines, the City Council, based on a recommendation from its staff, has opted to build the reuse facilities for the existing rated capacity of the plant. As Engineer of Record, my recommendation is that the project be awarded to a private sector contractor, without competitive selection, for the following reasons:

1. That the construction firm the City desires to use to upgrade the treatment process, Encore Construction, Inc., is uniquely qualified to construct reclamation water treatment facilities.

2. Encore was the contractor that constructed the existing treatment facility. They have constructed (16) sixteen wastewater projects over the past five years.
3. Encore was the construction firm selected by Hampton Ridge and the City to construct the reclamation facility.
4. The City of Brooksville was fortunate to have been awarded a cooperative-funding grant for converting the Cobb Road Facility to a water reclamation facility. This grant in the amount of \$1,300,000 will expire in April 2012 and be closed out by December 2012.
5. If the SWFWMD Cooperative Funding expires, potential construction funds will be lost. It is highly doubtful the construction could take place with the remaining funds left available.
6. Reuse components for upgrading the treatment process to public-access reuse standards have been purchased and are stored in City facilities. Storage of pump components for extended time periods could cause seals, gaskets and bearings to dry and become brittle.
7. Funding for construction is now available and should be capitalized on.
8. Encore has been paid \$355,951 under the prior contract with HRD; this work will accrue directly to the benefit of the City in completion of the Cobb Road Facility.

It is the undersigned professional opinion, based on the above factual considerations, that the City of Brooksville should award the construction contract for the completion of the Cobb Road Facility to Encore without going thru the competitive bidding process.

Sincerely,



Burt A. Bennett, Vice President

Coastal Engineering Associates, Inc.

Cc: Jemene Norman-Vacha, City Manager

William Smith, Utilities Superintendant

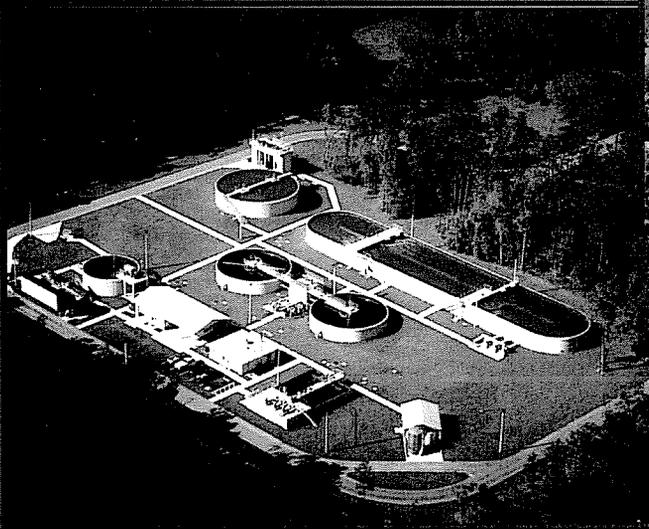
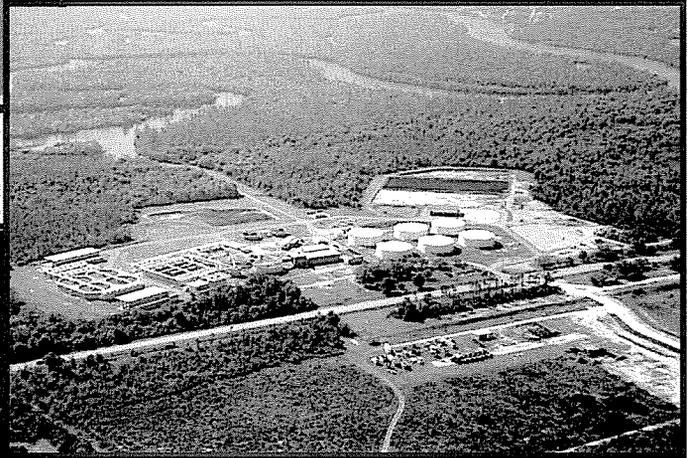
Jennifer C. Rey, City Attorney

# Attachment 3

Encore Construction Company  
Statement of Qualifications

# ENCORE

CONSTRUCTION COMPANY



*When  
Performance  
Counts*

**STATEMENT OF QUALIFICATIONS**

July 21, 2011

City of Brooksville  
600 S. Brooksville Avenue  
Brooksville, FL 34601

Attention: Will Smith, Utilities Superintendent

RE: Qualifications and License Information

Dear Mr. Smith

Enclosed please find a Statement of Qualifications for Encore Construction Company, LLC.

If you have any questions, or require additional information please contact me at your earliest convenience. We look forward to the opportunity to work with the City of Brooksville

Sincerely,

Encore Construction Company, LLC



Don Trujillo  
Project Manager



## Table of Contents

PREFACE	Cover Letter
SECTION 1	Corporate Information <ul style="list-style-type: none"><li>• Company Information</li><li>• Bonding Capacity</li><li>• Safety</li><li>• Quality Control / Quality Assurance</li></ul>
SECTION 2	Experience <ul style="list-style-type: none"><li>• History</li><li>• Similar Projects</li><li>• Executive Bios</li><li>• Project Manager &amp; Superintendent Résumés</li></ul>
SECTION 3	Financial
SECTION 4	Attachments <ul style="list-style-type: none"><li>• Reference Letters</li><li>• GC License</li></ul>



## Section 1 – Corporate Information

### *Company*

Company Name: Encore Construction Company, LLC  
 Office Location: 370 East Crown Point Road, Winter Garden, FL 34787  
 Website: [www.encorecc.com](http://www.encorecc.com)  
 Email Address: [mkelly@encorecc.com](mailto:mkelly@encorecc.com)  
 Phone Number: 407-877-5903  
 Fax Number: 407-877-5912  
 Principal Contract: Mark A. Kelly, Vice President of Pre-Construction  
 Legal Organization: Florida Corporation – Incorporated on November 30, 2007

Executive Officers:

Patrick T. Rainey	President
Timothy M. Behler	Senior Vice President
Mark A. Kelly	Vice President of Pre-Construction
Louise B. Rainey	Secretary

### *Licenses*

Florida: CGC1517618 – Certified General Contractor  
 CUC1224749 – Certified Utility & Excavation

Georgia: UC301233 – Utility Contractor  
 UM102027 – Utility Manager

South Carolina: G115921 – General Contractor  
 WL5 - WP5

North Carolina: 70592 – General Contractor  
 Unlimited – Classification PU

Alabama: 46239 – General Contractor  
 Unlimited – Classification ADM and MU



## ***Bonding***

Bonding Company:	Federal Insurance Company
Address:	15 Mountain View Road, Warren, NJ 07061
Company Rating:	A++ (Superior)
Bonding Agent:	Guignard Company 1904 Boothe Circle Longwood, FL 32750
Contact:	Margie Morris, Vice President
Phone Number:	407-834-0022
Fax:	407-260-1764
Encore Bonding Capacity:	\$200,000,000
Single Project Limit:	\$ 90,000,000

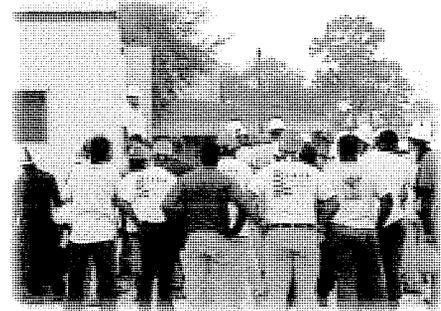
## ***Statements***

- ✓ Encore has never defaulted nor failed to ever complete a project.
- ✓ Encore has not filed for bankruptcy or been judged bankrupt at any time
- ✓ Encore has not been assessed liquidated damages on any project it has built since the company's inception in 1984.
- ✓ Encore has never abandoned a project, even temporarily.
- ✓ Encore has not been involved in litigation with Owners, Design Firms or Construction Administration Firms in the past ten (10) years.
- ✓ Encore has not had any contract or subcontract terminated since the company's inception in 1984.
- ✓ Encore Construction was originally established as a corporation in 1985 in the State of Florida. On November 30, 2001, the entity was changed to an LLC. There were no changes to the management and personnel within the newly named company.



## Safety

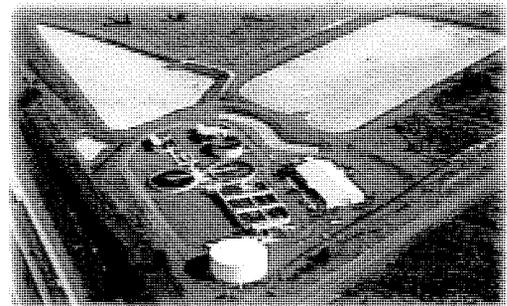
The safety and health of every employee of Encore is our top priority. All Encore projects operate as Drug Free Workplaces, and the foundation of our Safety Program is a moral commitment to protecting the lives and safety of our employees, clients, subcontractors and the public. Safety is integral in the planning and execution of all company activities as evidenced not only in Encore's Site Specific Safety Plan, but also with daily Job Hazard Analysis (JHA) forms which are completed by each crew for the work performed on that particular day. Each Subcontractor will submit its own Site Specific Safety Plan and will attend Encore's weekly safety meetings.



Encore's Safety Coordinator, located in Winter Garden, Florida, visits all jobsites monthly to conduct seminars and inspections. Our focus is to maintain safe and healthful working conditions. We promote safety and health awareness among all our employees. We require each employee to adhere to our safety guidelines and use safety equipment in the proper manner. Likewise, we insist that our subcontractors and their employees promote and follow appropriate safety procedures.

## Quality Control / Quality Assurance

We believe that Quality Control and Quality Assurance are the responsibility of the *entire* Encore Team. The Project Manager takes the primary lead to ensure that the work is executed in accordance with the contract documents and approved shop drawings. The Superintendent provides 'hands-on' coordination with the field, thus ensuring that the right information is communicated to our crews and subcontractors, and that all work is done correctly – the first time! The Project Manager confirms that all systems are in place and properly executed by the Team.



Encore places a great deal of emphasis on pre-planning the work, training the work force and using the right materials and equipment to allow work to be done right the first time. As work is completed, Encore promptly evaluates the quality and identifies any deficiency that may exist. Once identified, Encore believes in correcting deficient work in the shortest time frame possible.



## City of Brooksville

Encore Construction Company, LLC

Company Qualifications

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Encore believes in keeping documentation up-to-date. As-builts, record drawings, sign off logs, manufacturer certifications, waiver of liens and other critical close-out documents are kept up-to-date during the course of the project. Zero Punch List is a goal that can be only obtained by early identification and prompt correction of deficiencies.



## Section 2 – Experience

### *History*

**D**etermination, dedication and loyalty have transformed Encore Construction into one of the largest builders of water and wastewater treatment facilities in the State of Florida.

In 1984, Patrick Rainey formed a structural concrete firm in Orlando, Florida. Founded on the principals of quality and fairness, Encore developed a reputation of providing high quality work, completed on or ahead of schedule, at a competitive price. In 1989 Encore Construction completed construction of its first treatment plant.

The size and geographic scope of the water and wastewater treatment facility construction business began to expand and in the mid 1990's, the company ventured into the design/build project delivery method. In the early 2000's Encore added Construction Manager at Risk to their résumé. Still directed by Mr. Rainey, Encore today specializes almost exclusively in the construction, expansion and upgrade of water and wastewater treatment facilities throughout the Southeast United States.



