

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

AGENDA

July 20, 2009

7:00 P.M.

A. CALL TO ORDER

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

1. Margaret R. Ghiotto Beautification Award – Residential Award

Recognition of improvements to the property of Anthony and Sharon Pedonesi located at 609 E. Fort Dade Avenue.

Presentation:	Mayor
Attachments:	Award Certificate; Letter from Beautification Board Chair dated 06/15/09

2. Dixie Girls Softball Division I Tournament Winners Proclamations

Expressing congratulations on being State Champs in their respective divisions.

Presentation:	Mayor & Director of Parks & Recreation
Attachments:	Proclamations

D. CITIZEN INPUT

E. CONSENT AGENDA

1. Surplus Office Equipment

Consideration of declaring surplus property and authorization to sell at County auction.

2. Surplus Property – Police Department

Consideration of declaring firearms surplus property and authorization for sale and/or destruction.

3. FDOT Memorandum of Understanding (MOU) for Debris Clearing and Monitoring

Consideration of MOU or Mutual Aid Agreement with FDOT to perform all debris cleanup and monitoring for major storm events.

4. Piggyback Contract for Large Sewer Pump Repairs

Authorization to piggy-back on the Pinellas County contract for large sewer pump repairs.

REGULAR COUNCIL MEETING AGENDA – JULY 20, 2009

5. **Edward Byrne Memorial Justice Assistance Grant (JAG) Program**

Consideration to approve the 2009 JAG Grant Program expenditure of funds and authorize the Mayor to sign and forward the required letter of decision.

CONSENT AGENDA APPROVAL (✓)

Recommendation: Approval of Consent Agenda
Action: Motion to Approve
Attachments: 1) Memo from City Clerk dated 06/26/09; 2) Memo from Chief of Police dated 07/06/09; 3) Memo from Director of Public Works dated 07/09/09, Letter from FDOT dated 09/10/08, Proposed MOU; 4) Memo from Director of Public Works dated 07/09/09, Letters from ITT Water & Wastewater Florida LLC, Agreement and Quotes; 5) Memo from Chief of Police dated 07/20/09

F. **PUBLIC HEARINGS**

- Entry of Proof of Publication into the Record

1. **Ordinance No. 774 – Impoundment**

Consideration of ordinance providing for impoundment of vehicles used in conjunction with certain crimes, non-criminal violations, and code violations.

[The First reading was held at the 07/06/09 meeting of Council.]

Presentation: Chief of Police
Recommendation: Approval of Ordinance upon roll call vote
Attachments: Memo from Chief of Police dated 07/20/09; Proposed Ordinance

2. **Ordinance No. 776 – City of Brooksville & People’s Gas System, A Division of Tampa Electric Company (TECO), Franchise Agreement**

Request from Peoples Gas for proposed language change dated June 18, 2009.

[The First reading was held at the 07/06/09 meeting of Council.]

Presentation: City Attorney
Recommendation: Approval of Ordinance upon roll call vote
Attachments: Memo from City Attorney dated 07/07/09; Proposed Ordinance

REGULAR COUNCIL MEETING AGENDA – JULY 20, 2009

G. REGULAR AGENDA

1. **Tentative Millage Rate**

Announce roll-back rate of 7.4380 mills, set Tentative Millage Rate for Fiscal Year 2009/10 and establish first budget hearing for September 9, 2009, 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 07/08/09; Millage Rate Matrix

2. **City Attorney Request for Council Clarification on Enrichment Center/Quarry Project Construction & Occupancy Agreement**

Presentation: City Attorney
Recommendation: Direction to Staff
Attachments: Memo from City Attorney dated 07/07/09; Proposed Agreement with Optional Terms/Provision

3. **Cascades Subdivision Amended & Restated Utility Service Agreement**

Consideration of amended Utility Service Agreement with OREO Corp. of Ohio for Cascades Subdivision.

Presentation: Director of Public Works
Recommendation: Approval and authorization for Mayor to sign Agreement
Attachments: Memo from City Attorney dated 07/10/09; Proposed Policies

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. 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) 540-3810.

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



(352) 544-5400 (Phone)
(352) 544-5424 (Fax)
(352) 544-5420 (TDD)

June 15, 2009

Anthony and Sharon Pedonesi
609 E. Fort Dade Avenue
Brooksville, FL 34601

Dear Mr. and Mrs. Pedonesi:

The City of Brooksville Beautification Board is pleased to advise you that you have been selected to receive the monthly Margaret R. Ghiotto Residential Beautification Award for beautifying your property at 609 E. Fort Dade Avenue.

The Certificate of Recognition and "rotating" outdoor sign will be presented to you by a Board Representative at the next regular Council Meeting to be held Monday, July 20, 2009 at 7:00 p.m. in the City Hall Council Chambers at 201 Howell Avenue. Please call the Beautification Board Secretary, Lindsay Morgan, and let her know, no later than Monday, July 6, 2009 by 5:00 p.m. if you will or will not be able to attend this meeting or if you have any further questions, 540-3856.

We extend our appreciation for your outstanding efforts in improving and beautifying not only your home but the City of Brooksville.

Sincerely,

A handwritten signature in cursive script that reads 'Sally Sperling / lam'. The signature is written in black ink.

Sally Sperling, Chairman
Beautification Board

SS/lam

cc: Janice Peters, City Clerk ✓

Margaret R. Ghiotto



CERTIFICATE OF RECOGNITION

City Council and the Beautification Board for the City of Brooksville, Florida
recognize and honor the named recipient for improvements and beautification to
their property located within the City

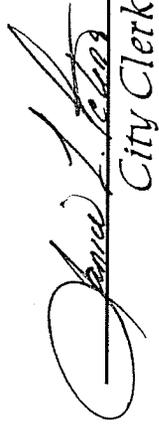
ANTHONY & SHARON PEDONESI

609 E Fort Dade Avenue, Brooksville, Florida 34601

Presented this 20th day of July, 2009.



Mayor



City Clerk

City of Brooksville

Proclamation

WHEREAS, the City of Brooksville is so very proud to host the Dixie Softball, Inc., Girls Softball Fast-Pitch State Championship at Tom Varn Park July 2 – 7, 2009; and

WHEREAS, Dixie Softball, Inc. is primarily a youth softball program for girls eighteen (18) years of age and younger, playing on a scaled-down diamond to meet the physical development of the growing child and to provide a recreation outlet for as many as possible with emphasis on local league play rather than tournament play; and

WHEREAS, the City of Brooksville would like to take this opportunity to recognize the hard work and determination of the teams who participated.

NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, JOE BERNARDINI, MAYOR, do hereby recognize the accomplishments of the

West Pasco Darlings

on being State Champs of the 7-8 year-old Darlings division and wish them well in the upcoming World Series.

FURTHER, we extend our congratulations and express our deep pride to all the winning teams in the 2009 State Championship event.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Brooksville to be affixed this 20th day of July, 2009.

CITY OF BROOKSVILLE

Joe Bernardini, Mayor

Lara Bradburn, Vice Mayor

Joseph E. Johnston, III, Council Member

Richard E. Lewis, Council Member

David Pugh, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk

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NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, JOE BERNARDINI, MAYOR, do hereby recognize the accomplishments of the

Spring Hill Angels

on being State Champs of the 9-10 year-old Angels division and wish them well in the upcoming World Series.

FURTHER, we extend our congratulations and express our deep pride to all the winning teams in the 2009 State Championship event.

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NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, JOE BERNARDINI, MAYOR, do hereby recognize the accomplishments of the

Belleview Ponytails

on being State Champs of the 11-12 year-old Ponytails division and wish them well in the upcoming World Series.

FURTHER, we extend our congratulations and express our deep pride to all the winning teams in the 2009 State Championship event.

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NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, JOE BERNARDINI, MAYOR, do hereby recognize the accomplishments of the

Mulberry Belles

on being State Champs of the 13-15 year-old Belles division and wish them well in the upcoming World Series.

FURTHER, we extend our congratulations and express our deep pride to all the winning teams in the 2009 State Championship event.

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WHEREAS, the City of Brooksville would like to take this opportunity to recognize the hard work and determination of the teams who participated.

NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, JOE BERNARDINI, MAYOR, do hereby recognize the accomplishments of the

West Pasco Debs

on being State Champs of the 16-18 year-old Debs division and wish them well in the upcoming World Series.

FURTHER, we extend our congratulations and express our deep pride to all the winning teams in the 2009 State Championship event.

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Richard E. Lewis, Council Member

David Pugh, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk



Memorandum

To: Honorable Mayor and City Council Members

Via: T. Jennene Norman-Vacha, City Manager

From: Janice L. Peters, City Clerk

Subject: Miscellaneous City Wide Surplus Equipment

Date: June 26, 2009

Various departments throughout the City have submitted a list of property determined to be obsolete, inoperative or otherwise no longer feasible in the City.

A joint County/School Board/City auction is tentatively scheduled for September/October 2009. With Council's approval, items will be forwarded for inclusion of the auction.

All computer/electronic items have been reviewed by Hernando County Technology Services on June 24, 2009 and approved for surplus.

Financial Impact

All saleable items will be delivered to the auction site compound at the School Board Offices. The items that can be put together and sold as one pallet will be combined and the remainder of pieces of equipment will be sold as is. Revenues received will be deposited in the appropriate revenue fund. Any items determined to have no value will be disposed of at the County landfill.

Legal Impact

City Council has the authority to declare items surplus it deems no longer useable.

Recommendation

City Council to declare items included on the attached departmental lists "surplus" and authorize the City Manager to dispose of through joint auction or as appropriate.

CITY HALL – City Manager’s Office, Development, and Finance Departments:

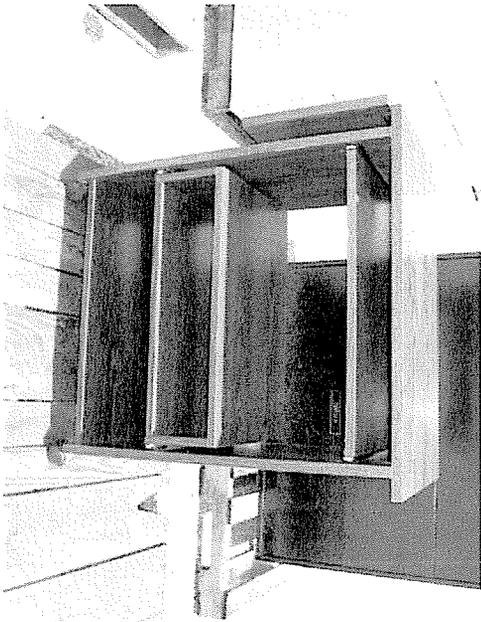
1	Laminate wood typewriter/computer rolling cart
2	Laminate wood rolling/locking cabinet
3	2 tier “retro” metal table
4	Laminate wood table
5	Laminate wood entertainment center (computer desk)
6	Laminate wood rolling printer cart
7 & 7b	(4) 2 drawer black file cabinets
8	Laminate wood desk
9	Laminate wood printer cart
10	Brother typewriter
11 & 11b	(2) metal file sorters – black
12	Box of assorted used binders
13 & 14	Step file sorter – stainless steel, wall pockets – clear, black, wrist pad, brown & black stapler, TV wall bracket
15	Plastic hanging file holder – gray
16	Laminate wood small bookshelf
17	(10) index card file drawers – gray metal
18	(2) rolling chairs
19	Wall mounted multi slot document holder or mailbox
20	Hanging clothes/luggage rack – stainless steel
21	Laminate wood entertainment center (computer desk)
22	Wooden desk
23 & 24	1 - wood & 1 - metal desk fell off the pallet during transfer from parking into the warehouse by County Surplus staff and will no longer be able to be sold at the auction. Those items will be sent to the landfill.
25	Box of assorted modems/wireless internet connectors
26	Flat screen monitor (burnt out – does not work)
27, 28, 29, 68, 69	(7) monitors (black & white)
30 & 30b	HP Laserjet 2100 with toner cartridge F/A #01344
31	(3) sets of speakers
32	HP Deskjet 1220c (color printer – does not work) Conf. #4246 Serial #SG09313070
33	Epson DFX 5000+ (green bar printer - outdated) F/A #01342
34	HP 2500 (color printer – does not feed paper)
35	3-4 foot metal table
36	Laminate wood computer desk
37	Laminate wood shelf for top of desk
38	Green bar printer stand with paper
39	(2) document tray holders – green metal / Printer cart – metal & wood
40	(13) key boards
41	(2) desk mountable heaters – brown
42 & 42b	(2) battery backups / (4) battery backups – (3) black, (1) white
43	(4) cassette tape boxes – brown
44	Box of miscellaneous cd’s/books (software related)
45	Brother typewriter
46	Monitor screen magnifier
47	HP Officejet fax/copier F/A #00014
48	DVD/CD tower– black plastic

49	(6) "in-box" document trays, day/alpha document sorter – blue
50	Phone stand – clear plastic, clear plastic magazine holder, plastic black document sorter
51	(2) wire "in-box" document trays – black
52	Wall mounted time card slot holder
53, 53b, 53c	(5) Inter-tel phones
54	HP Officejet 4110 all-in-one
55	Box of (4) headsets, 1 black intertel phone, tan phone, speakers, misc. cables
56	Box of (4) plastic "in-box" document trays and (2) plastic monitor stands
57	Box of (6) plastic "in-box" document trays, plastic magazine holder, (4) plastic wall pockets
58	(2) month dry erase boards (18x24 or smaller)
59	Dry erase board (18x24 or smaller)
60	Cork board (18x24 or smaller)
61	Box containing electric pencil sharpener, plastic file/document sorter, (5) "in-box" document trays - plastic, rolodex
62	Box of (7) "in-box" document trays – plastic
63	(4) boxes of hanging (green) file folders
64	HP Officejet V40
65	Box of misc. floppy disks, VCR tapes, box of continuous feed paper
66	Box of misc. cables & time clock
67	Box of "in-box" document trays – black plastic, phone stand – clear plastic, metal 3-hole punch
68 & 69	SEE #27-29
70	Monitor stand
71	TDD phone F/A #00035
72	Small DVD card box – plastic, metal 3-hole punch
73 & 74	(2) boxes of assorted cables & ink cartridges for HP 2500 printer

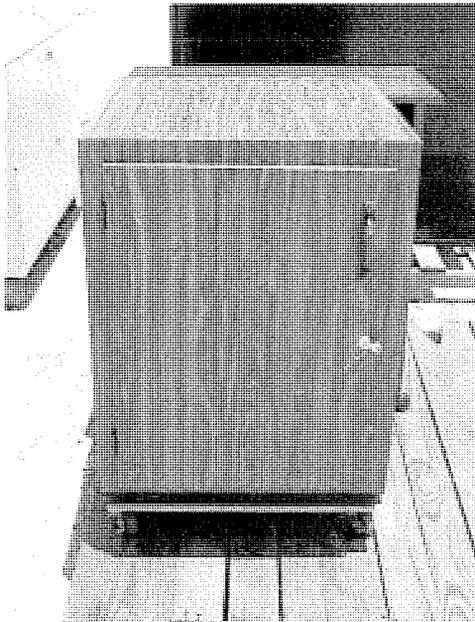
POLICE DEPARTMENT:

PD – 1	(1) black lateral filing cabinet
PD – 2	(2) tan lateral filing cabinets
PD – 3	Herman Miller modular office components
PD – 4 & PD – 5	(5) rolling office chairs & (13) stationary chairs

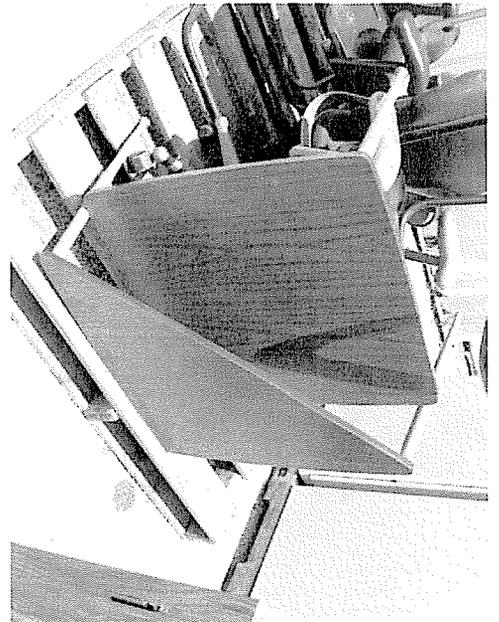
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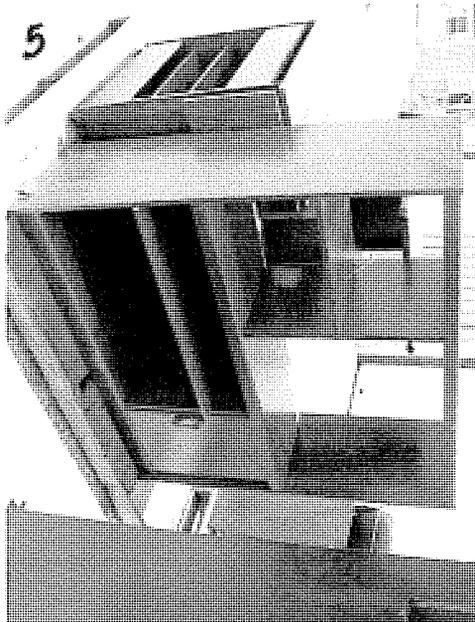
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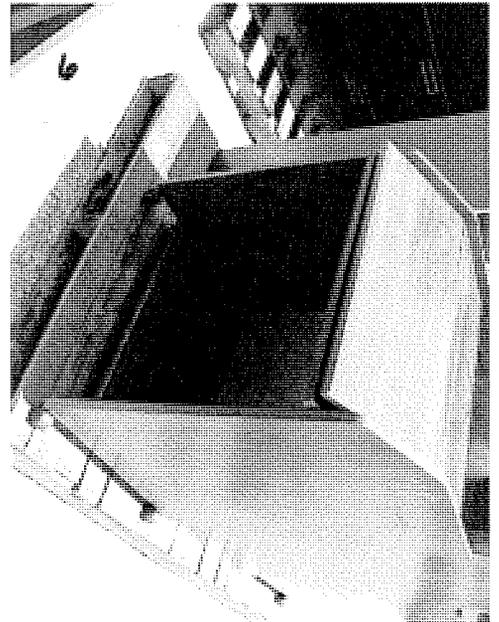
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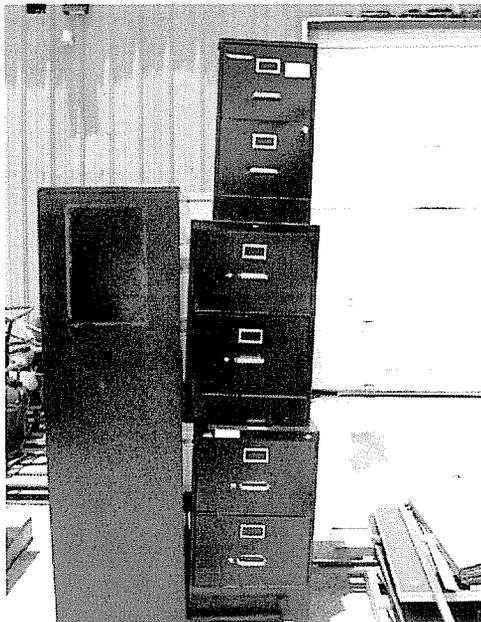
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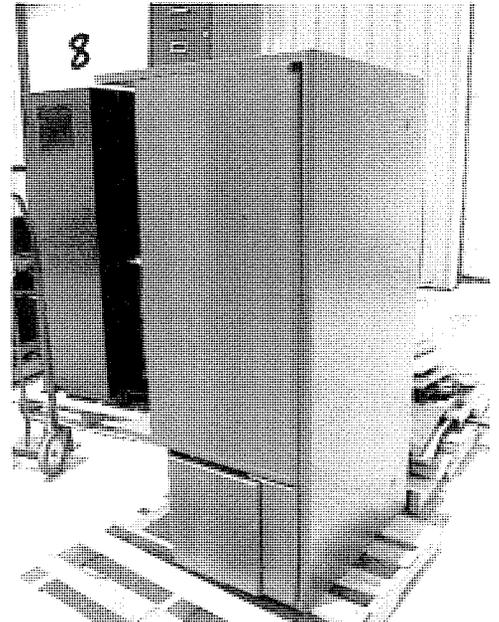
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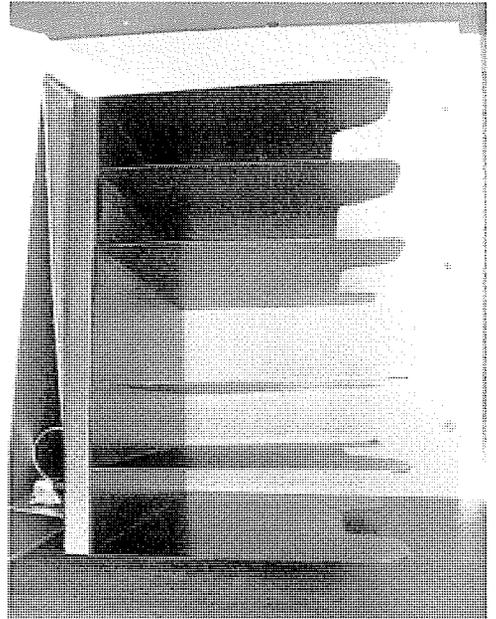
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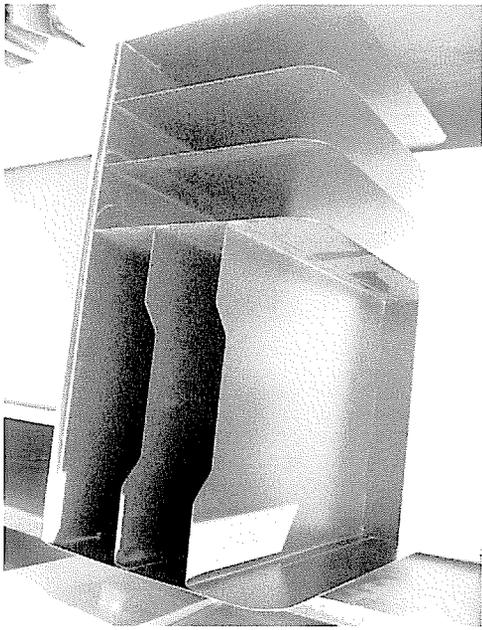
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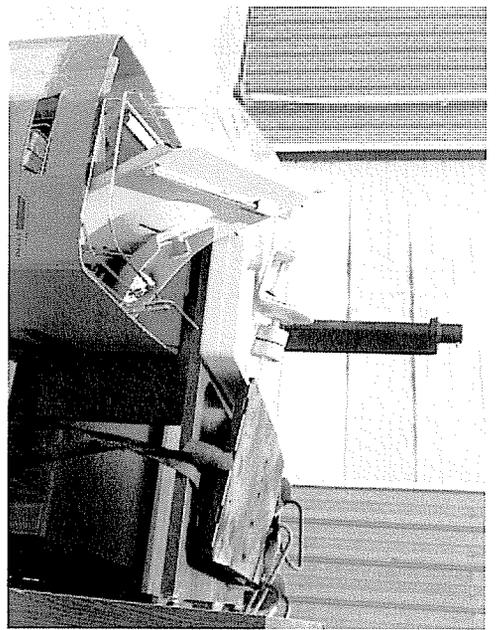
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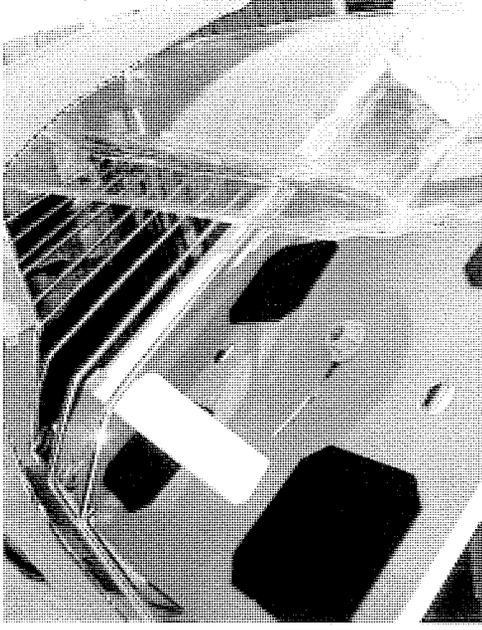
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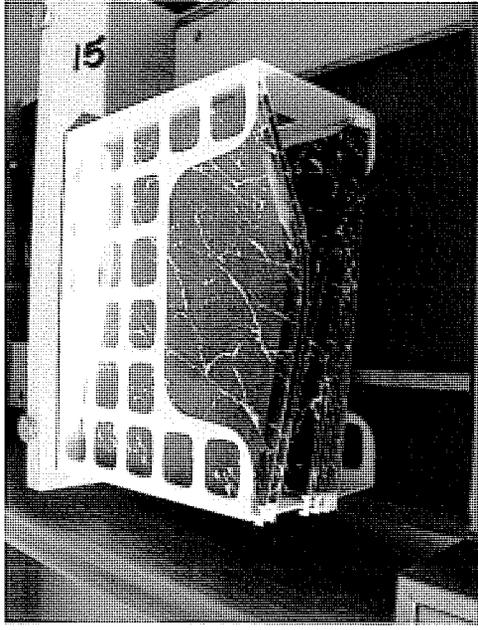
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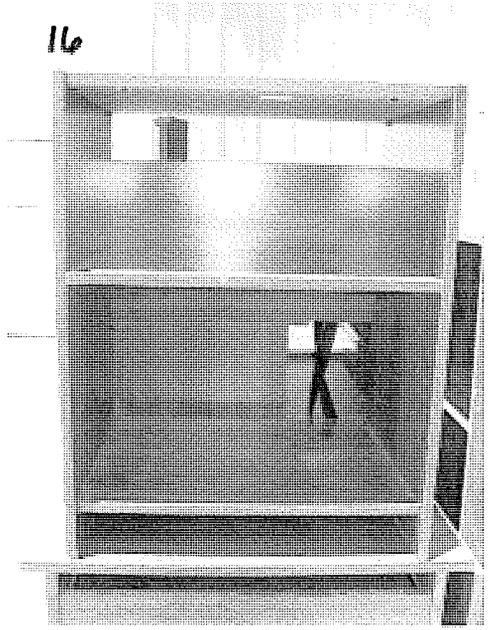
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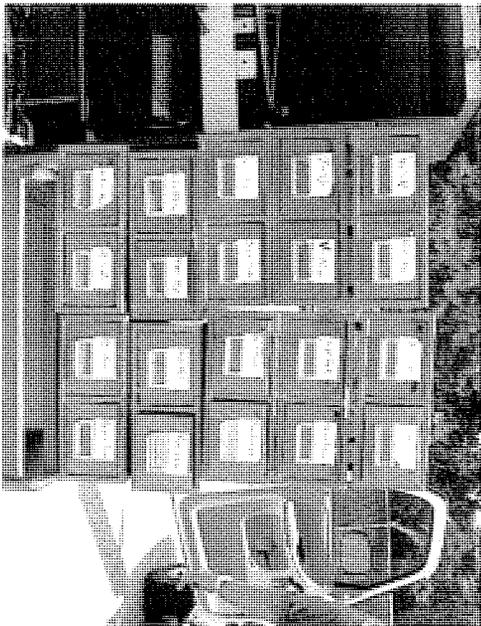
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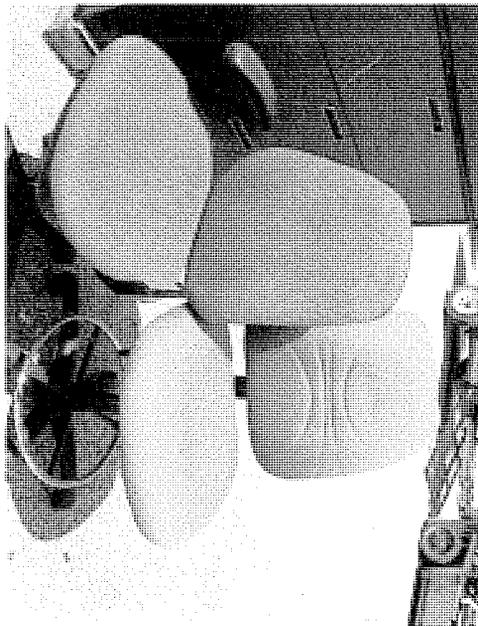
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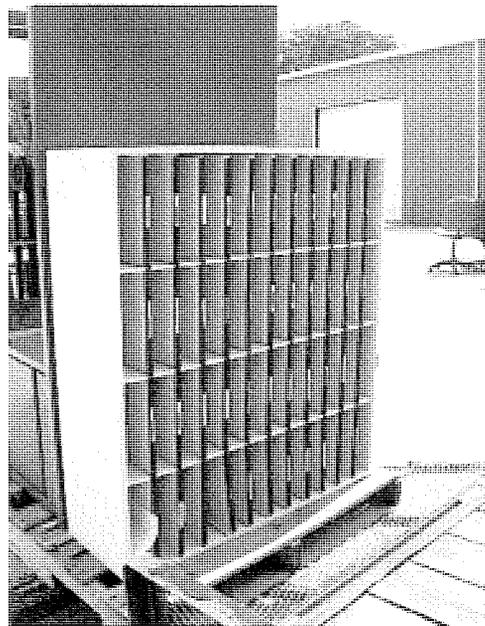
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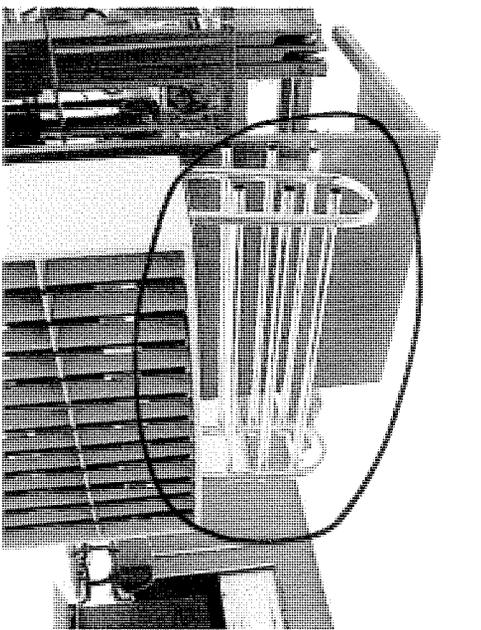