Over the past 25+ years, Encore has constructed or expanded/modified more than 200 water and wastewater treatment facilities, and has constructed virtually every type of water and wastewater treatment process used in the United States. Encore Construction Company today is one of the largest and most successful builders of water and wastewater treatment facilities in the State of Florida with annual sales in excess of \$80 million. Headquartered in Winter Garden, Florida, Encore pursues projects throughout the Southeastern United States.

An engineering-focused construction company, Encore takes a hands-on approach to building a project. Field craft workers employed directly by Encore typically perform 60-90% of the work on a project. Today, the company employs over 180 individuals, both salaried and hourly, including a number of registered professional engineers. Encore is a licensed contractor in Florida, Georgia, Alabama, South Carolina and North Carolina.

### Similar Projects



## City of Brooksville

Encore Construction Company, LLC

Company Qualifications

**B**elow is a list of projects, similar in size and/or scope to the project for the City of Brooksville, which Encore has completed within the past 5 years. Additionally, on the following pages, we have included more in-depth information on three of these projects.

Project Name	Value	Completion Date
North Port WWTP Upgrade – North Port, FL	\$18,249,187	June 2010
Inverness WWTP Upgrade – Inverness, FL	\$9,508,059	May 2010
Poinciana WRF #2 Upgrade – Kissimmee, FL	\$13,669,987	May 2010
West Side WRF EQ Basin – Clermont, FL	\$1,038,850	April 2010
Meadowcrest WWTP – Beverly Hills, FL	\$10,417,925	April 2010
Country Crossing WWTF – Cottonwood, AL	\$2,460,741	December 2009
Cherry Point WRF – Okatie, SC	\$24,411,165	February 2009
East Side WRF Phase 2 – Clermont, FL	\$13,433,373	February 2009
Poinciana WRF #5 Upgrades – Kissimmee, FL	\$1,142,230	November 2008
Plant City WRF CMAR – Plant City, FL	\$39,046,696	June 2008
Lehigh Acres WWTP – Lehigh Acres, FL	\$7,180,919	December 2007
Minneola WRF – Minneola, FL	\$8,384,482	December 2007
Loxahatchee WWTP Upgrade – Jupiter, FL	\$19,621,476	September 2007
Wesley Center Reuse – Wesley Chapel, FL	\$24,569,696	August 2007
Sampey Road WWTP – Groveland, FL	\$7,180,000	June 2007
Fripp Island WWTP – Fripp Island, SC	\$5,375,306	October 2006



**City of Inverness Wastewater Treatment Plant Upgrades  
 Inverness, Florida**

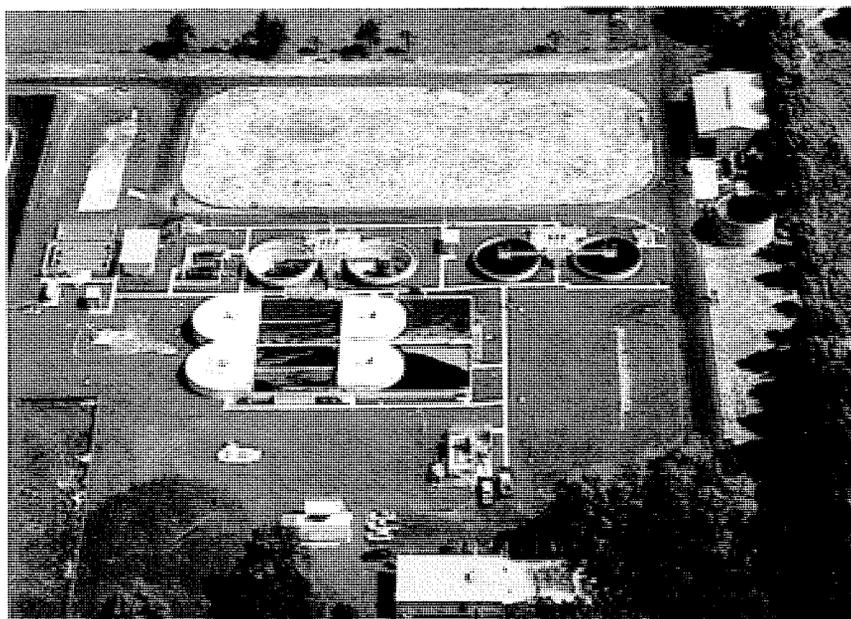
<b>Owner:</b> City of Inverness 212 West Main Street Inverness, FL 34450 Thomas Dick, Asst. City Manager (P) 352-726-2321 (F) 352-726-0949 <a href="mailto:TDick@inverness-FL.gov">TDick@inverness-FL.gov</a>	<b>Engineer:</b> Hoyle, Tanner & Associates 2424 N. Essex Avenue Hernando, FL Sam Kennedy, P.E. (P) 352-527-2055 (F) 352-527-2655 <a href="mailto:SKennedy@hoyletanner.com">SKennedy@hoyletanner.com</a>
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**Construction Manager:** Not Applicable

**Percent of Labor:** 90%

**Project Description:** Work included construction of new Headworks Facilities, Aeration Tanks and appurtenances, four 40' diameter Clarifiers, (rehabilitation of two existing units and installation of two new units); two Stainless Steel Rotating Disk Filters, Chlorination Tanks, Chemical Feed Facilities, Disinfection Facilities, Sludge Building and Treatment Equipment; all pumping equipment, underground and above ground piping and modifications to the Administration Building. Also included was excavation, sitework, demolition, electrical and instrumentation.

<b>Bid Amount:</b>	\$13,150,000	<b>Final Cost to Owner:</b>	\$9,712,659
<b>Explanation of Difference:</b>	Encore's Value Engineering and Owner's Direct Purchase of some equipment		
<b>Contract Time at Bid:</b>	730 days	<b>Actual Time:</b>	2 ½ months early





**Meadowcrest Wastewater Treatment Plant Expansion  
Beverly Hills, Florida**

**Owner:**

Citrus County BOCC  
3600 W. Sovereign Path, Suite 266  
Lecanto, FL 34461  
Paul Duchesneau, P.E.  
(P) 352-527-7650 (F) 352-527-7644  
[Paul.Duchesneau@bcc.citrus.fl.us](mailto:Paul.Duchesneau@bcc.citrus.fl.us)

**Engineer:**

Hoyle, Tanner & Associates  
2424 N. Essex Avenue  
Hernando, FL  
Eugene Forbe  
(P) 352-527-2055 (F) 352-527-2655  
[EJForbes@holetanner.com](mailto:EJForbes@holetanner.com)

Construction Manager: Not applicable

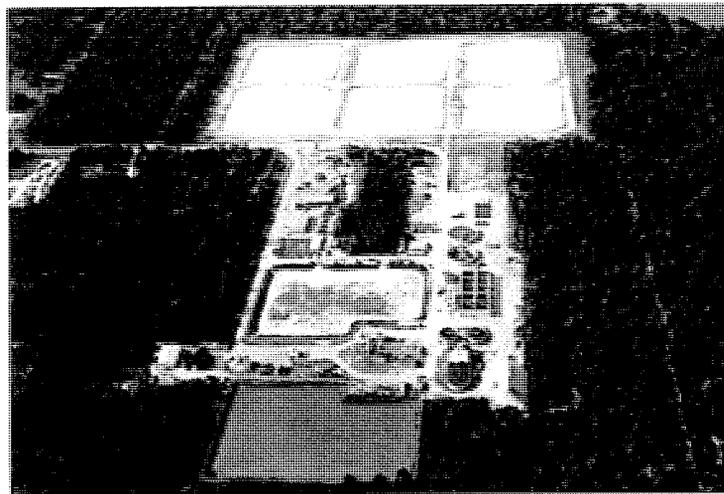
Percent of Labor: 90%

Project Description: Work included demolition of existing headworks, chlorine contact tanks, effluent holding tanks and pumps, RAS/WAS pumps, sludge aeration tanks, blower building and vacuum assisted sludge dewatering beds; conversion of two 40' clarifiers into equalization tanks and an oxidation ditch into an aerobic digester with jet aeration systems, pumps, blowers and floating decanters; installation of mechanical bar screen, manual bar screen, headcell unit, grit classifier and grit pump, new step feed biological basin with four blowers, air diffusers and submersible mixers, two 65' final clarifiers, scum pump station, two rotating disk filters, two chlorine contact tanks, reclaimed water pump station, two automatic samplers, chemical storage tank, chemical metering pump skid, chemical, electrical and control buildings, plant drain pump station, six new RIB's, three RAS pumps, two WAS pumps, one dewatering system with sludge grinder, feed pump, polymer system and centrifuge; new electrical service, generator, fuel storage and installation of SCADA automation facilities.

Bid Amount: \$14,140,000 Final Cost to Owner: \$10,417,925

Explanation of Difference: Encore's Value Engineering and Owner's Direct Purchase of some equipment

Contract Time at Bid: 580 days Actual Time: Completed per contractual time





**East Side WRF Expansion – Phase 2  
Clermont, Florida**

**Owner:**

City of Clermont  
685 West Montrose Street  
Clermont, FL 34711  
James Kinzler  
(P) 352-241-0178 (F) 352-241-0542  
Email: [jkinzler@clermontfl.org](mailto:jkinzler@clermontfl.org)

**Engineer:**

Boyle Engineering Corporation  
320 East South Street  
Orlando, FL 32801  
Dwayne R. Kreidler, P.E.  
(P) 407-425-1100 (F) 407-422-3866

Construction Manager: Not applicable

Percent of Labor: 90%

Project Description: Work on this project included: modification of existing preliminary treatment structure and existing aeration basins, along with installation of a new Biofilter System, two Anoxic Basins, two Aeration Basins, new Mixed Liquor Splitter Box, two 65' diameter Secondary Clarifiers, a new RAS/WAS Pump Station, two Chlorine Contact Tanks, one bulk Sodium Hypochlorite Storage Tank, two 2MG Concrete Ground Storage Tanks, a new Vertical Turbine Can Pump Station for reclaimed water distribution, a new 6,000 SF Operations Building, a new 8,000 SF Metal Maintenance Building, and miscellaneous piping, concrete, metals, painting, process equipment and piping installation.