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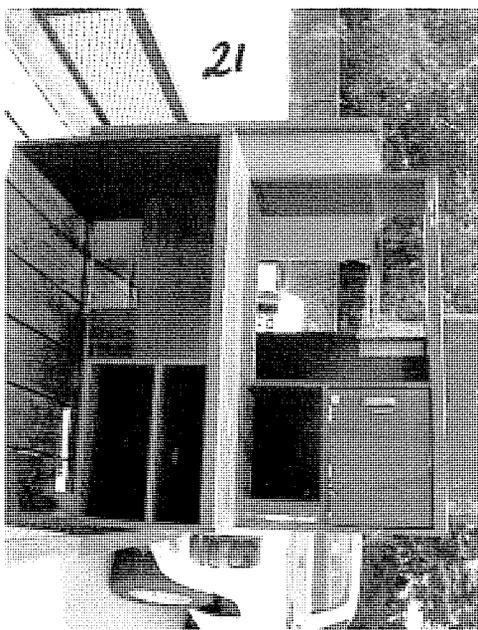
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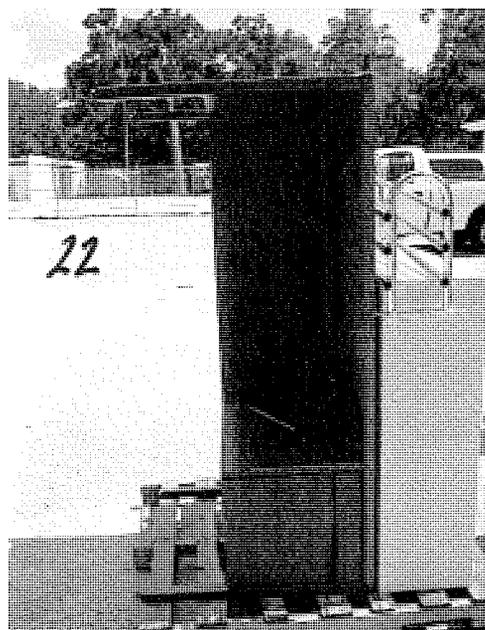
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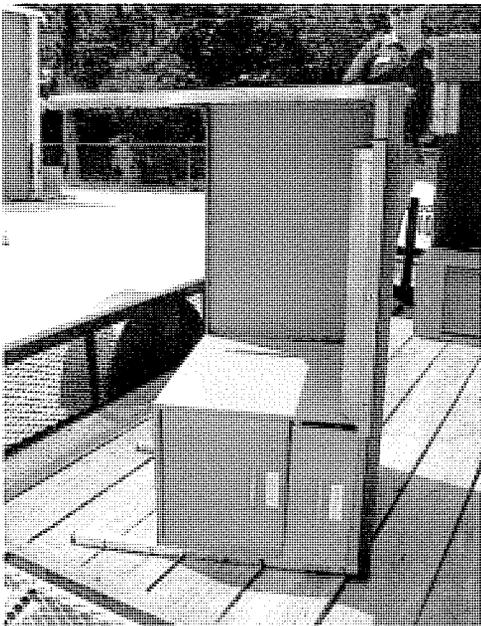
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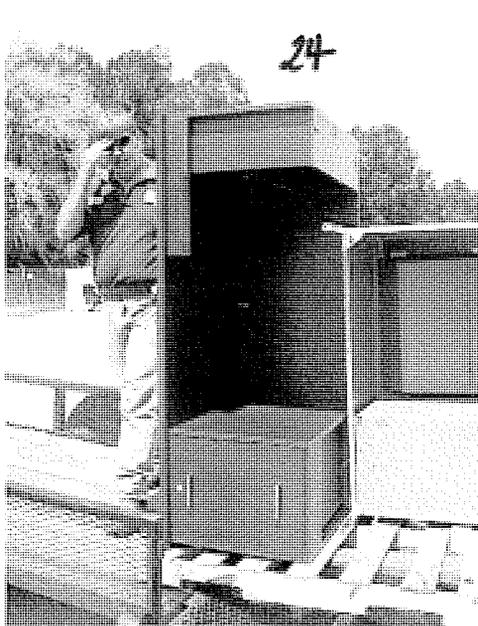
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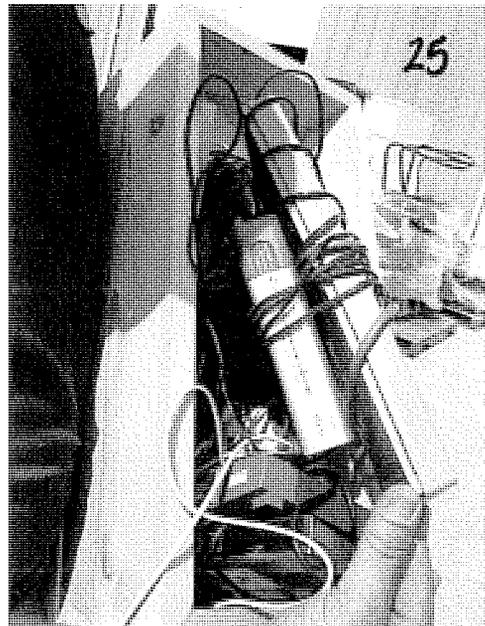
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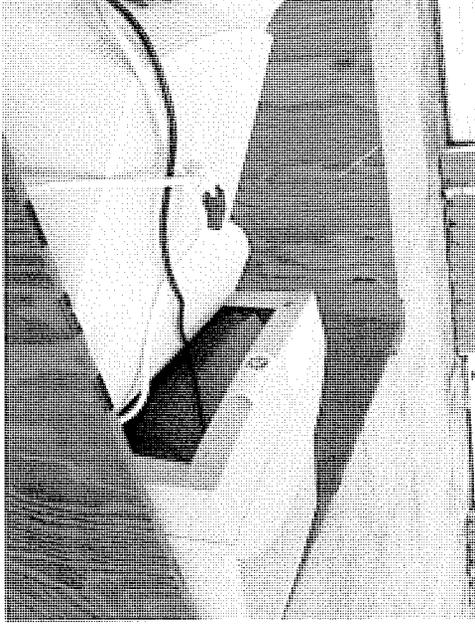
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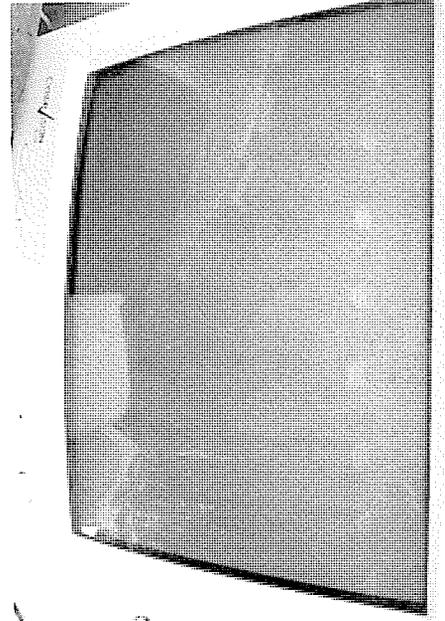
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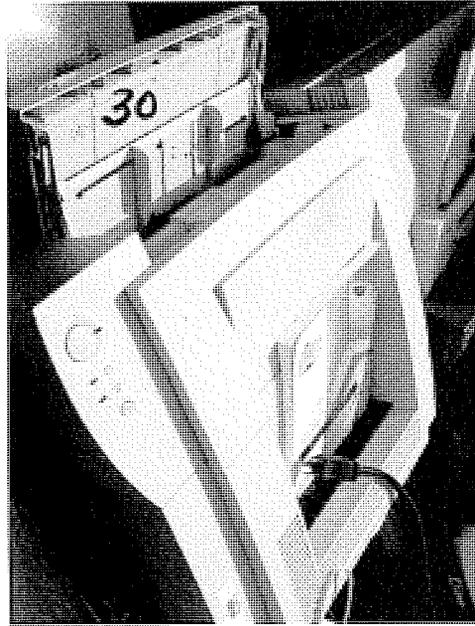
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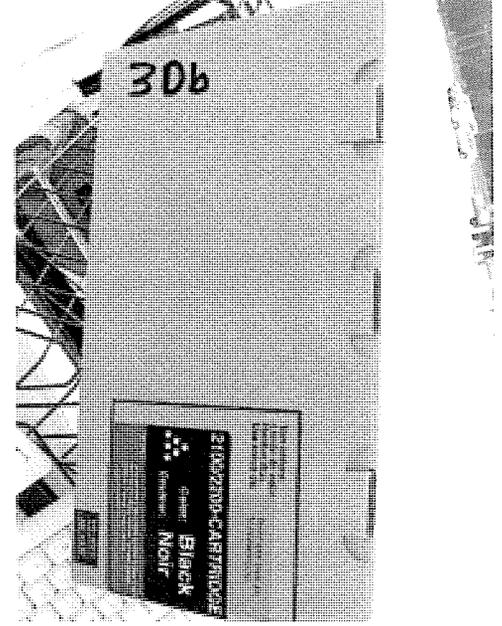
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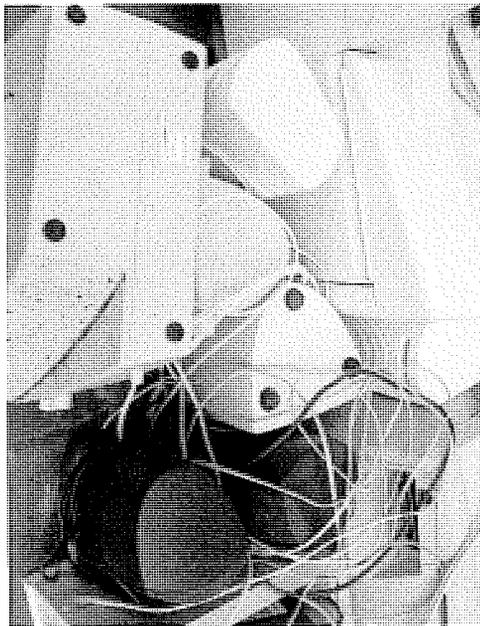
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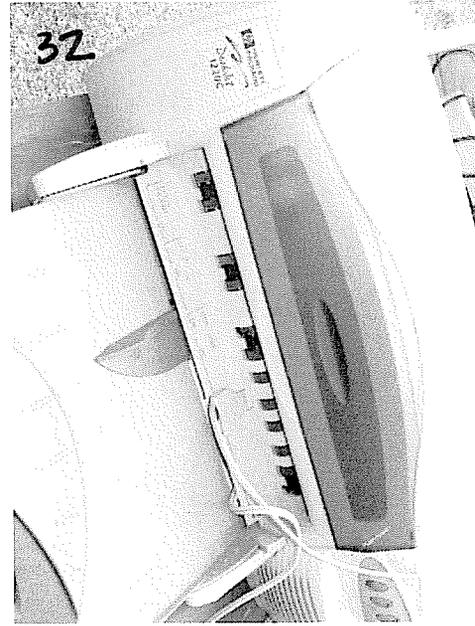
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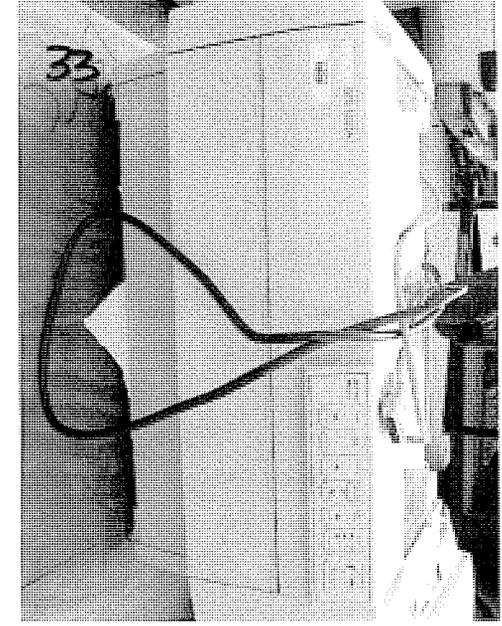
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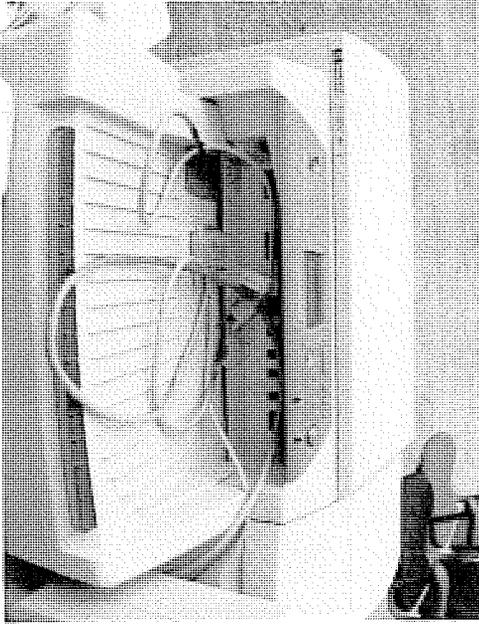
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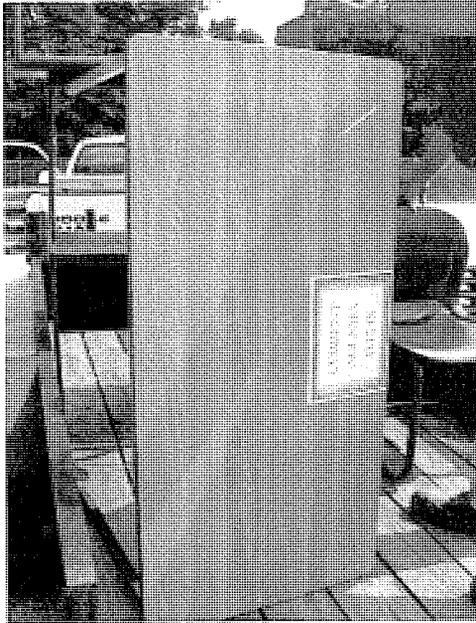
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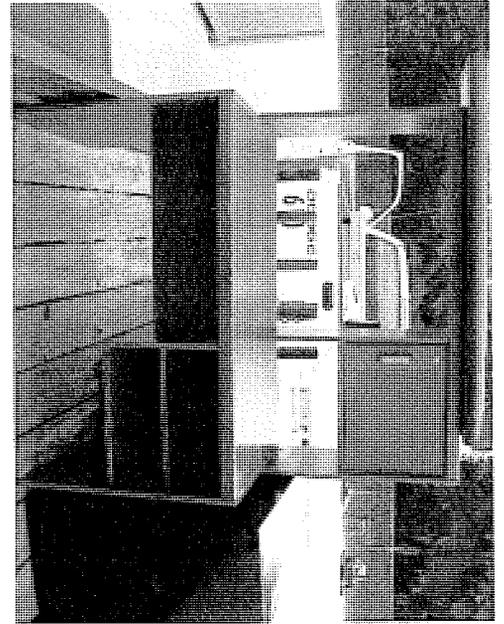
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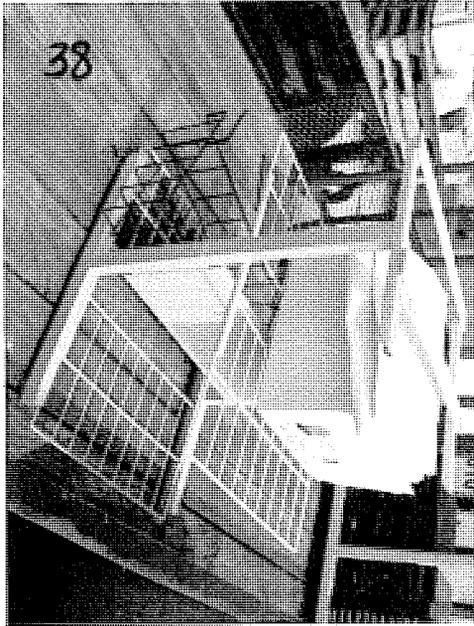
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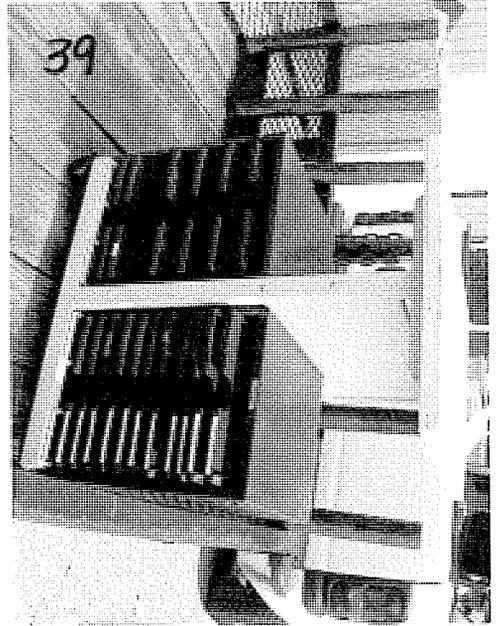
37