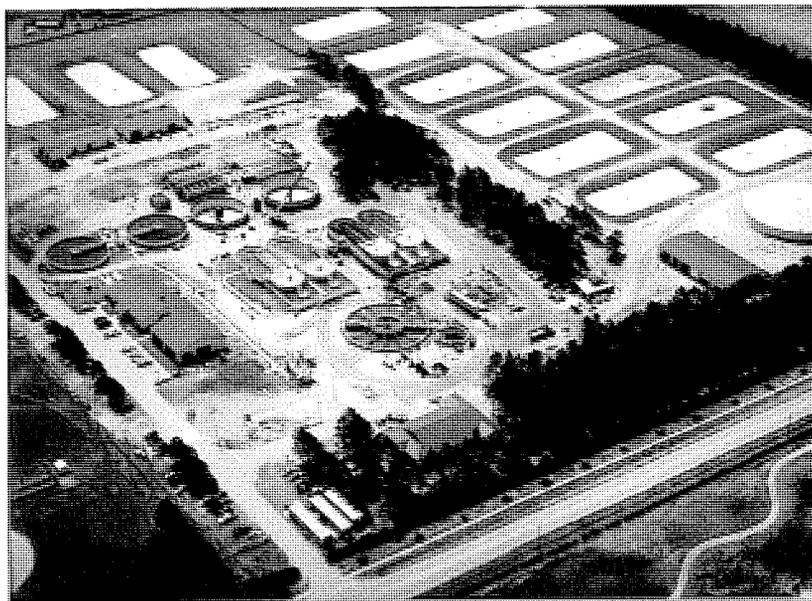
Bid Amount: \$16,605,000

Final Cost to Owner: \$13,443,373

Explanation of Difference: Encore's Value Engineering

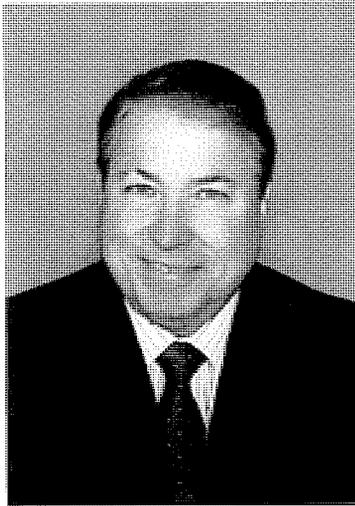
Contract Time at Bid: 520 days

Actual Time: Completed per contractual time





***Executive Bios***



**Patrick T. Rainey, President & CEO**

As founder of Encore Construction Company, Mr. Rainey's diligent leadership since 1984 has developed an organization firmly rooted in the founding principles of service, performance and honesty. His construction career, which currently spans over thirty years, began as a frame carpenter in the family's custom home business in Memphis, Tennessee. After graduating from the University of Mississippi with a Bachelor's Degree in Business Administration, Mr. Rainey relocated to Orlando to work in residential and commercial construction before establishing Encore. In his early role with the company he served in various roles including Superintendent, Project Manager and Estimator. Today he directs the continued growth of a \$100 million corporation. Mr. Rainey holds construction licenses in Florida as a Certified General Contractor and Underground Utility & Excavation Contractor, as well as licenses in Alabama, Georgia, North Carolina and South Carolina.



**Timothy M. Behler, Senior Vice President**

Mr. Behler joined Encore in 2002 as a Senior Project Manager on the North County Water Reclamation Facility Expansion in Naples FL. After successfully completing this \$26 million project, Mr. Behler relocated to Winter Garden and assumed the duties of Vice President of Operations. In 2008 Mr. Behler was promoted to Senior Vice President maintaining his responsibilities over field operations at Encore including directing the activities of Project Managers, Superintendents, Project Engineers, Foreman, the Safety Program and Encore's Equipment Division. A graduate from the University of Cincinnati with a Bachelor's degree in Civil Engineering, Mr. Behler has been instrumental in the phenomenal growth Encore has experienced over the past few years. Prior to Encore, his experience encompassed over 15 years with a national general contractor as a key player substantially growing company and divisional revenue. His expertise in the construction of water and wastewater treatment facilities is second to none in the industry.



## City of Brooksville

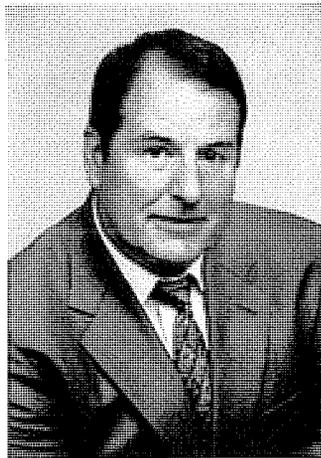
Encore Construction Company, LLC

Company Qualifications



### **Mark A. Kelly, Vice President of Pre-Construction**

Mr. Kelly joined Encore in 2002 as Estimating Manager and in 2008 assumed the position of Vice President of Pre-Construction. In this highly visible role of developing and acquiring new work, Mr. Kelly directs a professional team of Engineers and Estimators that consistently keeps Encore competitive in the marketplace. A graduate of Purdue University with a degree in Building Construction and Contracting, Mr. Kelly began his career in Project Management and Estimating specializing in water and wastewater construction. Mr. Kelly's vast experience in treatment plant costing and his ability to quickly recognize untapped opportunities has pushed Encore's growth as we have become an industry leading general contractor in Florida and the Southeastern United States.



### **Lynn E. Mueller, Executive Vice President**

Mr. Mueller joined Encore in 1996 having come from the national engineering firm of CH2MHill, initially as a Project Manager and progressed to the role of Vice President. A graduate of the University of Florida with a degree in Civil Engineering, specializing in Environmental Construction, Mr. Mueller also holds a Professional Engineer's license in the State of Florida. With over twenty-five years of experience, his leadership, mentoring, and knowledge are unmatched in the construction industry and Encore has benefited greatly from his expertise especially in the arena of Design/Build projects where his emphasis has been concentrated.



### **Javier J. Cintron, CPA, CCIFP, Chief Financial Officer**

Mr. Cintron joined Encore in 2006 as Corporate Controller and in 2008 was promoted to CFO. Charged with directing the financial planning, banking, and accounting activities of a fast growing construction company, his organizational and management abilities have been recognized as exceptional. As the Top Graduate, Summa Cum Laude of the College of Business Administration from the University of Central Florida, with a BS in Accounting, Mr. Cintron began his career as an auditor with Ernst & Young, LLP. He is a Certified Public Accountant and recently earned the designation of Certified Construction Industry Financial Professional. In addition to his financial responsibilities, Mr. Cintron manages Human Resources including benefits administration and the fiduciary responsibilities of the 401K and Profit Sharing funds.

**Education**

- ◆ B. S. Civil Engineering  
New Mexico State University

**Training**

- ◆ Engineer-in-Training
- ◆ CPR / First Aid
- ◆ OSHA Safety Training
- ◆ OSHA 30 HR Training
- ◆ HDPE Butt Fusion Training
- ◆ Competent Person
  - Crane Safety & Rigging
  - Confined Space
  - Man Lift Training
  - Scaffolding
  - Fall Protection

**Professional Memberships**

- ◆ American Society of Civil Engineers
- ◆ Society of Hispanic Professional Engineers

**Construction Experience**

- ◆ With Encore since 2003
- ◆ Began in industry in 2002

**Overview**

Mr. Trujillo has worked in the environmental construction industry for over 9 years. He worked as an assistant project engineer for a large general contractor during his summer breaks from college where his responsibilities included Stormwater Pollution Prevention Plan (SWPPP) inspections and plan implementation. Upon graduating from New Mexico State University in 2003 he joined Encore Construction as a Project Engineer.

As with many young Project Engineers, Don was given the opportunity to work on several water and wastewater projects throughout Florida. During this time Don worked with some of Encore's finest and in 2008 Don was promoted to Project Manager.

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**Encore Project Experience**

- ◆ **Town of Davie WRF Package 11000—Davie, FL—\$5.8 million**  
*Project Manager.* Contract included installation of all under-slab piping in water treatment plant required for raw water, concentrate, filtered water and permeate services. Provided and installed the RO clean-in-place system interconnecting piping; installation of degasification and odor control scrubber equipment including recirculation pumps, along with all piping and ductwork; installation of water transfer pumps, high service pumps with associated piping, installation of lime silo, volumetric feed, mixing, slurry and transfer pump system and all interconnected piping.
  - ◆ **The Glen Water Reclamation Facility Expansion - Brooksville, FL - \$13.4 million**  
*Project Manager.* This project provides for a treatment expansion from 1.0 MGD to 3.0 MGD, and also includes facilities to allow the plant to provide reclaimed water for public access reuse. The work includes building a new treatment train consisting of headworks, anoxic basin, oxidation ditch with brush aerators, clarifiers with a RAS/WAS pump station, filters and chlorine contact. In addition, two new rapid infiltration basin systems were built, as well as modifications to the existing chemical systems, new electrical, a new sludge dewatering building and demolition of the existing headworks.
  - ◆ **Meadowcrest WWTP Expansion - Beverly Hills, FL - \$11.1 million**  
*Project Manager.* This project included the conversion of two existing 40' clarifiers into equalization tanks with new floating mixers and return pumps; conversion of the existing oxidation ditch into an aerobic digester complete with two jet aeration systems, pumps, blowers and floating decanters; installation of four magnetic flow meters, one mechanical bar screen, one manual bar screen, one headcell unit, one grit classifier and one grit pump, one new step feed biological basin complete with four blowers, air diffusers and submersible mixers, two new 65' final clarifiers, scum pump station, two rotating disk filters, two chlorine contact tanks, reclaimed water pump station, two propeller flow meters, two automatic samplers, one chemical storage tank, one chemical metering pump skid, chemical building, electrical building, control building, plant drain pump station, six new RIB's, three monitoring wells, three RAS pumps, two WAS pumps, one new dewatering system consisting of a sludge grinder, sludge feed pump, polymer system and centrifuge and installation of supporting electrical improvements.
-

## Encore Project Experience

- ◆ **Phase 1 Public Access Reuse Storage & Pumping - Winter Garden, FL - \$4.2 million**  
*Senior Project Engineer.* This project included the construction of a reclaimed water storage tank and high service pump station at the Fullers Cross Water Treatment Plant and a new effluent pump, two new chlorine sample pumps and two new chlorine residual analyzers at the City's Crest Avenue Wastewater Treatment Plant site. Additionally, a change order was issued to include the construction and installation of a sludge dewatering press and building at the existing wastewater treatment plant in Winter Garden.
- ◆ **Wesley Center Subregional Reuse Facility - Wesley Chapel, FL - \$24.6 million**  
*Project Engineer.* This project included the expansion of the existing facility from 3.0 MGD to 6.0 MGD. Work included channel screen, grit chamber, odor control system, two anoxic basins with submersible mixers, two aeration basins with fixed vertical shaft aerators and recycle pumps, one duplex recycle pump station, two 80' diameter clarifiers, four duplex deep bed dual media filters, two 70' diameter sludge holding basins with floating surface aerators and one 80' diameter gravity thickener. Other work included a 3,100 sq. ft. metal dewatering building with belt filter press and conveyors and two expanded and lined reject ponds.
- ◆ **Rockledge Reuse System Expansion , Phase VII - Rockledge, FL - \$504,491**  
*Project Engineer.* Work on this project included demolition, pump station installation, piping and electrical at the Florida Fire House #3 Booster Pump Station and the Rockledge Florida Reuse System. Furnished all labor, materials, equipment and services necessary to provide the Owner with a reclaimed water booster pump station.
- ◆ **North Sumter Utility WWTP, Phase 1 & 2 - The Villages, FL - \$13.5 million**  
*Project Engineer.* A design/build project which included the design and construction of a 3.0 MGD De-Nite Carrousel Aeration treatment facility including headworks, two anoxic/aeration trains, two 70' clarifiers, two traveling bridge filters, two chlorine contact chambers, a reuse storage/pump station, two aerated sludge holding tanks, a 2.0 meter sludge belt filter press and an operations building.
- ◆ **North Sumter Utility Water Treatment Plant #3 - The Villages, FL - \$3 million**  
*Project Engineer.* This design/build project involved the design and construction of a 5.0 MGD potable water treatment plant including wells, aeration, chemical feed systems, pumps, odor control and a 1.5 million gallon ground storage tank.
- ◆ **Various Irrigation Pump Stations - The Villages, FL - Over \$6 million**  
*Project Engineer.* Several design/build projects involving the design and construction of irrigation pump stations located throughout The Villages, Florida.