38



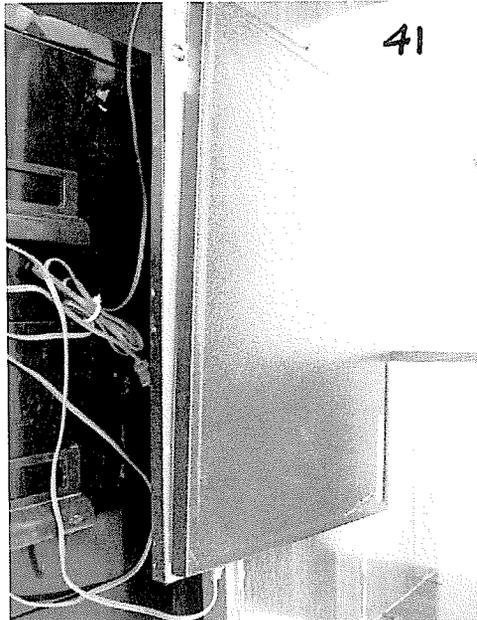
39



40



41



42



42b



43



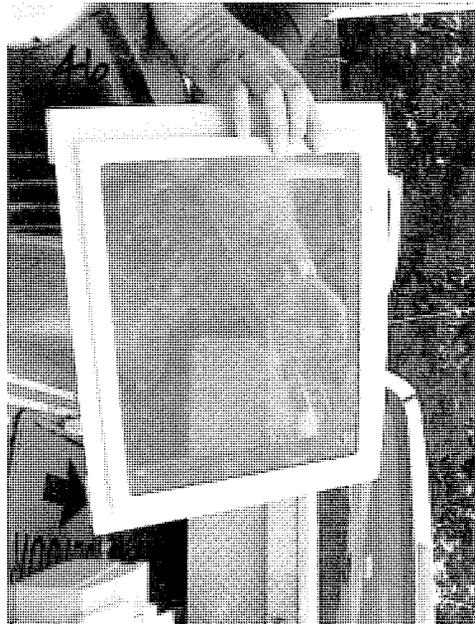
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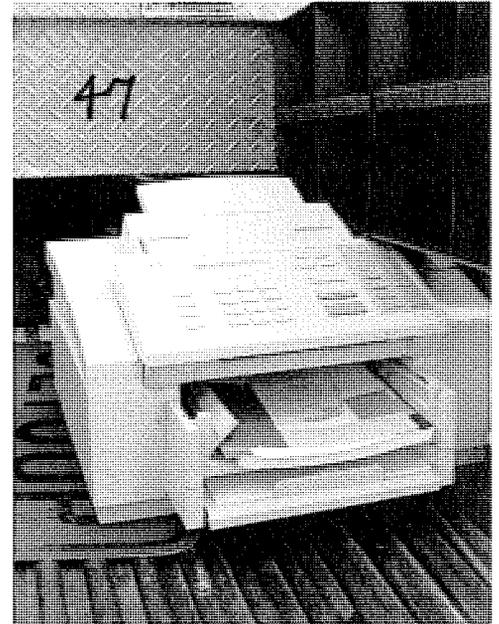
45



46



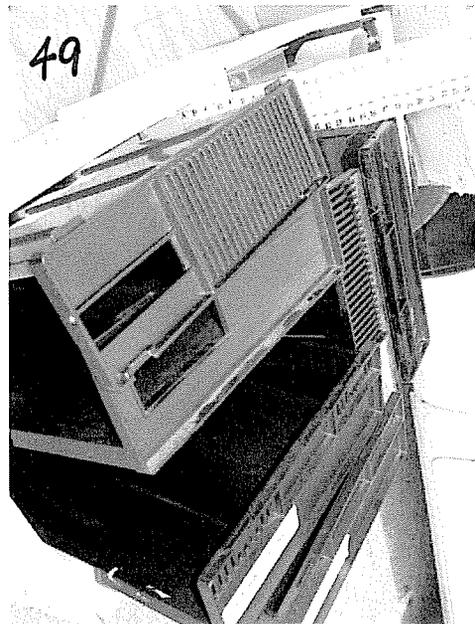
47



48



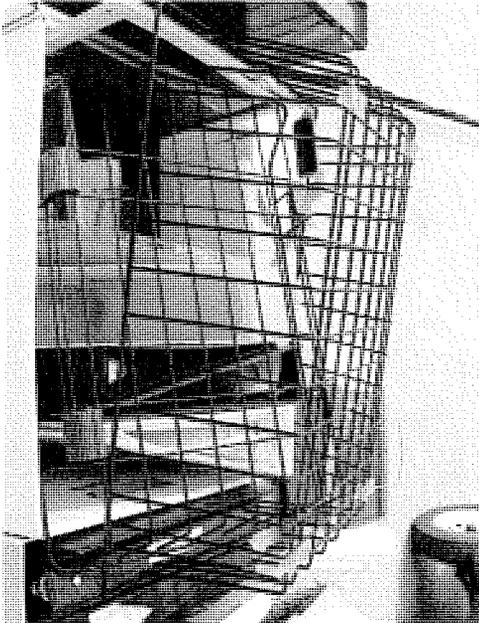
49



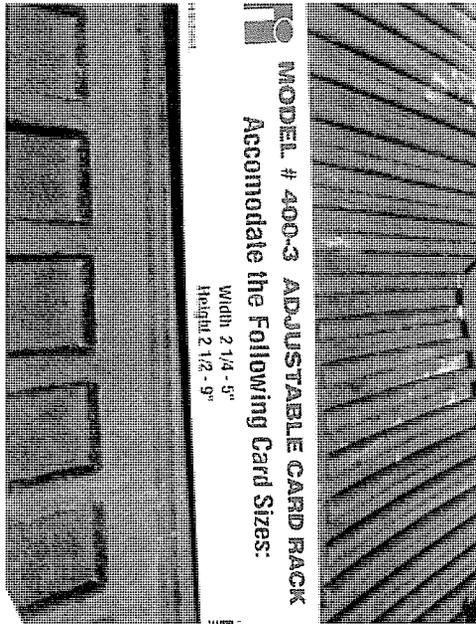
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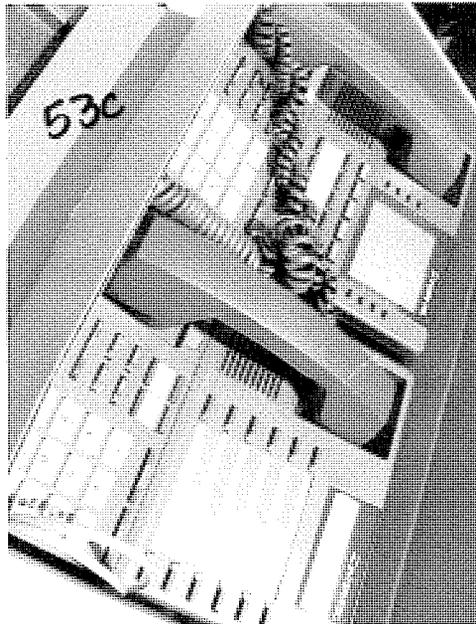
51