**Education**

- ◆ B. S. Mechanical Engineering  
University of Cincinnati, OH

**Overview**

Mr. Vidonish graduated from the University of Cincinnati in 2006 and in June of that year, he joined the Encore team and quickly became a valuable member of the company. A “take-charge” individual, Patrick has proved time and time again his value to not only Encore Construction but to the Owners and Engineer of our projects. While his years of experience are few, his overall construction knowledge, attitude and professionalism makes him an asset to any project.

**Training**

- ◆ CPR / First Aid
- ◆ OSHA 30 HOUR—  
Construction Safety & Health
- ◆ Competent Person
  - Scaffolding
  - Fall Protection
  - Trenching & Shoring

**Construction Experience**

- ◆ With Encore since 2006
- ◆ Began in industry in 2006

**Licenses**

- ◆ Class B CDL

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**Encore Project Experience**

- ◆ **Duck Key Wastewater Treatment Plant - Duck Key, FL - \$4.7 million**  
*Project Manager.* Work includes rehabilitation of existing facility to configure the two existing plants into a single wastewater treatment facility. New equipment includes an influent mechanical screen, aeration blowers, aeration diffusers, pumps, mixers, piping and valves, secondary clarifiers, disk filters, chlorine contact chambers, chemical storage and feed systems, odor control, etc.
  - ◆ **North Port WWTP Upgrades & Expansion - North Port, FL - \$23.1 million**  
*Senior Project Engineer.* Expansion and upgrade of an existing treatment plant and conversion of the treatment method to a MLE process. Work included addition of two bar screens and odor control facilities, installation of a lift station waste receiving facility & construction of three MLE reactor basins, modification of flow regimes in the reactors, construction of an additional secondary clarifier, replacement of the existing secondary clarifier mechanism, addition of an internal mixed liquor pumping system, RAS/WAS pumps and deep bed filters. Additionally, existing chlorine contact chamber was expanded and a new reuse water storage tank was constructed. Other work included a new standby emergency generator, an automatic transfer switch and associated switch gear and installation of a polymer feed system.
  - ◆ **Peace River WTP Expansion, Contract 2 - Arcadia, FL - \$58.3 million**  
*Project Engineer.* A 24 MGD expansion involved the construction of new treatment units including PAC contact tanks, rapid mix tanks, solids contact units, chlorine contact tanks, filters, ground storage tanks, sludge thickener and belt filter press dewatering. Other work included construction of a new transfer, recycle and north high service pump station and modifications/upgrades to the existing river, reservoir and south high service pump station.; construction of a new support facility including chemical storage/feed maintenance building, electrical systems and emergency generators. Additional work included various demolition and modifications to existing systems and facilities, as well as grading, paving, yard piping and stormwater ponds.
  - ◆ **Plant City Water Reclamation Facility - Plant City, FL - \$46 million**  
*Project Engineer.* A Construction Manager @ Risk project, the work included construction of new aeration and anoxic basins, final clarifiers, RAS/WAS pump station, filter addition, chlorine contact basins, ground storage tank, blower building and an administration building. Additionally process improvements included electrical, instrumentation, high service reuse pumps and belt filter press modifications.
-

**Education**

- ◆ Salem High School, Virginia Beach, VA
- ◆ Tidewater Comm. College Virginia Beach, VA
- ◆ St. Petersburg College St. Petersburg, FL

**Overview**

Mr. Poulos has worked in the water and wastewater construction industry for over 16 years. As Superintendent he is responsible for the coordination of trades and subcontractors, daily planning, scheduling and layout of work. He provides day-to-day quality control and supplier relations as well as assisting in maintaining Encore's safety policy on the jobsites.

**Training**

- ◆ CPR / First Aid
- ◆ OSHA Safety Training
- ◆ OSHA 30 Hour—Construction Safety & Health
- ◆ HDPE Butt Fusion Training
- ◆ Competent Person
  - Scaffolding
  - Fall Protection

**Construction Experience**

- ◆ With Encore since 2009
- ◆ Began in industry in 1993

---

**Encore Project Experience**

- ◆ **Town of Davie WRF Package 11000—Davie, FL—\$5.8 million**  
*Project Superintendent.* Contract included installation of all under-slab piping in water treatment plant required for raw water, concentrate, filtered water and permeate services. Provided and installed the RO clean-in-place system interconnecting piping; installation of degasification and odor control scrubber equipment including recirculation pumps, along with all piping and ductwork; installation of water transfer pumps, high service pumps with associated piping, installation of lime silo, volumetric feed, mixing, slurry and transfer pump system and all interconnected piping.
- ◆ **Regional Facility Pump Stations - Tampa, FL - \$15.1 million**  
*Project Superintendent.* An expansion project for the Regional High Service Pump Station to a total capacity of 135 MGD and 160 MGD in bypass and re-pump modes, as well as the expansion of the Re-Pump Station to a total capacity of 185 MGD. This work includes a 30 foot deep sheeted pump station, two chemical building structures, two new 2000 HP vertical turbine pumps, one new 2250 HP horizontal split case pump, electrical and HVAC work and several time-critical installations of steel pipe and valves ranging from 54" to 84" in diameter.
- ◆ **Land O' Lakes Wastewater Reuse Facility - Land O' Lakes, FL - \$10.2 million**  
*Project Superintendent.* This project was to construct a new 3.0 MGD water reclamation facility. The work included headworks, denitrification tanks, aeration tanks, two 90' clarifiers, three traveling bridge filters, two chlorine contact chambers with transfer pumps, two aerated sludge holding tanks, an on-site sodium hypochlorite generation system, an emergency 1.25 MW generator and an operations building.

---

**Other Project Experience**

- ◆ **Master Lift Station Improvements for N1B - \$1.5 million**  
*Project Superintendent.*
  - ◆ **Lithia Pinecrest Reclaimed Water Storage/Pumping Phase II - \$5.8 million**  
*Project Superintendent.*
-

Other Project Experience

- ◆ Beach Pump Station Improvements Phase II Contract - \$2 million  
*Project Superintendent.*
- ◆ North Lee County Water Treatment Plant - \$20 million  
*Project Superintendent*
- ◆ South County Reclaimed Booster Station - \$3.8 million  
*Project Superintendent*
- ◆ WWTP Internal Recycle Modifications - Northeast & Marshall Street - \$2 million  
*Project Superintendent.*
- ◆ Northeast Advanced WWTP Improvements & Northeast Water Storage - \$13 million  
*Project Superintendent.*
- ◆ North Regional Water Reclamation Chlorine Contact Tank Improvements - \$5million  
*Project Superintendent.*
- ◆ St. Petersburg Headwork's Improvements - \$4.6 million  
*Project Superintendent.*



# City of North Port

*Utilities Department*  
6644 W. Price Boulevard  
North Port, FL 34291-4106

Phone (941) 240-8000

Fax (941) 240-8022

November 17, 2010

Mr. Patrick Rainey  
Encore Construction Company  
Post Office Box 771599  
Winter Garden, FL 34777-1599

**RE: City of North Port, Florida  
Existing WWTP Upgrades & Expansion**

Dear Mr. Rainey:

I am pleased to have this opportunity to commend Encore Construction on the successful completion of the above referenced project. The City of North Port is thrilled that Encore Construction Company achieved completion of this project 4 months ahead of schedule, on the largest project ever undertaken by the City.

The professionalism and attention to detail displayed by Norm Viggiano, John Kenny, Patrick Vidonish, and Lucas Cobb during construction were unrivaled and are still obvious to everyone who visits the facility. The project was completed with minimal inconvenience and no disruptions to the operations of the existing facility.

I would not hesitate to provide an enthusiastically positive recommendation for your company to any utility seeking your services. I am thankful that the City had this opportunity to work with your company and its talented people on this project.

Sincerely,  
NORTH PORT UTILITIES -

Cindi Mick  
Utilities Director



**Board of County Commissioners  
DEPARTMENT OF WATER RESOURCES**

3600 W. Sovereign Path  
Suite 202

Lecanto, Florida 34461

Telephone: (352) 527-7650 Fax: (352) 527-5429

Citrus Springs/Dunnellon/Inglis/Yankeetown area - Toll Free (352) 489-2120

TTY Telephone: (352) 527-5312

[www.bocc.citrus.fl.us](http://www.bocc.citrus.fl.us)

WRL-10-08

June 18, 2010

Patrick Rainey, President  
ENCORE Construction Company  
370 East Crown Point Road  
Winter Garden, Florida 34787

**RE: Meadowcrest Wastewater Treatment Plant Expansion**

Dear Mr. Rainey,

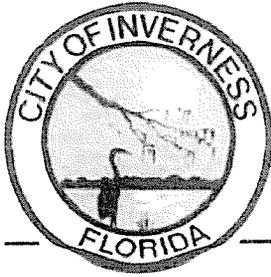
We would like to express our appreciation for the successful completion of the Meadowcrest Wastewater Treatment Plant Expansion project. This important project was the largest single construction project undertaken by Citrus County Water Resources Department and was completed on time and within budget. From the onset of the project, your fine team led by the Project Manager, Don Trujillo, provided valuable assistance with owner procurement of equipment and with submission of value engineering proposals that resulted in substantial savings to the project.

We also commend your team's ability to keep the project on schedule while coordinating with the necessary operations of the existing treatment plant. Mr. Trujillo's communication skills, construction management expertise and sense of cooperation enabled the project to move forward and achieved what we feel is an exemplary wastewater treatment facility.

We would be pleased to recommend your company to any private or public entities for similar projects.

Sincerely,

Robert Knight  
Director, Water Resources Department.



# City of Inverness

Administration  
212 West Main Street  
Inverness, Florida 34450  
[www.Inverness-Fl.gov](http://www.Inverness-Fl.gov)

(352) 726-2611

FAX (352) 726- 0607

May 4, 2010

Mr. Patrick Rainey, President  
Encore Construction Company  
P.O. Box 771599  
Winter Garden, Florida 344777-1599

Re: City of Inverness  
Wastewater Facility Up-Grades

Dear Mr. Rainey:

I am pleased with this opportunity to commend Encore Construction on the successful completion of the above referenced project. The upgrade of our wastewater treatment capabilities to a reclaimed water status was by far the largest single project ever undertaken by the City of Inverness. The new facility was completed within budget and 114 days ahead of schedule.

The professionalism and attention to detail by Lynne McGibney and her staff during construction were unrivaled and are still obvious to everyone who visits the facility. To their credit, the work was completed with minimal inconvenience and no disruptions to the operations of the existing facility.

I would not hesitate to provide a most positive recommendation for your company and would gladly allow any of your prospective clients to tour our facility. We are extremely proud of our new facility, which will supply reclaimed water to the Inverness Golf and Country Club, and Encore was significant in making it so very successful. I am truly thankful that the City had this opportunity to work with your company and its talented people on this endeavor.

Finally, congratulations on a job well done!