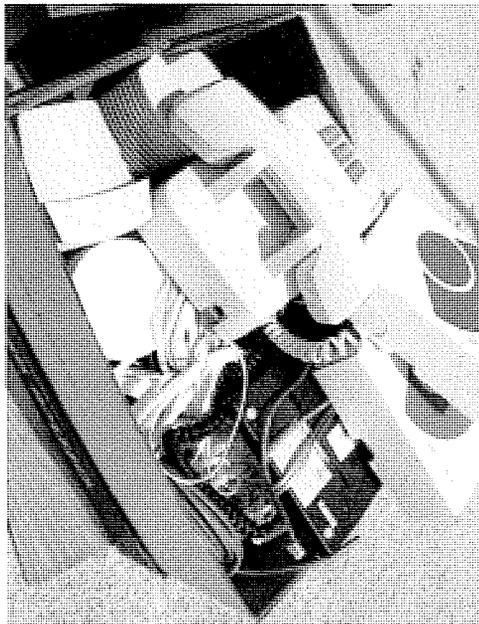
52



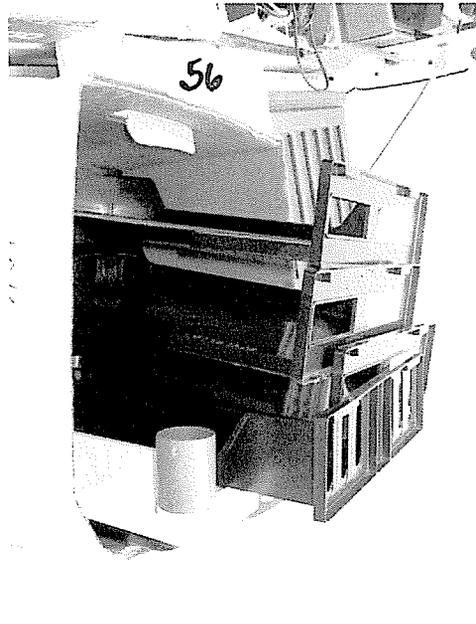
53



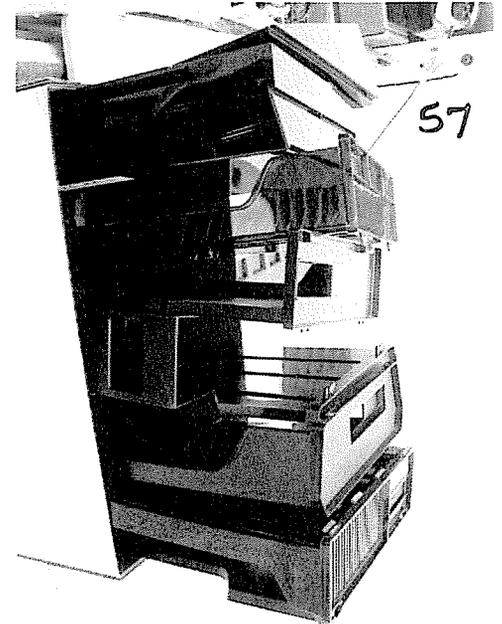
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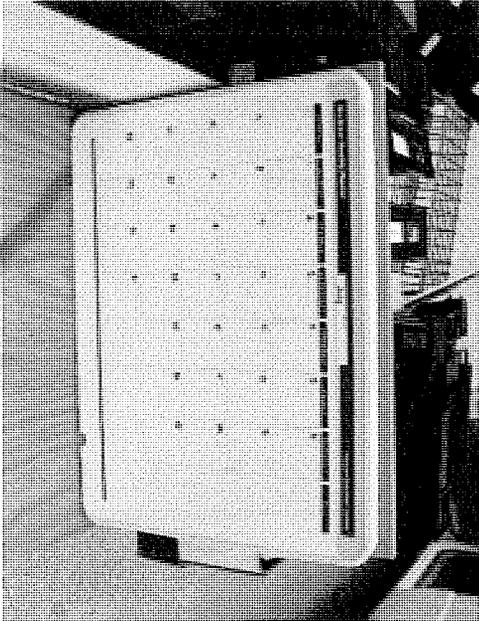
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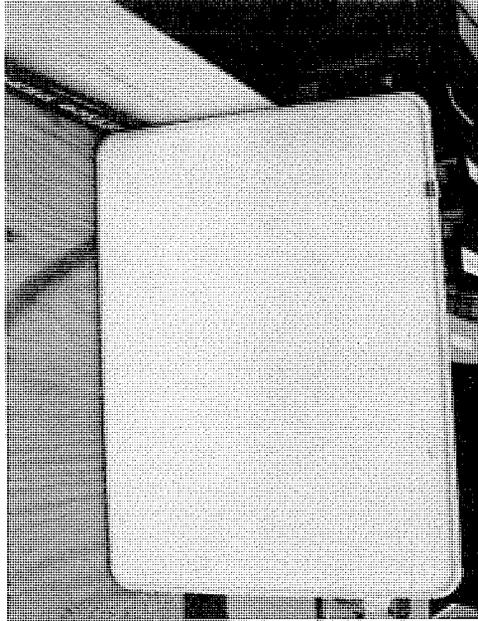
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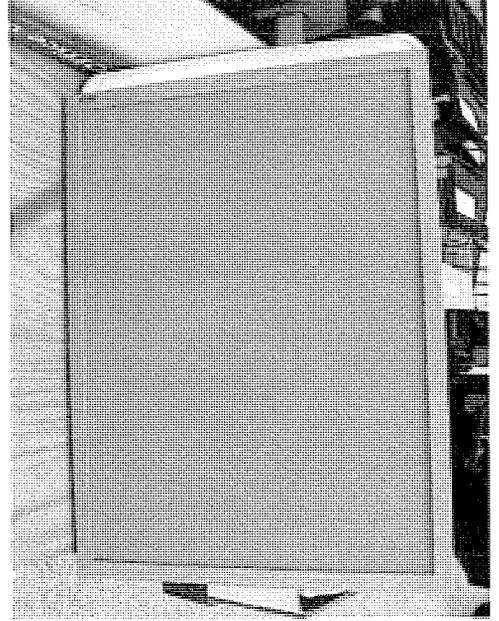
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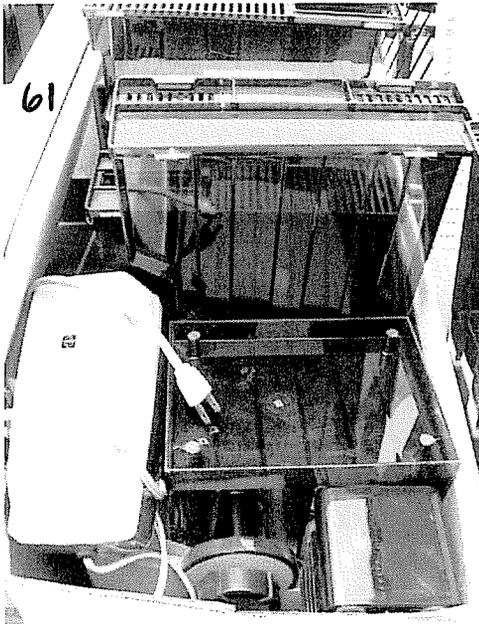
59



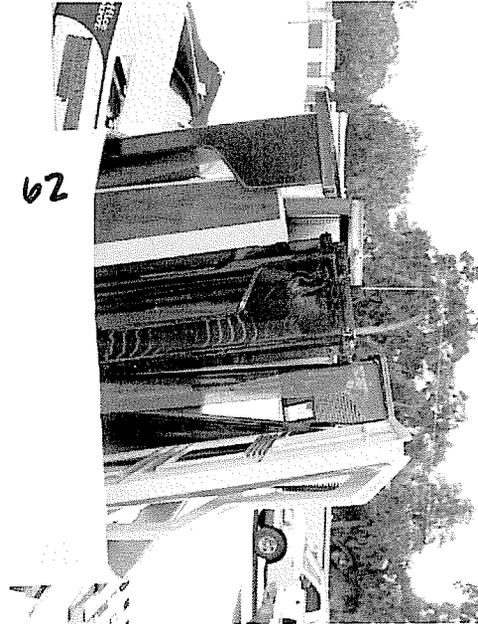
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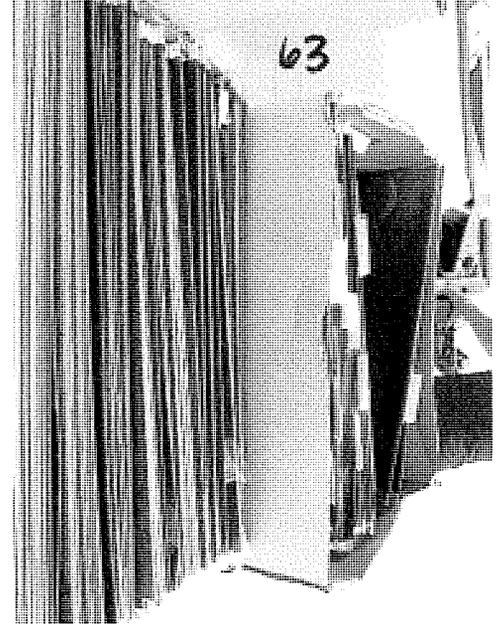
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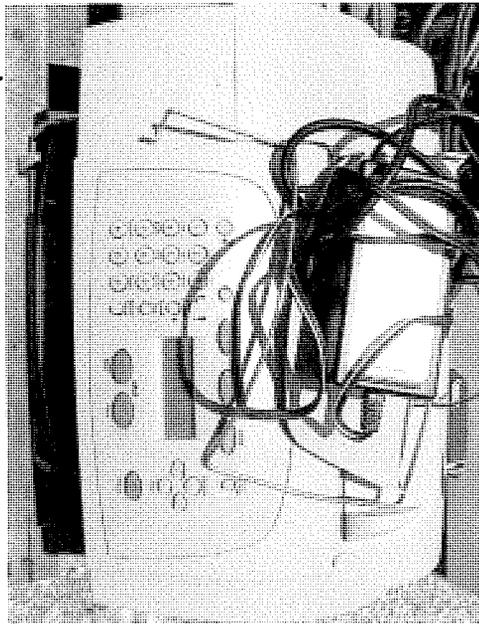
62



63



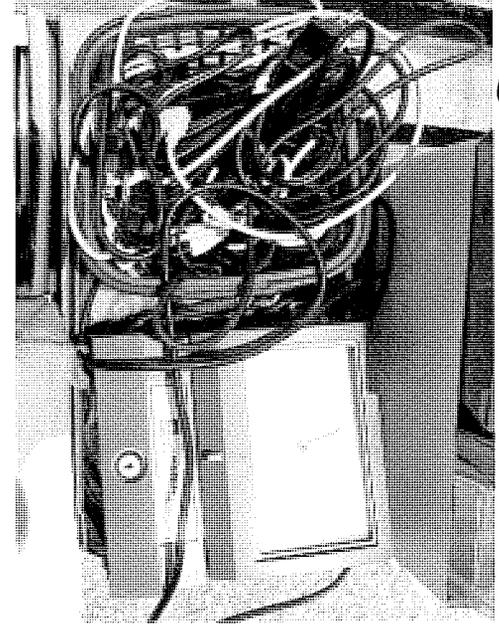
64



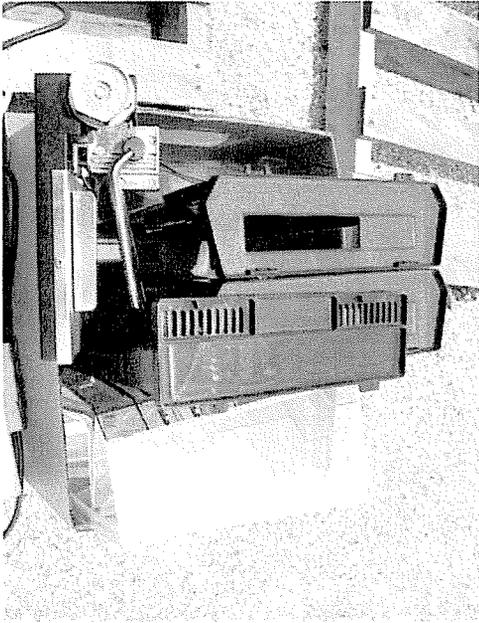
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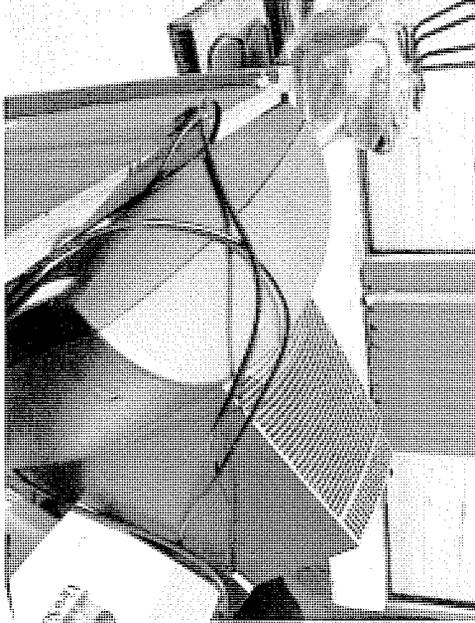
66



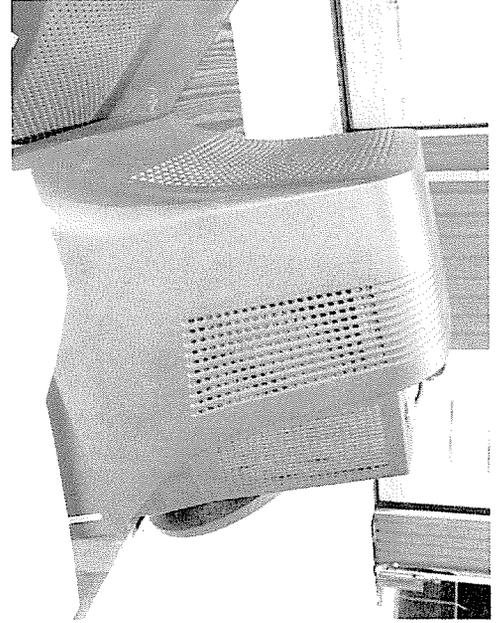
67



68



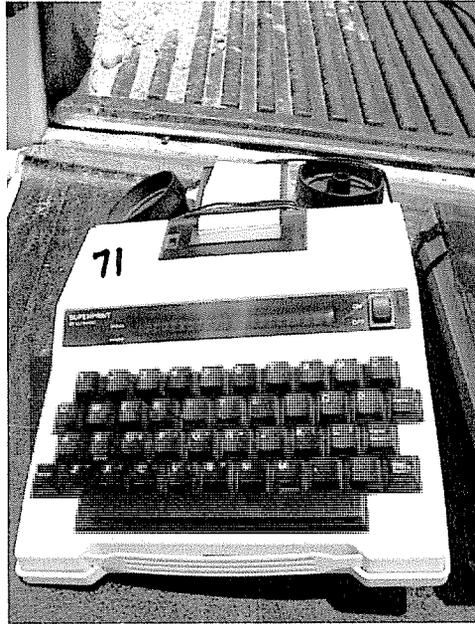
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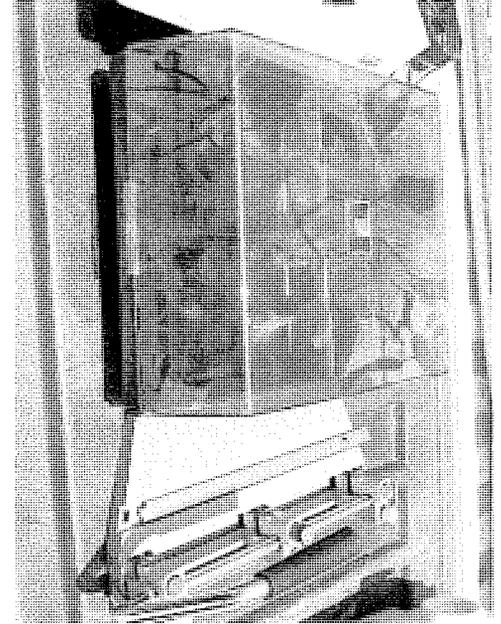
70



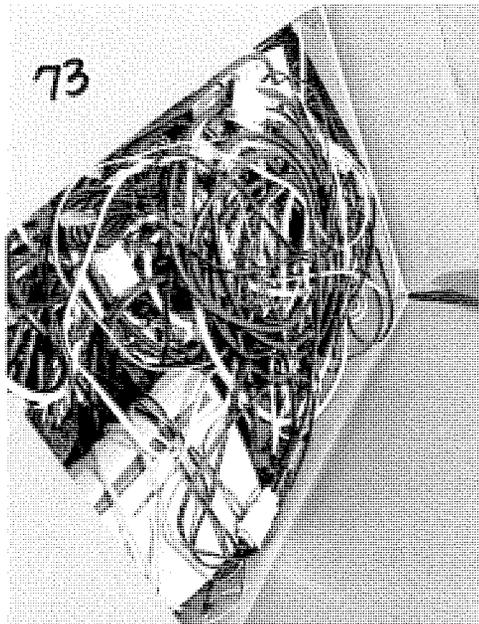
71



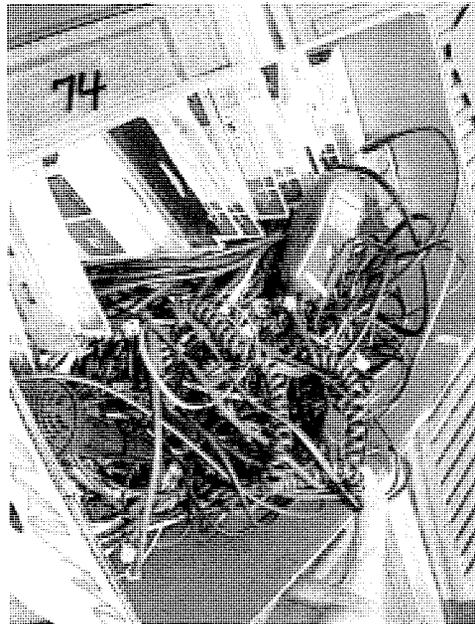
72



73



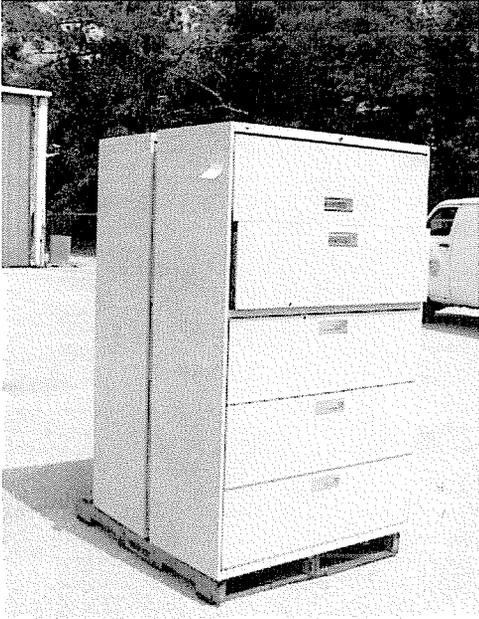
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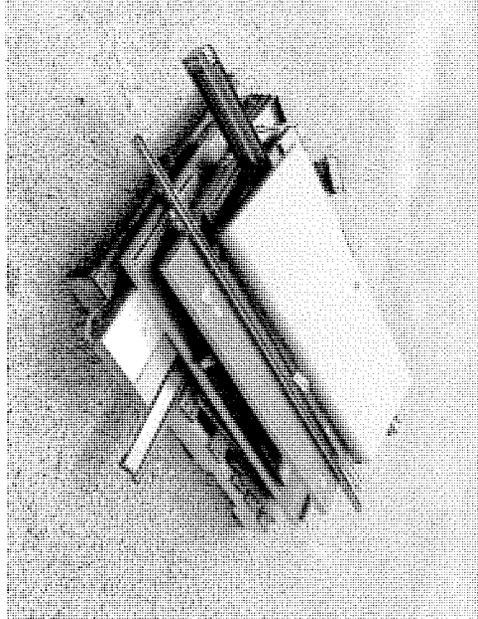
7D-1



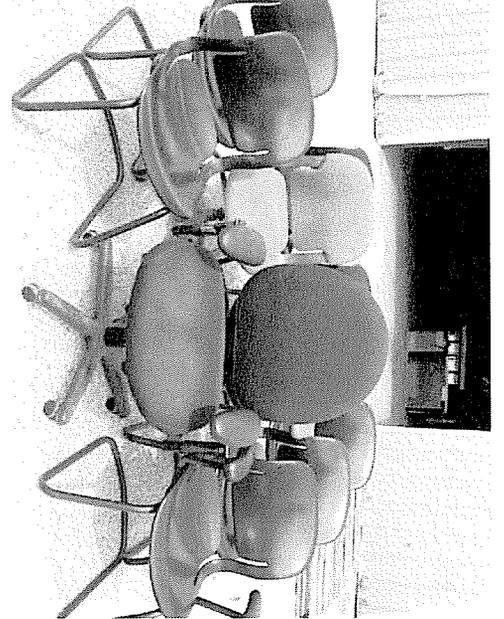
PD-2



PD-3



PD-4



PD-5



Miscellaneous
July 2009

<u>Mfg</u>	<u>Model</u>	<u>Serial Number</u>
HP	Laserjet 2100	USCD045315
HP	Officejet 4110	MY34MB103W
Dell	Monitor	CN-0P0151-64180-5AL-045X
Viewsonic	Monitor	DH84901376
Miracle	Monitor	K99041361 MT209
Cybervision	Monitor	J01003100057
Viewsonic	Monitor	70A0129055370
HP	2500CT	SG04R83084
HP	Officejet	SG53SG20DC
Epson	DFX-5000+	1MW0067953
Planar	Monitor	AG620H21305
HP	Deskjet	SG0931307Q

COB Misc

23 – Monitors
1 box – speakers

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing.	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____ 000-023
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Computer _____
 Manufacturer and Model _____ Clone _____
 Identification or Serial Number _____ 11308966 _____

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 10.00 _____

(Poor, Fair, Good, New)
 Reason For Action _____ Obsolete _____
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound: _____	(Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____ 011-017
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Computer _____
 Manufacturer and Model _____ Clone _____
 Identification or Serial Number _____ ECDG020520 _____

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 10.00 _____
 (Poor, Fair, Good, New)

Reason For Action _____ Obsolete _____
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound: _____	(Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____ 020-066
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Computer _____
 Manufacturer and Model _____
 Identification or Serial Number _____ 11644472

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 10.00

(Poor, Fair, Good, New)
 Reason For Action Obsolete
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound: _____	(Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____ N/A
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Monitor _____
 Manufacturer and Model _____ Hyundai Image Quest L50A
 Identification or Serial Number _____ L520AA024300728

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 5.00
 (Poor, Fair, Good, New)

Reason For Action _____ Obsolete _____
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:



To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound:	_____ (Date)
Received By:	_____
Form I-2 Received by Purchasing:	_____
Signature:	_____
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)

Auction: X Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____ 011-070
 X Delete From: Dent Name _____ Dept No _____
 X Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Computer
Manufacturer and Model _____ Biostar
Identification or Serial Number _____ M7VKQ

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor

Purchase Price \$ _____
(To Include Shipping Charges)

Trade In (If Applies) _____
Current Condition _____ Poor _____ Current Estimated Value \$ _____ 15.00

(Poor, Fair, Good, New)
Reason For Action _____ Obsolete

(No longer needed, Obsolete, Vandalized)

Notes: _____
(Too costly to repair, Used for parts, Upgraded)

Date Deletion/Transfer to be Effective: _____

Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:

Equipment Received at Compound: _____
(Date)
Received By: _____
Form I-2 Received by Purchasing: _____
Signature: _____
Purchasing Agent or Authorized Purchasing Employee

Disposal Type (Check One)

Auction: X Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____

X Delete From: Dept Name _____ Dept No _____
 X Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Server _____
Manufacturer and Model _____ SuperMicro SuperServer 6022C
Identification or Serial Number _____ BB0G44305D5

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor _____

Purchase Price \$ _____
(To Include Shipping Charges)

Trade In (If Applies) _____
Current Condition Poor Current Estimated Value \$ 25.00

(Poor, Fair, Good, New)
Reason For Action Obsolete

(No longer needed, Obsolete, Vandalized)
Notes: _____

(Too costly to repair, Used for parts, Upgraded)
Date Deletion/Transfer to be Effective: _____

Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound: _____	(Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)

Auction: X Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No	_____
Item No	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____ 013-062
 X Delete From: Dept Name _____ Dept No _____
 X Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Computer
Manufacturer and Model _____ Compaq
Identification or Serial Number _____ U225JYFZA048

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor

Purchase Price \$ _____

(To Include Shipping Charges)

Trade In (If Applies) _____

Current Condition Poor Current Estimated Value \$ 10.00

(Poor, Fair, Good, New)

Reason For Action Obsolete

(No longer needed, Obsolete, Vandalized)

Notes: _____

(Too costly to repair, Used for parts, Upgraded)

Date Deletion/Transfer to be Effective: _____

Signature

Position

Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:

Equipment Received at Compound: _____
(Date)
Received By: _____
Form I-2 Received by Purchasing: _____
Signature: _____
Purchasing Agent or Authorized Purchasing Employee

Disposal Type (Check One)

Auction: Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____ 013-058
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Computer _____
Manufacturer and Model _____ Unknown _____
Identification or Serial Number _____ N/A _____

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor _____

Purchase Price \$ _____
(To Include Shipping Charges)

Trade In (If Applies) _____

Current Condition _____ Poor _____ Current Estimated Value \$ _____ 10.00

(Poor, Fair, Good, New)

Reason For Action _____ Obsolete _____

(No longer needed, Obsolete, Vandalized)

Notes: _____

(Too costly to repair, Used for parts, Upgraded)

Date Deletion/Transfer to be Effective: _____

Signature

Position

Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:

Equipment Received at Compound:	_____
	(Date)
Received By:	_____
Form I-2 Received by Purchasing:	_____
Signature:	_____
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)

Auction: X Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____

X Delete From: Dept Name _____ Dept No _____
 X Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Computer _____
Manufacturer and Model _____ Unknown _____
Identification or Serial Number _____ D72500242500669 _____

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor _____

Purchase Price \$ _____
(To Include Shipping Charges)

Trade In (If Applies) _____

Current Condition Poor Current Estimated Value \$ 15.00

(Poor, Fair, Good, New)

Reason For Action Obsolete

(No longer needed, Obsolete, Vandalized)

Notes: _____

(Too costly to repair, Used for parts, Upgraded)

Date Deletion/Transfer to be Effective: _____

Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing	
Equipment Received at Compound: _____	_____ (Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing.	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____
 Delete From: Dept Name _____ Dept No _____
 Transfer to: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Computer _____
 Manufacturer and Model _____ Gateway ATX Tower TB3 GP7 - 750
 Identification or Serial Number _____ 18802224

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 15.00

(Poor, Fair, Good, New)
 Reason For Action _____ Obsolete _____

(No longer needed, Obsolete, Vandalized)
 Notes: _____

(Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound.	_____ (Date)
Received By:	_____
Form I-2 Received by Purchasing:	_____
Signature:	_____
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)

Auction: X Trash: _____
Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

City Inventory - Form I-2
(Deleting Tangible Property)

City of Brooksville Assigned Property Number: _____ 020-056 (00706)
 X Delete From: Dept Name _____ Dept No _____
 X Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
Year _____ Owned _____ Leased _____
Description of Equipment _____ Computer _____
Manufacturer and Model _____ BCD _____
Identification or Serial Number _____

For All Automobiles, Trucks and Construction Equipment:

Odometer or Hour Reading _____
License Tag Number _____ (If Applicable)

Purchased From _____
Name of Vendor _____

Purchase Price \$ _____
(To Include Shipping Charges)

Trade In (If Applies) _____

Current Condition Poor Current Estimated Value \$ 15.00

(Poor, Fair, Good, New)