Sincerely,

  
Frank DiGiovanni  
City Manager

**PEACE RIVER MANASOTA REGIONAL WATER SUPPLY AUTHORITY**  
Serving the Citizens of Charlotte, DeSoto, Manatee & Sarasota Counties since 1982

HON. DICK LOFTUS  
CHARLOTTE COUNTY

HON. JERRY G. HILL  
DESOTO COUNTY

HON. JOHN R. CHAPPIE  
MANATEE COUNTY

HON. SHANNON STAUB  
SARASOTA COUNTY

PATRICK J. LEHMAN, P.E., EXECUTIVE DIRECTOR

January 21, 2010

Patrick Rainey, President  
Encore Construction Company  
370 East Crown Point Road  
Winter Garden, Florida 34787

Re: Peace River Facility Expansion – Contract 2

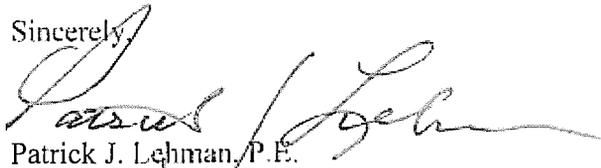
Dear Mr. Rainey:

Congratulations! The Authority is ecstatic that Encore Construction Company achieved early completion of the above referenced contract allowing the Authority to start treating water 4 months earlier than the contract schedule. This is a significant achievement and testimony to the efforts of your staff and partnering with the Authority and our consultant, AECOM. Throughout the project construction, Encore provided not only excellent construction management and services, but also provided valuable assistance with owner procurement of major equipment – creating a savings of \$1 million to the Authority.

The complexity of construction of the expansion and the requirement to not interrupt operation of the existing water treatment facility created challenges that were overcome by imaginative and creative scheduling and construction means. The close working relationship between Encore's management team, Authority staff and AECOM is greatly appreciated and key to the success of this project.

Once again; kudos for a job well done - on time, in budget and quality construction.

Sincerely,



Patrick J. Lehman, P.E.  
Executive Director

cc: T. Behler, ECC  
R. Hiatt, ECC



CITY OF GROVELAND  
156 S. LAKE AVENUE  
GROVELAND, FL 34736

PHONE 352-429-2141  
FAX 352-429-3852

May 15, 2008

Patrick Rainey, President  
Encore Construction Company  
P.O. Box 771599  
Winter Garden, FL 34777-1599

Re: City of Groveland Sampey Road Wastewater Treatment Plant Expansion

Dear Mr. Rainey:

I would like to take a moment to commend Encore Construction on the expansion of the City's Sampey Road Wastewater Treatment Plant. The professionalism and attention to detail displayed by Eric Wagner, Matt Reaves, and John Kenny were unsurpassed. These individuals were able to complete the project ahead of schedule and under budget despite the tight working conditions. I can honestly say I have never worked with a better group of people. Your team went above and beyond to ascertain the integrity of the operations system was never compromised.

It would be my honor to recommend your company to private or public entities seeking your services. It is my hope that I have the opportunity to work with you on any future projects.

Sincerely,

A handwritten signature in black ink, appearing to be "L. Walker", written in a cursive style.

Larry Walker, CPM  
Utilities Director/Assistant City Manager



STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD
1940 NORTH MONROE STREET
TALLAHASSEE FL 32399-0783

(850) 487-1395

RAINEY, PATRICK TRACY
ENCORE CONSTRUCTION COMPANY LLC
PO BOX 771599
WINTER GARDEN FL 34777-1599

Congratulations! With this license you become one of the nearly one million Floridians licensed by the Department of Business and Professional Regulation.

Every day we work to improve the way we do business in order to serve you better. For information about our services, please log onto www.myfloridalicense.com.

Our mission at the Department is: License Efficiently, Regulate Fairly. We constantly strive to serve you better so that you can serve your customers.

State of Florida Department of Business and Professional Regulation stamp containing license details: AC# 5021376, CGC1517618, 07/02/10 100006700, CERTIFIED GENERAL CONTRACTOR RAINY, PATRICK TRACY, ENCORE CONSTRUCTION COMPANY LLC, IS CERTIFIED under the provisions of Ch.489 FS, Expiration date: AUG 31, 2012 L10070201146

DETACH HERE

AC# 5021376 STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION CONSTRUCTION INDUSTRY LICENSING BOARD SEQ# L10070201146 Table with columns: DATE, BATCH NUMBER, LICENSE NBR. The GENERAL CONTRACTOR Named below IS CERTIFIED Under the provisions of Chapter 489 FS. Expiration date: AUG 31, 2012 RAINY, PATRICK TRACY ENCORE CONSTRUCTION COMPANY LLC 370 EAST CROWN POINT ROAD WINTER GARDEN FL 34787 CHARLIE CRIST GOVERNOR CHARLIE LIEM INTERIM SECRETARY DISPLAY AS REQUIRED BY LAW



STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD
1940 NORTH MONROE STREET
TALLAHASSEE FL 32399-0783

(850) 487-1395

RAINEY, PATRICK TRACY
ENCORE CONSTRUCTION COMPANY LLC
PO BOX 771599
WINTER GARDEN FL 34777-1599

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STATE OF FLORIDA AC# 5021583
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CUC1224749 07/02/10 100006700
CERT UNDERGROUND & EXCAV CNTR
RAINEY, PATRICK TRACY
ENCORE CONSTRUCTION COMPANY LLC
IS CERTIFIED under the provisions of Ch.489 FS
Expiration date: AUG 31, 2012 L10070201349

DETACH HERE

AC# 5021583

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

SEQ# L10070201349

Table with 3 columns: DATE, BATCH NUMBER, LICENSE NBR. Row 1: 07/02/2010, 100006700, CUC1224749

The UNDERGROUND UTILITY & EXCAVATION CO
Named below IS CERTIFIED
Under the provisions of Chapter 489 FS.
Expiration date: AUG 31, 2012

RAINEY, PATRICK TRACY
ENCORE CONSTRUCTION COMPANY LLC
370 EAST CROWN POINT ROAD
WINTER GARDEN FL 34787

CHARLIE CRIST
GOVERNOR

CHARLIE LIEM
INTERIM SECRETARY

DISPLAY AS REQUIRED BY LAW



## AGENDA ITEM MEMORANDUM

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER *T. Jennene Norman-Vacha*  
**FROM:** JENNIFER REY, THE HOGAN LAW FIRM, CITY ATTORNEY *JR*  
**SUBJECT:** ORDINANCE NO. 821 – AMENDMENT TO CHAPTER 22  
ARTICLES I AND II OF THE CITY'S CODE OF ORDINANCES

**DATE:** JULY 22, 2011

**GENERAL SUMMARY/BACKGROUND:** City Council has previously adopted Ordinance No. 540 relating to civil emergencies. The Florida Legislature passed, and the Governor signed into law, Chapter No. 2011-109 which becomes effective on October 1, 2011, and imposes a financial penalty on governments, elected officials, or staff that adopt policies or take enforcement action violating the existing state law preemption of firearms and ammunition regulation. Under current law, Section 790.33, Florida Statutes, the state has preempted “the whole field of regulation of firearms and ammunition” to the exclusion of any city or county ordinances, regulations or rules.”

Ordinance 821 amends the Code of the City of Brooksville, Florida, Chapter 22, “Civil Emergencies”, Article I “In General” and Article II “States of Emergency” Section 22-36(1) Imposition of Certain Emergency Measures or Regulations to comply with the new law.

**BUDGET/IMPACT:** Adoption of the proposed Ordinance will have no impact on the budget.

**LEGAL REVIEW:**

*JR* The City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances.

**STAFF RECOMMENDATION:** Staff recommends Council consider adoption of Ordinance 821 upon roll call vote and schedule second reading for August 15, 2011.

**ATTACHMENT:** Draft Ordinance No. 821

ORDINANCE NO. 821

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 22, "CIVIL EMERGENCIES," AMENDING ARTICLE II SECTION 36; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances;

**WHEREAS**, the City Council has previously adopted Ordinance No. 540 relating to civil emergencies;

**WHEREAS**, HB 45, approved by the Governor, designated as Chapter No. 2011-109 and becomes effective on October 1, 2011, imposes a financial penalty on governments, elected officials, or staff that adopt policies or take enforcement action violating the existing state law preemption of firearms and ammunition regulation;

**WHEREAS**, under Section 790.33, Florida Statutes, the state has preempted "the whole field of regulation of firearms and ammunition" to the exclusion of any city or county ordinances, regulations or rules;

**WHEREAS**, the City Council of the City of Brooksville, Florida desires to amend its Code of Ordinances, relating to regulation of firearms and ammunition.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CHAPTER 22 ARTICLE I and II.** The Code of the City of Brooksville, Florida, Chapter 22, "Civil Emergencies", Article I "In General" and Article II "States of Emergency" Section 22-36(1) Imposition of Certain Emergency Measures or Regulations, is hereby amended as follows:

**Article I. In General** Sections 22-1—90-30. Reserved.

**Article II. States of Emergency**

**Sec. 22-36. IMPOSITION OF CERTAIN EMERGENCY MEASURES OR REGULATIONS**

Upon the declaration of a state of local emergency pursuant to this Ordinance, the following emergency measures or regulations may be imposed by resolution duly approved and adopted by City Council or as set forth in emergency ordinance or resolution issued during the period of such emergency pursuant to Brooksville City Charter or Code to protect the life, health, property, welfare

or public peace of the community. The purpose of this Ordinance is to provide authority and enforcement power to:

- 1) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles.

**SECTION 2. CONFLICTS AND REPEALER.** All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 3. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 22 "Civil Emergencies" as directed herein.

**SECTION 4. CODIFICATION.** It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 2, 3, 4 and 5 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

**CITY OF BROOKSVILLE**

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

By: \_\_\_\_\_  
Frankie Burnett, Mayor

PASSED on First Reading \_\_\_\_\_

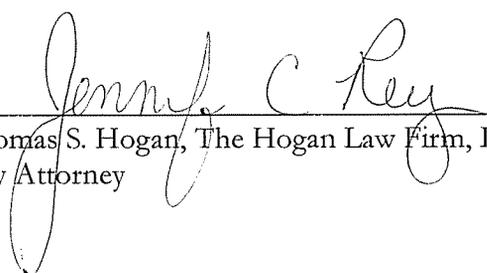
NOTICE Published on \_\_\_\_\_

PASSED on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

- Bernardini \_\_\_\_\_
- Bradburn \_\_\_\_\_
- Burnett \_\_\_\_\_
- Johnston \_\_\_\_\_
- Pierce \_\_\_\_\_

  
\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney



**AGENDA ITEM  
MEMORANDUM**

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER  
**FROM:** JENNIFER REY, THE HOGAN LAW FIRM, CITY ATTORNEY  
**SUBJECT:** RESOLUTION NO. 2011-02 - PARKS AND RECREATION RULES  
& REGULATIONS AMENDMENT

**DATE:** July 22, 2011

**GENERAL SUMMARY/BACKGROUND:** Ordinance No. 764 of the City of Brooksville Code of Ordinances provides for the adoption of rules and regulations as they relate to City parks or recreational areas. On September 15, 2008, Council adopted Resolution No. 2008-19, adopting the rules and regulations of the City parks and recreation areas. The Florida Legislature passed and the Governor signed into law, Chapter No. 2011-109 which becomes effective on October 1, 2011, and imposes a financial penalty on governments, elected officials, or staff that adopt policies or take enforcement action violating the existing state law preemption of firearms and ammunition regulation. Under current law, Section 790.33, Florida Statutes, the state has preempted "the whole field of regulation of firearms and ammunition" to the exclusion of any city or county ordinances, regulations or rules."