Reason For Action Obsolete

(No longer needed, Obsolete, Vandalized)

Notes: _____

(Too costly to repair, Used for parts, Upgraded)

Date Deletion/Transfer to be Effective: _____

Signature

Position

Date

Remove property tag from equipment and attach here:



To Be Completed By Hernando County Purchasing.	
Equipment Received at Compound:	_____
	(Date)
Received By:	_____
Form I-2 Received by Purchasing:	_____
Signature:	_____
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Computer _____
 Manufacturer and Model _____ Chip Tech PIII 800Mhz _____
 Identification or Serial Number _____

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Poor _____ Current Estimated Value \$ _____ 10.00

(Poor, Fair, Good, New)
 Reason For Action _____ Obsolete _____
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here:

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound: _____	(Date)
Received By: _____	
Form I-2 Received by Purchasing: _____	
Signature: _____	
Purchasing Agent or Authorized Purchasing Employee	

Disposal Type (Check One)
 Auction: Trash: _____
 Trade In: _____ Stolen: _____

To Be Completed By	
Hernando County Purchasing:	
Sale No.	_____
Item No.	_____

**City Inventory - Form I-2
 (Deleting Tangible Property)**

City of Brooksville Assigned Property Number: _____
 Delete From: Dept Name _____ Dept No _____
 Transfer To: Disposable Property Status _____

EQUIPMENT DESCRIPTION:

Purchase Date _____ (Date of Payment)
 Year _____ Owned _____ Leased _____
 Description of Equipment _____ Switch _____
 Manufacturer and Model _____ 3Com Switch 4400SE
 Identification or Serial Number _____ 7Z5V1L7B15500

For All Automobiles, Trucks and Construction Equipment:
 Odometer or Hour Reading _____
 License Tag Number _____ (If Applicable)

Purchased From _____
 Name of Vendor _____

Purchase Price \$ _____
 (To Include Shipping Charges)

Trade In (If Applies) _____
 Current Condition _____ Fair _____ Current Estimated Value \$ _____ 20.00

(Poor, Fair, Good, New)
 Reason For Action _____ Obsolete _____
 (No longer needed, Obsolete, Vandalized)

Notes: _____
 (Too costly to repair, Used for parts, Upgraded)
 Date Deletion/Transfer to be Effective: _____

 Signature Position Date

Remove property tag from equipment and attach here.

To Be Completed By Hernando County Purchasing:	
Equipment Received at Compound:	_____ (Date)
Received By:	_____
Form I-2 Received by Purchasing:	_____
Signature:	_____
Purchasing Agent or Authorized Purchasing Employee	



AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: GEORGE TURNER, CHIEF OF POLICE
SUBJECT: SURPLUS PROPERTY REQUEST
DATE: JULY 6, 2009

T. Jennene Norman-Vacha
George Turner

GENERAL SUMMARY: The Brooksville Police Department, in the normal course of business, is in possession of seized and/or unclaimed firearms as listed on Schedule A. These firearms are of no evidentiary value, have been unclaimed for six months and sixty days or cannot by reason of law be returned to the owners.

On June 01, 2009 a Petition for Order for the Forfeiture of Firearms was presented and signed by Circuit Judge Jack W. Springstead, Circuit Court of the Fifth Judicial Circuit in and for Hernando County Florida. It was so Ordered that the firearms in the attached Schedule A "are forfeited to the Brooksville Police Department, pursuant to Florida Statutes, for Agency Use."

BUDGET IMPACT: There is no negative budget impact. The forfeited firearms will be either utilized, destroyed, and/or traded to authorized Federal Firearms dealers in exchange for other needed firearms/equipment as allowed by law.

LEGAL REVIEW: Allowed per Florida Statute 790.08(6).

STAFF RECOMMENDATION: Staff recommends approval to surplus said firearms allowing for authorized sale and/or destruction.

ATTACHMENTS: Schedule A, Petition, and Order by Judge Springstead.

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT IN
AND FOR HERNANDO COUNTY
FLORIDA

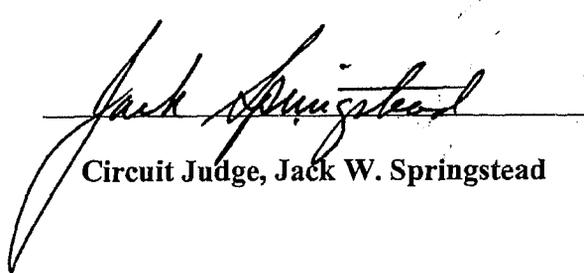
POLICE CHIEF GEORGE B. TURNER, PETITIONER
CITY OF BROOKSVILLE
STATE OF FLORIDA

ORDER

THIS MATTER having come to be heard by petition filed by George B. Turner, Chief of Police, Brooksville, Florida dated June 01, 2009 and the court having considered same, it is hereby

ORDERED that the firearms as set forth in the attached **Schedule A**, are forfeited to the Brooksville Police Department, pursuant to Florida Statutes, for "Agency Use".

DONE and ordered in chambers this 01st day of June, 2009 in Hernando County, Florida.


Circuit Judge, Jack W. Springstead

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT IN
AND FOR HERNANDO COUNTY,
FLORIDA

POLICE CHIEF GEORGE B. TURNER, PETITIONER
CITY OF BROOKSVILLE
STATE OF FLORIDA

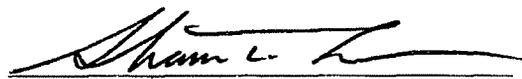
PETITION FOR ORDER FOR FORFEITURE OF FIREARMS

TO: THE HONORABLE JACK W. SPRINGSTEAD, CIRCUIT COURT JUDGE

COMES now, Officer Shawn L. Terry , acting on behalf of George B. Turner, Chief of Police, City of Brooksville, Florida and shows to the court as follows:

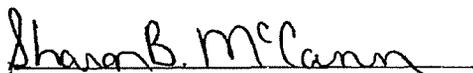
- (1) That he is in possession of the seized or unclaimed firearms set forth on the attached **Schedule A**, and
- (2) That the firearms set forth in the attached **Schedule A**, are of no evidentiary value, have been unclaimed for six months and sixty days or cannot by reason of law be returned to the owners.

WHEREFORE, the petitioner prays that an order be issued by the court directing that the firearms set forth in **Schedule A** be forfeited to the Brooksville Police Department pursuant to Florida Statute 790.08 (6) for "Agency Use".



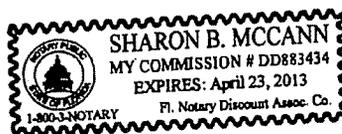
Officer Shawn L. Terry - 0707

SWORN to and subscribed before me
This 01st day of June, 2009



Notary Public

Personally Known:



SCHEDULE A

CASE #	MANUFACTURER	CALIBER	SERIAL #
1. 94-06-0332	American Darringer Corp.	.45	SERIAL# 98183
2. 97-05-0831	RUGER	.22	SERIAL# unknown
3. 91-08-0643	COLT	.38	SERIAL# 629143
4. 94-11-0193	DAVIS INDUSTRIES	.32	SERIAL# altered
5. 98-04-0197	DAVIS INDUSTIES	.380	SERIAL# altered
6. 92-11-1063	BERETTA	UNK	SERIAL# 647542
7. 98-02-0338	BERETTA	.25	SERIAL# PBR08680V
8. 99-11-0048	LORCIN	.22	SERIAL# 022086
9. 2001-1227	FABRIQUE NATIONALE	UNK	SERIAL# 691339
10. 96-07-0294	JENNINGS	.22	SERIAL# 537583
11. 99-01-0119	RAVEN	.25	SERIAL# 1813829
12. 2008414	INTRATEC	9MM	SERIAL# 122528
13. 200100177	HIGH STNADARD	.22	SERIAL# 204224I
14. 99-09-0141	STAR	9MM	SERIAL# 1324977
15. 91-03-0070	FRATELLI	.22	SERIAL# TC7659
16. 95-08-0113	JENNINGS	.22	SERIAL# 418116
17. 200303752	JENNINGS	.22	SERIAL# 543552
18. 2004592	RAVEN	.25	SERIAL# 1023537
19. 98-05-0814	SIERRA	.38	SERIAL# 17925
20. 94-11-0380	S&W	.38	SERIAL# 69043
21. 94-10-0713	FIE CORP.	.25	SERIAL # D868310
22. 91-11-0356	SCHMEISSER	.25	SERIAL# 16040
23. 99-08-0864	JENNINGS	.22	SERIAL# 080325
24. 93-05-0028	INTERARMS	.38	SERIAL# J084074
25. 200700892	ASTRA	UNK	SERIAL# 71642
26. 200700892	TITAN	.25	SERIAL# 124238
27. 97-01-0638	EXCAM	.25	SERIAL# 11490
28. 98-02-0777	A&K ARMS	.22	SERIAL# 90T6T
29. 2005465	RUGER	357	SERIAL # 34-32784
30. 200311222	INTRATEC	9MM	SERIAL# A031785
31. 95-01-0052	STERLING	.22	SERIAL# E37002
32. 89-12-0942	TAURUS	.38	SERIAL# 1025944
33. 92-01-0388	ARMINIUS	.38	SERIAL# 0501640
34. 92-09-0406	MAUSER'WERKE	380	SERIAL# 011663
35. 93-07-0820	UNK	6.35	SERIAL# 130550
36. 2006-015762	DURANGO	.22	SERIAL# 2203777
37. 91-12-0608	FABRIQUE NATIONALE	.32	SERIAL# 102804

38.	91-04-1216	H&R INC.	.32	SERIAL# AP19332
39.	94-02-0454	S&W	.32	SERIAL# 165079
40.	2006007623	JENNINGS	.22	SERIAL# 700880
41.	94-09-0359	UNK	.22	SERIAL# N839210
42.	93-11-0948	RAVEN	.25	SERIAL# 1393182
43.	93-12-0695	ARMSCO	.22	SERIAL# 094672
44.	93-12-0222	CHARTER ARMS	.38	SERIAL# 166862
45.	200101558	BERETTA	.25	SERIAL# 67729A
46.	95-06-0194	CLERKE S&W	.32	SERIAL# O83511
47.	200303445	JENNINGS	.22	SERIAL# 087630
48.	99-05-0912	NEF COMPANY	.32	SERIAL# NB003796
49.	90-06-0116	RG INDUSTRY	.22	SERIAL# 210842
50.	93-12-0577	AMT	.380/9MM	SERIAL# A91577
51.	92-02-0738	S&W	.38	SERIAL# 96K3029
52.	94-09-0405	DAVIS INDUSTRIES	380	SERIAL# AP055551
53.	93-11-0321	AMERICAN BULLDOG		REVOLVER UNK
54.	92-09-0157	UNK	.22	SERIAL# 256203
55.	2006201	PHOENIX ARMS	.25	SERIAL# 4148856
56.	88-03-1155	AGENT	.38	SERIAL# ALTERED
57.	92-10-0405	EXCAM	.25	SERIAL# 30487
58.	200102747	DAEWOO	9MM	SERIAL# BA002116
59.	2007000327	S&W	.32	SERIAL# 200588
60.	94-10-0279	S&W	.38	SERIAL# 308905
61.	97-03-0745	RG INDUSTRIES	.22	SERIAL# 400606
62.	200201201	LORCIN	380	SERIAL# 207104
63.	92-10-1072	US REVOLVER	.32	SERIAL# UNK
64.	95-11-0493	RG INDUSTRIES	.22	SERIAL# Z083179
65.	2006005174	JENNINGS	.22	SERIAL # 320476
66.	2006005174	RAVEN	.25	SERIAL# ALTERED
67.	2006000143	COLT	.45	SERIAL#CLW042649
68.	200510922	H&R	.22	SERIAL#AX011521
69.	200501615	KBI BAIKAL	9MM	SERIAL# BB2528
70.	200505065	SUNDANCE	.25	SERIAL#099178
71.	2002023138	JENNINGS	.22	SERIAL# ALTERED
72.	200501615	S&W	.44	SERIAL# BKP5824
73.	2006003205	COBRA ENT.	9MM	SERIAL# CT010781
74.	2006002811	JENNINGS	.380	SERIAL # 568207
75.	200412308	COMMANDO SPC	.38	SERIAL# RUSTED OFF
76.	200201077	BROWNING	9MM	SERIAL # 69C17538
77.	200106645	JENNINGS	.22	SERIAL# ALTERED

78. 200206073	AMT	.380/9MM	SERIAL# DA6917
79. 200106645	ASTRA-UNCETAY	.25	SERIAL# 893062
80. 200401612	JENNINGS	.22	SERIAL # 597632
81. 2007014123	TITANIC/FIE CORP	.32	SERIAL # B14675
82. 2006003371	COLT NEW POLICE	.22	SERIAL # 1A087
83. 2006006964	H&K	.40	SERIAL # 26-013421
84. 2007001372	LORCIN	.380	SERIAL # ALTERED
85. 200307478	GROUP IND	.9MM	SERIAL# 509102
86. 2006015317	S&W	.38	SERIAL # 55786
87. 2007015376	HIGHPOINT	.45	SERIAL # 406112
88. 2006012508	RUGER	.22	SERIAL # I5-92359
89. 2007003636	FIRESTORM	.40	SERIAL # 420450
90. 2007018679	RG	.22	SERIAL # 127591
91. 2006001985	FIE	.22	SERIAL # 36894
92. 200506985	WALTHER	.25	SERIAL # 398510
93. 200502335	HI STANDARD	.22	SERIAL # 1299875
94. 200502166	ROSSI	.38	SERIAL # AA956733
95. 200402849	LORCIN	.380	SERIAL # 233127
96. 200302195	KELTEC	.32	SERIAL # 97538
97. 2007003636	MASTR PIECE ARMS	.9MM	SERIAL # B2198
98. 200407263	HIGHPOINT	.45	SERIAL # 301690
99. 2008005422	S&W	.38	SERIAL # J20731
100. 2008005044	STAR	.9MM	SERIAL # 853991
101. 2008005368	FIRESTORM	.45	SERIAL # 71-04-06703-04
102. 2008004802	RUGER	9MM	SERIAL # 305-53459
103. 2008006213	RUGER	.44	SERIAL # ALTERED
104. 200208675	S&W	.38	SERIAL # 80221
105. 95-10-0767	SPORTARM	9MM	SERIAL # 203149
106. 200402574	INTRATEC	9MM	SERIAL # A053880
107. 95-12-0794	INTRATEC	9MM	SERIAL # D025699
108. 85-007757	F&W REVOLVER	.32	SERIAL # 215125
109. 96-10-0966	CHARTER ARMS	.44	SERIAL # 719742
110. 200203138	INTERARMS	.9MM	SERIAL # 1951420
111. 95-04-0389	S&W	.357	SERIAL # K916849
112. 91-11-0040	H&R	.32	SERIAL # AX197474
113. 96-11-0175	ROSSI/INTERARMS	.38	SERIAL # D404908
114. 97-09-0747	RAVEN	.25	SERIAL # 1060906
115. 2006494	TANFOGLIO	.25	SERIAL # M14533S
116. 99-02-0397	H&R	.38	SERIAL # AG51564
117. 98-09-0785	S&W	.22	SERIAL # 64877