Resolution No. 2011-02 amends the City's Parks and Recreation Rules Article 14 to comply with current law.

**BUDGET IMPACT:** There is no budget impact associated with adoption of this Resolution.

**LEGAL REVIEW:** Pursuant to Ordinance No. 765 City Council has authority to establish adopt rules and regulations, including fees, as they relate to City parks or recreational areas by resolution or administrative directive as recommended by the City Manager.

**STAFF RECOMMENDATION:** Staff recommends Council consideration for approval of Resolution No. 2011-02 upon roll call vote.

**ATTACHMENTS:** Resolution No. 2011-02

RESOLUTION NO: 2011-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING THE RULES AND REGULATIONS FOR THE MANAGEMENT AND OPERATION OF THE PARKS OR RECREATIONAL AREAS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 764 of the City of Brooksville Code of Ordinances provides for the adoption of rules and regulations as they relate to City parks or recreational areas.

WHEREAS, on September 15, 2008, Council adopted Resolution No. 2008-19, adopting the rules and regulations of the City parks and recreation areas; and,

WHEREAS, the Florida Legislature passed and the Governor signed into law, Chapter No. 2011-109 which becomes effective on October 1, 2011, and imposes a financial penalty on governments, elected officials, or staff that adopt policies or take enforcement action violating the existing state law preemption of firearms and ammunition regulation; and,

WHEREAS, under current law, Section 790.33, Florida Statutes, the state has preempted "the whole field of regulation of firearms and ammunition" to the exclusion of any city or county ordinances, regulations or rules."

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:

SECTION 1: The Brooksville City Council hereby adopts the amended rules and regulations for the management and operation of the various parks or recreational areas under the responsibility of the Parks and Recreation Department of the City of Brooksville, as evidenced in "Exhibit A", attached hereto.

SECTION 2: It is the intent of this Resolution to repeal Resolution No. 2008-19 in its entirety and restate it as contained herein.

SECTION 3: Penalties for violations of these Rules and Regulations are hereby established pursuant to said Code of Ordinances.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED this 11<sup>th</sup> day of August, 2011.

CITY OF BROOKSVILLE

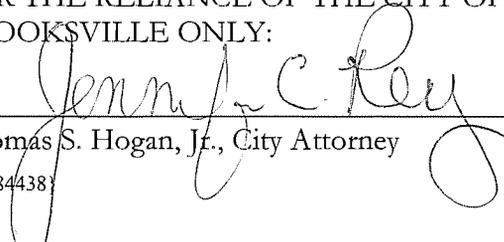
By: \_\_\_\_\_  
Frankie Burnett, Mayor

ATTEST: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

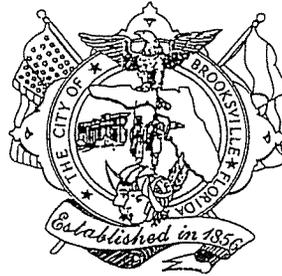
VOTE OF CITY COUNCIL

Bernardini \_\_\_\_\_  
Bradburn \_\_\_\_\_  
Burnett \_\_\_\_\_  
Johnston \_\_\_\_\_  
Pierce \_\_\_\_\_

APPROVED AS TO FORM AND CONTENT FOR THE RELIANCE OF THE CITY OF BROOKSVILLE ONLY:

  
\_\_\_\_\_  
Thomas S. Hogan, Jr., City Attorney  
{00284438}

“EXHIBIT A”



CITY OF BROOKSVILLE

PARKS AND RECREATION DEPARTMENT

RULES AND REGULATIONS

Revised: August 04, 2008  
August 15, 2011

**CITY OF BROOKSVILLE  
PARKS AND RECREATION**

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**PARKS AND RECREATION  
TOM VARN PARK  
DEDICATED 1970**

In 1967, through a generous donation by the Cone Family of Tampa, the City of Brooksville acquired 82 acres of old rock mining land for the purpose of constructing a Parks and Recreation Facility.

It had long been the desire of the City Council to construct an outdoor Recreation Facility that would provide the youth of Hernando County the opportunity to participate in sports.

The Council believed that competitive participation in sports, promoted not only good sportsmanship, good citizenship, but above all good moral character.

To this end, the City Council voted to develop the property, and through the cooperative efforts of the County, City employees, civic organizations and numerous area residents, the site was prepared, ball fields were constructed, fencing and lighting were erected and a dream became a reality. In 1970, upon completion, the facilities were named Tom Varn Park in honor of City Council Member Tom Varn for his outstanding and relentless contributions to the youth of Brooksville and Hernando County.

**BUD MCKETHAN PARK  
DEDICATED 1982**

The City of Brooksville's park system was notably enhanced in 1982 with the dedication of the John W. "Bud" McKethan Park.

This was made possible through a donation of 4 ½ acres of prime recreational land and generous contributions by the Bud McKethan family. McKethan Park has become a favorite of many City residents.

Expansion of recreational opportunities, assisted in large measure by matching funds from the Florida Recreational Development Assistance Program in the mid-1980's, continues to make McKethan Park a valuable asset to the City of Brooksville.

Construction of an additional tennis court, a multipurpose basketball court, two new racquetball courts and a picnic pavilion provide facilities not only for the residents of Brooksville, but the citizens of Hernando County as well.

## **QUARRY GOLF COURSE DEDICATED 1997**

The Brooksville Quarry Golf Course was a dream for many of us for some time. Finally, October of 1993, the Citizens Golf Group was officially recognized by the Brooksville City Council as the entity that would make this dream become a reality. The mission of this group was to assist in building a nine (9) hole executive golf course in and around a turn of the century abandoned rock mine. This facility is located in Bud McKethan Park and maximizes the use of a truly unique exposed geologic terrain and would bring unused public land for the public to enjoy.

The project quickly became known as “The Quarry,” with the purpose of offering affordable golfing opportunities to the youth and citizens of our community. The concept for this golf facility was to construct it almost entirely by volunteer work and contributions from the private sector. Several companies and individuals within the community and donations of cash, materials, use of equipment, labor and in-kind services were gratefully accepted. Through the continued efforts of so many and the involvement of the “Friends of the Quarry,” the groundbreaking ceremonies were held on June 29, 1994, and “The Quarry” was opened by the City in 1997.

The uniqueness of our community built golf course, has gained the attention of several national golf organizations and publications, including the National Golf Foundation, Florida Golfer and Golf Digest.

The Quarry is the home of The First Tee of Brooksville, which became a chapter of The First Tee in December 2004. The First Tee is a World Golf Foundation initiative dedicated to providing young people of all backgrounds an opportunity to develop, through golf and character education, life enhancing values such as integrity, honesty and sportsmanship. The mission of The First Tee of Brooksville is to impact the lives of young people by providing learning facilities and educational programs that promote character development and life – enhancing values through the game of golf.

## **JEROME BROWN COMMUNITY CENTER DEDICATED 2000**

Jerome Brown was an All-American defensive lineman at the University of Miami and first round draft pick for the Philadelphia Eagles in 1987, where he became a two-time Pro Bowl selection and All Madden Team member in 1990. The Community Center was opened in May of 2000 in tribute to Mr. Brown, who died in a one-car accident on June 25, 1992.

The Jerome Brown Community Center was a “Total Community Effort” as hundreds of volunteers raised approximately \$500,000, in cash and in-kind contributions toward construction of this facility. This complex includes a 6,600 square foot gymnasium, a multi purpose game and meeting room, offices, and full kitchen/banquet facilities.

## **DEFINITIONS**

When used hereinafter, the following definitions shall apply:

- A. The terms “parks, parkways, recreational areas,” are defined to mean parks, wayside parks, parkways, playgrounds, recreation field and buildings, lakes, lagoons, waterways, water areas and all public facilities constructed on grounds, buildings and structures in the City of Brooksville which have been assigned to the Parks and Recreation Department for upkeep, maintenance or operation.
- B. The terms “Park property” and “Park area” are defined to cover all areas, buildings, locations and facilities described in the foregoing paragraph, and shall include Tom Varn Park, Bud McKethan Park, Russell Street Park, Jerome Brown Community Center, Quarry Golf Course, Brooksville Cemetery and all other areas assigned to the Parks and Recreation Department in the future.
- C. The term “City” shall mean the City of Brooksville, Florida, City Council refers to the City Council of the City of Brooksville, Florida, “Parks Department” or the “Department” are defined as the City’s Parks and Recreation Department and the term “Director ” refers to the Parks and Recreation Director.
- D. The term “Park personnel” and “Park employees” refers to those individuals employed by the City and assigned to the Parks and Recreation Department.

## **GENERAL RULES AND REGULATIONS**

The following general rules and regulations are designed to assist the public in using the City’s Park and Recreation facilities. Obviously all specific questions or concerns are not addressed, and therefore the Parks and Recreation Director is authorized to resolve issues consistent with general City Policies and Code requirements. Interpretation of these rules may be reviewed by the City Manager.

City Council may authorize exemptions or modifications of the Rules and Regulations for specific events or activities.

## **ARTICLE 1. PARK AUTHORITY**

- A. It shall be the duty and responsibility of the Police Department and the Parks Department to enforce all rules and regulations.
- B. In addition to the rules and regulations as set out in this article, the City Manager shall have the authority to establish regulations for Park use pursuant to the preservation of health, safety, and/or welfare of the public in furtherance of keeping with the mandates and provisions of this article.
- C. Any violation of the provisions of this article, or any violation of any rules and regulations adopted pursuant hereto shall authorize the Director or his or her designee or any Police Officer to expel the violator from the Park area; said removal shall be effectuated by requesting the violator to remove himself or herself from the Park area. Failure of any such violator to remove himself or herself from the Park area after a request has been made by Park personnel shall constitute a trespass. Upon the issuance of a first trespass warning, the person noticed shall be banned from the premises for a period of thirty (30) days. Subsequent notices shall ban the individual for periods of ninety (90) days. Any violation of same shall constitute a trespass and shall subject the violator to charges for trespass. In the event a violator does not comply with the request by Park personnel, the Police Department will be requested to require the violator to leave the facility.

## **ARTICLE 2. MERCHANDISING, VENDING, AND PEDDLING**

Unless specifically authorized in and limited to the duration of any special events permit authorized hereunder, no person, organization or firm except concessionaires approved by the City shall expose or offer for sale, rent, or trade any article, thing, station, service or place any stand, cart, or vehicle for the transportation, sale, or display of any article or merchandise within the limits of any Park area.

## **ARTICLE 3. PRESERVATION OF PROPERTY**

- A. No person shall damage or remove plants or plant materials, trees or parts thereof or any flowers, nuts, or seeds whatsoever from any Parks Department property, nor shall they pile debris or material of any kind on or about any tree or plant, or attach any rope, wire, or other contrivance to any tree or plant, whether temporary or permanent in character or use, without written authorization from the Director.
- B. No person shall make any excavation by tool, equipment, blasting, or other means or agency. Metal detectors are prohibited without written permission by the Director.
- C. No person shall construct or erect any building or structure whatever kind, whether permanent or temporary, or run or string any public utility into, upon, across or over any Park or recreation lands unless authorized by easement or approved in writing by the City Manager.
- D. No fires shall be built by any person against or adjacent to any Park building, structure, tree or plant or near the property of others or in any area of any Park except the picnic areas and in such open areas as are specifically designated for fire building, nor shall any person drop, throw or permit to be scattered by any means, lighted matches, burning

tobacco products or any other inflammable material within any Park area or any highway, road, or street abutting or contiguous thereto.

- E. No person shall willfully mark, deface, damage, displace, destroy, remove or tamper with any buildings, facilities, bridges, piers, tables, benches, railings, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards or notices, monuments, stakes, posts, gateways, locks, fencing, boundary markers or other structures, equipment on city property.
- F. No person shall use tacks, nails, staples or other items that penetrate wood on shelters, signs, trees, etc.
- G. No person shall stand, or sit on any structure not intended for such use in any park or parkway.
- H. Preservation of archaeological and historic sites: no person shall excavate, disturb or remove any historic or prehistoric cultural artifacts, nor any bones, shells, or geological specimens on land owned or managed by the city, except as part of an authorized and designated study for scientific, documentation or research purposes, and only with the written permission from the City Manager. Scientific evaluation excavation of any designated or non-designated archaeological site may not be conducted without a state permit.

#### **ARTICLE 4. TRAFFIC ORDINANCES AND STATE VEHICLE LAWS**

In addition to the traffic laws of this State and applicable State vehicle laws, which shall apply in and about all Park property, the following traffic regulations shall also be applicable:

- A. No person driving, operating, controlling, or propelling any vehicle, motorized, horse-drawn, or self-propelled, shall use any other than the regularly designated paved or improved Park roads or driveways except when directed to do so by law enforcement officers or Park employees.
- B. Speed limit in Park area is ten (10) miles per hour, or as otherwise posted.
- C. No driver or operator of any vehicle shall obstruct traffic, park, or stop on any road or driveway except at places so designated or in case of an emergency beyond the driver or operator's control. At places so designated a vehicle may be stopped for a period of no more than fifteen (15) minutes in order for the occupant to view the scenic features.
- D. No truck, commercial vehicle, or bus of any type shall be driven on any Park road or property without authorization from the Parks Department, except those trucks and buses used for transporting persons to a Park for recreation purposes will be afforded use of ingress and egress to Park roads and parking facilities as provided for conventional passenger vehicles.
- E. No person shall ride, drive or propel any bicycle, tricycle, motorcycle, scooter, skateboard, or similar vehicles being motor propelled or self-propelled on any but the regular vehicular Park roads and/or designated areas for that class vehicle; except such vehicles with motors off, may be pushed by hand not faster than a walk over grassy areas, wood tracts or specially designated paved areas normally reserved for the use of pedestrians.

- F. No person shall park a vehicle any place on Park property other than in the regular designated facilities provided for that particular type of vehicle, unless directed otherwise by law enforcement officers.
- G. No Park employee shall accept any fee or gratuity for any service concerning the parking of a vehicle except those employees' assigned areas where a stated fee is charged by the Parks Department.

#### **ARTICLE 5. OPERATING HOURS**

- A. No person shall be or remain in any part of any Park which is fenced in or provided with gates between the closing of the gates at night and their reopening during the day. No person shall be or remain in any Park not fenced in or provided with gates, between the hours of 11:00 p.m. and 6:00 a.m. The provisions of this section shall not apply to law enforcement officers or designated employees of the City while in the discharge of their duties, nor to persons having a written permit issued by the Parks Department allowing them to be or remain in any part of the Parks between such hours. The City Manager has the authority to establish exceptions to the closing hours as set forth above when it is in the interest of public health, safety or welfare.
- B. No operator of any vehicle shall park or be permitted to remain parked on any driveway, parkway, parking area or other park property between the hours of 11:00 p.m. and 6:00 a.m., or as otherwise posted, without the authorization of the Director.
- C. No person shall change any parts, repair, or lubricate or wash a vehicle on any Park roadway, parkway, driveway, parking lot or other Park property unless authorization is given by the Director or his or her designee.

#### **ARTICLE 6. PICNIC AREAS; USE.**

- A. No person shall picnic, lunch or cook in any Park area not specifically designated for such usage without authorization of Park personnel.
- B. No person shall build, light, or cause to be lighted any fire upon the ground or other object in any Park area except in an approved grill, stove, fireplace, or other suitable container, nor shall any person starting a fire leave the area without first extinguishing the fire.
- C. No person shall use a grill or other device in such a manner as to burn, char, mar or blemish any bench, table or other object of Park property.
- D. The Parks Department shall regulate activities in picnic areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all.

#### **ARTICLE 7. GAMES, AND ACTIVITIES**

- A. No person shall engage in any unlawful or other activity within the Park that is dangerous to the health, safety, and welfare of others; and no person or persons shall engage in any activity within the Park that interferes with the use and equipment of the Park and its facilities by others.

- B. No person or organization shall conduct raffles, bingo games, card games for money or drawings for prizes or participate in any other forms of gambling, as described by State law, in unauthorized areas whether for charity or otherwise, without the authorization of the Director.

#### **ARTICLE 8. JEROME BROWN COMMUNITY CENTER (JBCC) - GYM RULES**

- A. No food or drink will be permitted in the gym, unless authorized by the Parks and Recreation Director.
- B. Water must be kept in a plastic container with a cap.
- C. Inappropriate behavior, offensive or abusive language will not be tolerated.
- D. Proper footwear must be worn at all times; boots shall not be worn at any time.
- E. JBCC reserves the right to remove any person or persons for violation of any rules.

#### **ARTICLE 9. QUARRY GOLF COURSE - RULES & REGULATIONS**

- A. Absolutely no alcoholic beverages are allowed on premises and no personal coolers shall be allowed on the course.
- B. Proper golf attire must be worn at all times on course. No tank tops, denim with holes, sleeveless shirts or short shorts may be worn.
- C. No metal spikes are allowed on course.
- D. Pace of play must be maintained; do not fall behind more than 1(one) hole.
- E. No ball hawking allowed.
- F. No entering quarries, Holes #2, 3 and 4 are considered "out of bounds"; drop areas are provided.
- G. Tee off from markers only.
- H. Repair ball marks on greens.

#### **ARTICLE 10. LEAGUE, TOURNAMENT GAMES AND PRACTICES**

The Director will establish appropriate schedules for the use of Park facilities for organized sport teams.

- A. All participating leagues shall provide game schedules two (2) calendar weeks prior to commencement of play. Team rosters containing the names and addresses of all players shall be provided to the Department. Any changes in scheduling must be coordinated with the Department.
- B. Each league team shall pay an entry fee to participate in league play each season. Fees must be paid no later than two (2) calendar weeks prior to commencement of play.

- C. User Fees approved by the City Council will apply, and are to be paid prior to approval to the use of the Park Facilities. Checks are to be made to the order of the City of Brooksville. For continuous eligibility to use Park facilities, all outstanding City of Brooksville Parks and Recreation debts, (league, team or individual) shall be met before commencement of each season.
- D. The Department shall determine when games are to be cancelled due to inclement weather or unsuitable field conditions.
- E. All league games shall be concluded prior to 11:00 p.m.
- F. Tournament Games

In order to protect the City of Brooksville and to ensure that all tournaments are administered properly, the following conditions shall apply:

- 1. Unless approved by the Director, all requests for tournaments shall be made no later than two (2) calendar weeks prior to the start of tournament and must include the following:
  - a. Name and address of individual or league requesting tournament.
  - b. Number of team's invited and total number of team members.
  - c. Number of fields or courts to be utilized.
  - d. Exact tournament dates.
- 2. If deemed necessary by the Director, all tournaments shall have a Park employee or City designee assigned at all times, to ensure that Park facilities are maintained, such as: press boxes, restrooms, fields and parking areas.
- 3. User fees are to be paid prior to start of the tournament.
- 4. All tournament games shall be concluded prior to 11:00 p.m.

G. Practices

- 1. All practices will be between the hours of 8:00 a.m. through 12:00 p.m. Scheduling and any changes shall be approved by the Director or authorized representative.
- 2. The Parks and Recreation Department shall determine when all night practices are permitted; a Park employee shall be on duty when lights are in use, if deemed necessary by the Director.

**ARTICLE 11. SWIMMING, FISHING AND BOATING**

- A. No person, regardless of age, sex, or manner of dress, shall swim, wade, or bathe in water, lakes, or ponds of any Park area.
- B. No person shall bring into or operate any boat, canoe, raft, or other watercraft into any Park water- courses, lakes, or ponds.
- C. No fishing is allowed in the Park without approval of the Director.

## **ARTICLE 12. ANIMALS**

No person shall bring any cats or dogs in any Park, except for service animals accompanying disabled persons according to Americans with Disabilities Act Regulations, unless approved in advance by the City Manager.

## **ARTICLE 13. HORSEBACK RIDING**

No person shall engage in horseback riding in any Park without the authorization of the City Manager.

## **ARTICLE 14. ~~FIREARMS, HUNTING, FIREWORKS AND EXPLOSIVES~~**

~~A. No person, except law enforcement officers and those otherwise specifically or explicitly provided by law, may carry, use or possess a weapon or firearm, air rifles or pistols, spring guns, or any other form of weapon, as defined by law, potentially dangerous to wildlife or human safety on or in any Park area or property without approval by the Chief of Police.~~

AB. No hunting, trapping or the pursuit of wildlife by any means or method whatsoever shall be permitted on or in any Park area.

BC. No person may bring into or have in his possession or set off or otherwise cause to explode in any building or in any Park areas, any fireworks as described by State law or explosives of inflammable material or any substance, compound, mixture, or article that in conjunction with any other substance or compound, may explode, discharge or burn, unless he first obtains a written permit from the City Manager.

CD. Parents or guardians shall be held responsible and accountable for the actions of minors in regards to the prohibitions in the foregoing subsection.

## **ARTICLE 15. DISORDERLY INTOXICATION/PROFANITY**

A. No disorderly or intoxicated person or persons shall be permitted entry into any Park area, and if discovered therein, the same shall be ejected by authorized Park personnel and/or with assistance of a law enforcement officer.

B. No person or persons shall be permitted to use profanity, molest, or otherwise interfere with the equipment of the Park in any Park area, and if discovered therein, the same shall be ejected by authorized Park personnel or by a law enforcement officer.

## **ARTICLE 16. PROPER USE AND PROHIBITED ACTIVITIES**

A. Loitering is prohibited in and around any Park restroom, dressing room, parking lot or engage in any lewd and lascivious behavior.

B. No person shall dress or undress in a Park except in such structures as may be provided and maintained by the Department for that purpose; and dressing or undressing in any vehicle (except for recreational vehicles), toilet, or any park area or restroom is prohibited. This prohibition shall not apply to single occupancy restrooms with locks and individual restroom stalls with doors. Furthermore, no person shall utilize any restroom, single occupancy restroom with locks or individual stalls with doors as a however or

bathing facility, except in such structures as may be provided and maintained by the Department for shower or bath purposes. For purposes of this section shower or bathing shall have the ordinary meaning associated with such terms.

#### **ARTICLE 17. POLLUTION OF WATERS**

Using the fountains, ponds, lakes, streams, or any other bodies of water within the Park or the tributaries, storm sewers or drains flowing into them as dumping places for any substance, matter or thing which will or may effect public health, resulting in the pollution or blockage of said waters is prohibited.

#### **ARTICLE 18. BROOKSVILLE CEMETERY**

See Attached Rules & Regulations

#### **ARTICLE 19. LIABILITY OF CITY**

Neither the Council nor the City shall be responsible for accidents, injuries or loss of property in parks by fire, theft, wind, flood or other natural acts which are beyond its control. Facilities provided and equipment furnished on the parks grounds are solely for the public's convenience and use at their own risk.

#### **ARTICLE 20. RESPONSIBILITY FOR ACTIONS; MINOR CHILDREN**

Park visitors shall be responsible for any damage or violations of the park rules and regulations that they or minor children under their care or supervision may cause. Children 12 years of age and younger shall not be left unattended in a park.

#### **ARTICLE 21. ALCOHOL**

Unless specifically authorized in and limited to the duration of any special events permit authorized hereunder, the sale, possession or consumption of alcoholic beverages on any park property is prohibited. In addition to any other remedies under this article, any individual possessing or consuming alcoholic beverages shall be expelled from such park.



**AGENDA ITEM  
MEMORANDUM**

**TO:** Honorable Mayor and City Council Members  
**VIA:** T. Jennene-Norman Vacha, City Manager *T. Jennene-Norman Vacha*  
**FROM:** Steve Baumgartner, Finance Director *Steve Baumgartner*  
**SUBJECT:** Adopting Current Year Proposed Millage Rate for 11/12 Budget  
**DATE:** July 18, 2011

**GENERAL SUMMARY/BACKGROUND:**

State of Florida Truth in Millage (TRIM) requirements mandate that Florida governments set a proposed millage rate for the DR-420 (Certification of Taxable Value). The City must advise the Property Appraiser of proposed millage, rolled-back rate, date, time and place of the tentative budget hearing within 35 days from June 1<sup>st</sup>. This notification is for the Trim notice that is mailed to the property owners. This year the date required to notify the Property Appraiser is August 4, 2011.

Traditionally, the City Council votes a higher millage than they expect to levy. In 2010, the Council adopted 8.000 mills. In 2009, 2008 and 2007 the tentative millage was 7.000 mills and in 2006 the tentative rate was set at 8.000 mills. TRIM states that the tentative millage rate cannot exceed the final millage rate, unless, each taxpayer is mailed a revised Notice of Proposed Property tax. The mailing would be at the City's expense. As a result, of the laws, we levy higher to avoid the expensive mailing.

Due to Amendment 1 there are a number of alternatives that complicate the final millage rate decisions. Here is current information:

Prior Year operating millage levy	6.3700
Current Year Gross Taxable Value for operating purposes	\$390,017,831
Prior Year Gross Taxable Value	\$414,775,643
Current Year rolled-back rate	7.1055
Prior Year rolled-back rate	7.0202
Majority vote maximum millage rate allowed	10.5376
Two-thirds vote maximum millage rate allowed	11.5914*

*\*cannot exceed 10 mills*

**FIRST BUDGET HEARING DATE CHANGE:** The City has a conflict with the first Budget hearing scheduled date of Tuesday, September 13, 2011 with Hernando County. Staff recommends that the first Budget hearing be scheduled for Wednesday, September 14, 2011 at 6:00 p.m. Our second Budget hearing is scheduled for Wednesday, September 28<sup>th</sup> and there is no conflict with the County; their second meeting is September 27, 2011.

 **LEGAL REVIEW:** The City Council has home-rule authority (Art. VII, (2) Fla. Const. and §166.011 Fla. Stat.) to consider matters of fiscal and intergovernmental benefit.

**STAFF RECOMMENDATION:** Staff requests adoption of Current Year Proposed Operating Millage Rate. In addition, staff requests changing the date of the first Budget hearing from September 13, 2011 to September 14, 2011.



## AGENDA ITEM MEMORANDUM

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER

**FROM:** JENNIFER C. REY, ESQ., THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY

**SUBJECT:** FILLING COUNCIL VACANCY

**DATE:** JULY 29, 2011

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**GENERAL SUMMARY/BACKGROUND:** As you are aware, Emory Pierce resigned from his Seat No. 2 on the City Council. Pursuant to Sec. 2-31 (6), a vacancy shall be deemed to exist in the office of a city councilmember “when any city councilmember resigns.”

Pursuant to Sec. 30-15 of the City’s Code, which was amended by Ordinance No. 786 on February 18, 2010, “[i]f any vacancy occurs in the membership of the city council, except in the case where a city council member is recalled as the result of a recall election, the remaining city council members shall select, by resolution, an eligible person to fill the vacancy until the vacancy is filled at the next regular municipal election or countywide non-primary election, whichever occurs first, at which time the vacant seat shall be placed on the ballot for the remainder of the term of the vacant seat.”

A copy of the ordinance is attached hereto as Attachment 1. Pursuant to Section 30-1(b) of the city's Code, regular municipal elections shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

In filling the prior vacancy on the city council, council members established a seven (7) day time period in which it solicited letters of interest from the public for individuals interested in filling the vacancy. Following review and consideration of the letters of interest, City Council then made an appointment by resolution.

**BUDGET/IMPACT:** No impact on the budget.

**LEGAL REVIEW:** The City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes. The City is authorized to hold municipal elections in accordance with Sections 2.06 -2.11 of the Charter of the City of Brooksville and Chapter 30 of the City Code of Brooksville.

**ATTACHMENTS:** Ordinance 786

**ORDINANCE NO. 786**

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 2 ADMINISTRATION; AMENDING SECTION 2-31; AMENDING SECTION 2-32; AMENDING CHAPTER 30 ELECTIONS; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

**WHEREAS**, the City Council has previously adopted Ord. No. 671 relating to filling city council vacancies; and,

**WHEREAS**, the City Council of the City of Brooksville, Florida desires to amend its Code of Ordinances, relating to filling vacancies occurring on the City Council.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CHAPTER 2 ADMINISTRATION, ARTICLE I CITY COUNCIL, DIVISION I GENERALLY.** The Code of the City of Brooksville, Florida, Chapter 2 Administration, Article I City Council, Division I Generally is hereby amended to read as follows and shall be recodified in Chapter 30 Elections:

**Sec. 30-14. Vacancies in city council.**

A vacancy shall be deemed to exist in the office of a city councilmember whenever any of the following conditions shall be found to exist:

- (1) Death of any city councilmember.
- (2) When any city councilmember shall cease to possess any one or more of the qualifications prescribed in section 2.04 of the Charter.
- (3) When any city councilmember has been convicted of any felony.
- (4) When any city councilmember is found to be guilty of misfeasance or malfeasance in office.
- (5) When, except for active military service, any city councilmember shall have absented himself from all meetings of the commission for a period of two consecutive months, without having been formally excused from such attendance by resolution of the city council duly appearing in the minutes, and setting forth the reason for such absence.
- (6) When any city councilmember resigns.
- (7) When any city councilmember is found by a court of competent jurisdiction to be disqualified to serve as such. (Laws of Fla., 1931, Ch. 15103, § 2)

**Sec. 30-15. Filling vacancies in city council.**

(a.) If any vacancy occurs in the membership of the city council, except in the case where a city councilmember is recalled as the result of a recall election, the remaining city council members shall select, by resolution, an eligible person to fill the vacancy until the vacancy is filled at the next regular municipal election or countywide non-primary election, whichever occurs first, at which time the vacant seat shall be placed on the ballot for the remainder of the term of the vacant seat. An eligible person shall be defined as any elector who has continuously resided in the City of Brooksville for at least one (1) year immediately prior to selection for filling the vacancy.

(b) When a vacancy occurs, if the chief election official certifies that insufficient time remains for candidates to qualify and be placed on the ballot for such regular municipal election, the person selected to fill the vacancy shall continue until the next regular municipal election or countywide non-primary election, whichever occurs first, at which time the vacant seat shall be placed on the ballot for the remainder of the term of the vacant seat; or the City Council may call for a special election

(c) If, at any time, there are less than three city council members qualified to act in the selection of persons to fill vacancies on the council, the city clerk shall request the governor of the state to make appointments to fill such vacancies. The governor is hereby granted the authority to make such appointments. The eligible person appointed by the governor shall serve until the next regular municipal election or countywide non-primary election, whichever occurs first, at which time the vacant seats shall be placed on the ballot for the remainder of the terms of the vacant seats. (Code 1988, § 2-17; Ord. No. 671, § 1, 5-17-2004)

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid, unlawful or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3. CONFLICTS AND REPEALER.** All ordinances or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 4. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 2 Administration and Chapter 30 Elections as directed herein.

**SECTION 5. CODIFICATION.** It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 2, 3, 4, and 5 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

**CITY OF BROOKSIVLLE, FLORIDA**

Attest: \_\_\_\_\_  
Janice Peters, CMC, City Clerk

By: s/Lara Bradburn \_\_\_\_\_  
Lara Bradburn, Mayor

PASSED on First Reading February 8, 2010

NOTICE Published on February 12, 2010

PASSED on Second & Final Reading February 18, 2010

Approved as to form for the reliance of the City of Brooksville only:

**VOTE OF COUNCIL:**

- Bernardini AYE
- Bradburn AYE
- Burnett AYE
- Johnston AYE
- Lewis AYE

s/City Attorney Rey for  
Thomas S. Hogan, The Hogan Law Firm, LLC,  
City Attorney

**CORRESPONDENCE-TO-NOTE**  
**REGULAR COUNCIL MEETING – August 1, 2011**

1.     **TYPE:**                     Letter  
       **DATE RECEIVED:**    June 28, 2011  
       **RECEIVED FROM:**    Elaine N. Singer, Hernando County Finance Coordinator  
       **ADDRESSED TO:**     Florida Department of Revenue cc: City Manager  
       **SUBJECT:**             Local Option Fuel Tax Proceeds Distribution

*Board of County Commissioners*  
*Hernando County, Florida*



1525 East Jefferson Street  
Brooksville, Florida 34601  
(352) 754-4060  
Fax: (352) 754-4423

*Transportation Services*

June 28, 2011

Florida Department of Revenue  
Attention: Mickie Clark  
Professional Accountant Specialist  
PO Box 6609  
Tallahassee, Florida 32399

RE: LOCAL OPTION FUEL TAX PROCEEDS DISTRIBUTION

Dear Mickie Clark:

Pursuant to the Interlocal Agreement in effect through September 30, 2013, the distribution percentage adjusts on October 1 of each year based on population. This distribution percentage for the local option gas tax for FY 2011/12 is as follows:

<u>Agency</u>	<u>Population</u>	<u>Distribution</u>
City of Brooksville	7,719	4.47%
Hernando County	<u>165,047</u>	<u>95.53%</u>
	<u>172,766</u>	<u>100.00%</u>

If you require additional information regarding this matter, please feel free to contact me.

Sincerely,

Elaine N. Singer  
Finance Coordinator

cc: Susan Goebel, P.E., Transportation Services Director  
George Zoettlein, Office of Management & Budget Manager  
Jennene Norman-Vacha, City of Brooksville

CTN  
8-01-11  
JH