118. 98-12-0464	F&W	.32	SERIAL # 268835
119. 87-03-1103	SENTINEL	.22	SERIAL # 1988904
120. 98-07-0411	JENNINGS	9MM	SERIAL # 853687
121. 2006011272	TITAN	.25	SERIAL # A78034
122. 2006011272	LLAMA	.38	SERIAL # 710469
123. 200104348	EJERCITO/ ARGINTINO	.45	SERIAL # 11964
124. 200104348	NA ARMS	.22	SERIAL # B49205
125. 200201807	WEBLEY	.38	SERIAL # 72062
126. 95-06-0589	RAVEN	.25	SERIAL # 669749
127. 97-06-0840	ROSSI	.357	SERIAL # F081712
128. 96-11-0943	RG	.32	SERIAL # Q057819
129. 98-02-0391	LORCIN	.380	SERIAL # 445032
130. 95-04-0342	LORCIN	.25	SERIAL # 206786
131. 89-01-0273	RAVEN	.25	SERIAL # 1483818
132. 89-12-0756	RG	.38	SERIAL # 018081
133. 90-02-1059	DLUTSCHE IND	.32	SERIAL # NONE
134. 90-02-1059	US REVOLVER	.38	SERIAL # 49202
135. 98-08-0362	AA ARMS INC	9MM	SERIAL # 058688
136. 200311074	DAVIS IND	.32	SERIAL # P1 ALTERED
137. 200205739	CHAMPION	.20GA	SERIAL # 235L9E
138. 93-10-0727	CHARTER ARMS	.38	SERIAL # 734991
139. 89-06-0741	RG IND	.22	SERIAL # 48190
140. 95-09-0464	LORCIN	.32	SERIAL # 000213
141. 88-09-0182	RAVEN	.25	SERIAL # 715413
142. 89-08-0325	H&R	.32	SERIAL # AR18088
143. 90-08-0071	LORCIN	.25	SERIAL # 033097
144. 95-04-0592	FIE CORP TITANIC	.32	SERIAL # UNK
145. 95-09-0042	BRYCO	.380	SERIAL # 001061
146. 89-07-0337	LLAMA	.45	SERIAL # B42326
147. 90-02-0751	BERETTA	.32	SERIAL # 850670
148. 95-07-0297	S&W	.38	SERIAL # 197154
149. 97-01-0014	LAFURI	.25	SERIAL # 105651
150. 150/74	STALLARD ARMS	9MM	SERIAL # 027959
151. 2006009567	JOHNSON	.32	SERIAL # 2881
152. 89-09-0874	BERETTA	.22	SERIAL # 56371CC
153. 200306916	S&W	.357	SERIAL # 151K082 - <i>returned McConnell</i>
154. 87-06-0353	COLT	.357	SERIAL # L13574
155. 94-12-0622	LORCIN	.380	SERIAL # 167524
156. 2006009567	HAWS	.22	SERIAL # 86390
157. 97-05-0577	R&G	.22	SERIAL # 56055

158. 200109076	LORCIN	.25	SERIAL # 253847
159. 92-07-1129	SUNDANCE	.25	SERIAL # 021484
160. 90-08-0397	RAVEN	.25	SERIAL # 1571848
161. 89-03-0537	CHARTER ARMS	.38	SERIAL # 418269
162. 90-11-0036	RAVEN	.25	SERIAL # 626046
163. 92-02-0738	FIECORP	.38	SERIAL # 0860166
164. 95-12-0780	REVOLVER	.22	SERIAL # 1142306
165. 97-07-0103	JENNINGS	.22	SERIAL # ALTERED
166. 97-07-1030	JENNINGS	.380	SERIAL # 380738
167. 88-12-0998	RAVEN	.25	SERIAL # 1419342
168. 200800942	FEG	9/18MM	SERIAL # AJ4249
169. 93-04-0770	RAVEN	.25	SERIAL # 1485745
170. 95-07-0297	US REVOLVER	.38	SERIAL # 14932
171. 200102923	RUGER BLACKHAWK	.44	SERIAL # 500-31135
172. 87-12-0657	RUGER .	.44	SERIAL # 10200886
173.99-03-0113	SKS	7.62	SERIAL # 1128063
174. 89-09-0215	STVENS STOCK	12GA	SERIAL # NONE
175.94-02-0402	MARLIN	.22	SERIAL # 69354953
176.80-13485	SNAKE CHARMER	.410	SERIAL #27054
177. 91-09-0689	DOT	33/40	SERIAL#6999
178.89-06-0392	HARNGTN/RICHRDSN	12GA	SERIAL#AX421034
179.89-09-1057	MARLIN	22	SERIAL#15731716
180.99-05-0754	HARNGTN/RICHRDSN	12GA	SERIAL#AU636041
181.96-11-0218	STEVENS ARMS	20GA	SERIAL#399LV
182.92-04-0150	MOSSBERG	12GA	SERIAL#J592909
183.200506149	MOSSBERG	12GA	SERIAL#L240335
184.99-04-0054	REMINGTON	870	SERIAL#W933056M
185.89-05-0219	NEW ENGLND FIRAM	410	SERIAL#NB313247
186.99-010338	REVELATION	12GA	SERIAL#NONE
187.99-04-0011	HIGHPOINT	9MM	SERIAL#A06818
188.96-10-0665	LAKEFIELD ARMS	.22	SERIAL#L170095
189.2006004532	MOSSBERG	.22	SERIAL#NONE
190.200300864	WINCHESTER	30/30	SERIAL#L0LL75
191.200100666	WINCHESTER	30/30	SERIAL#2012064
192.200504183	WINCHESTER	30/30	SERIAL#16069620
193.99-04-0084	SEARS ROEBUCK	12GA	SERIAL#5832003
194. 200504183	WINCHESTER	12GA	SERIAL# L3343376
195. 2006009567	STEVENS	12GA	SERIAL# 0845988
196. 200505745	MARLIN GLENFLD	.22	SERIAL# 72267970
197. 200408534	WINCHESTER	12GA	SERIAL# L636703

198. 2006009567	SKS	7.62	SERIAL# 2505382
199. 2006009567	RANGER	12GA	SERIAL# NONE
200. 93-12-0625	UNKNOWN	20GA	SERIAL# ERODED
201. 96-08-0013	MOSSBERG	20GA	SERIAL# NONE
202. 200506912	CENTRAL	12GA	SERIAL# 32812
203. 91-08-1217	WINCHESTER	30/30	SERIAL# 3628960
204. 97-06-0707	GLENFIELD	.22	SERIAL# 24408131
205. 98-01-0879	MARLIN	.22	SERIAL# 10497527
206. 94-10-0267	MARLIN	.22	SERIAL# 14403206
207. 91-01-0977	GLENFIELD	.22	SERIAL# 21643606
208. 94-02-0498	VOLUNTEER ARMS	.12GA	SERIAL# NONE
209. 200506419	WINCHESTER	.22	SERIAL# ALTERED
210. 200504354	MOSSBERG	12GA	SERIAL# J894190
210. 96-05-0522	MARLIN	.22	SERIAL# 08276789
211. 2006008731	MARLIN	.22	SERIAL# 22522179
212. 200105240	REMINGTON	.306	SERIAL# B8012796
213. 200402574	RUGER	.223	SERIAL# 180-24808
214. 2006007198	SEARS	12GA	SERIAL# 5832080
215. 2006003924	HARINGTON	410	SERIAL# AY530753
216. 200502757	SKS	7.62	SERIAL# F178454
217. 200502757	SAR1	7.62	SERIAL# S116519-200
218. 20085338	STEVENS	12GA	SERIAL#NONE

CITY OF BROOKSVILLE

MEMORANDUM

To: Honorable Mayor and City Council Members
Via: T. Jennene Norman-Vacha, City Manager
From: Emory H. Pierce, Director of Public Works
Date: 7/09/09
Re: FDOT Memo of Understanding (MOU) for Debris Clearing and Monitoring

On September 5, 2008 we attended a meeting at the Hernando County EOC. At that meeting, Ron Anderson of FDOT offered to issue a Memorandum of Understanding (essentially a Mutual Aid Agreement) to the County and the City whereby FDOT would do all of the debris cleanup and monitoring for major storm events. As per the MOU, FDOT will apply for FEMA reimbursements on behalf of the County and City. FDOT would contract for the services (both debris removal and monitoring), choose and permit the Reduction Sites, dispose of all debris, coordinate all activities with the local contact people we chose. We, the City, will have to support their efforts, but if all goes according to plan, we will not have to submit documentation directly to FEMA. FDOT assured us that they are capable of recouping more FEMA funds than local jurisdictions usually can. According to Mr. Anderson, the City contribution for any FEMA reimbursement is 5% (FEMA covers 90%, the State does 5% and the applicant contributes 5%). He said that his current position is that he may not even ask for the 5%, but the normal 5% would be the maximum contribution.

I have attached the proposed City MOU (which is identical to the County MOU, with only contact information changed).

This MOU is essentially an alternate plan. Our first plan is to piggyback on the contract with one or more of the County approved contractors.

Financial Impact

The City's 5% will come out of the Storm Readiness Fund 124 which has a current balance of \$74, 403.

Legal Impact

The City Attorney has reviewed this document.

Staff Recommendation

Based on the above, staff recommends that City Council authorize the Mayor to sign the FDOT MOU for debris clearing and monitoring.



Florida Department of Transportation

11201 N. McKinley Drive Tampa, FL 33612-6456 Phone (813) 975-6000 1-800-226-7220

CHARLIE CRIST
GOVERNOR

STEPHANIE KOPELOUSOS
SECRETARY

September 10, 2008

T. Jeannene Norman-Vacha
City Manager
City of Brooksville
201 Howell Ave
Brooksville, Fl 34601

RE: Debris Removal Roles Coordination - Memo of Understanding (MOU)

Ms. Norman-Vacha:

Thank you for your recent response to the FDOT District Seven's request for information regarding debris removal roles coordination. The following summarizes the points of contact for the City and the District, and the debris removal roles that the District will play in the City:

Point(s) of Contact:

Brooksville

T. Jennene Norman-Vacha, City Manager, (352) 544-5400

Emory H. Pierce, Director of Public Works, (352) 544-5465, (352) 232-0617

FDOT 7

Ron Anderson (813) 975-6248

Mike Healy (813) 267-7058

Roads to be cleared by the District:

First Push and Debris Clearance from FHWA-On, FHWA-Off, and Local roads as shown on attached map.

Temporary Debris Staging and Reduction Site(s):

The District has a list of pre-identified sites for use as TDSRS, and is currently investigating the viability of these sites.

Recycling and Ultimate Disposal Site(s):

The District has a list of pre-identified sites for recycling and ultimate disposal, and is currently investigating the viability of these sites. The District intends to recycle as much storm debris as possible, including vegetative debris where possible.

Sand:

The District has a list of pre-identified contractors who will provide labor, equipment and materials necessary to perform screening of any sand deposited on the rights-of-way. After screening, the sand shall be placed in piles as close to the original location as possible and eligible storm debris will be hauled to a TDSRS or ultimate disposal site. Sand contaminated with any hazardous materials will be handled by the Department's Haz-Mat contractor. Sand screening operations shall be done in accordance with all federal, state and local rules and regulations. This will not include any beach restoration of any kind.

This MOU is intended to cover hurricane debris on the travel lanes and rights-of-way only. Any other recovery work will be handled on a case by case basis through coordination with your point of contact.

This agreement is intended as a mutual aid agreement, and should not be considered a legally binding contract. In the event that there is an unforeseen time delay or if the District can not meet its expectations, the City may remove debris from the FHWA-Off and Local roads, and seek reimbursement through the appropriate Federal agency, as long as all proper Federal documentation requirements are met.

As mentioned above, it is the intent of the District to provide first push and debris clearance from all of the FHWA-On, FHWA-Off, and Local roads as shown on attached map. As defined in Topic No. 500-000-104e, the District has established timelines for these operations. All FHWA-On system roads will be clear for travel in 24 hours, and all surface roads will be clear for travel in 72 hours.

The City should note that the District reserves the right to charge the City for its local share (typically from 5% to 12.5%) for FEMA reimbursed costs/expenses. However, this funding decision is made on a case by case basis, and thus will be determined after the event.

Ms. Norman-Vacha
September 10, 2008
Page 3

The MOU describes the Department's roles as of this point in time. If desired, modifications to this agreement can be made. Thank you for your ongoing cooperation in this matter. If you have any questions, or would like to make modifications to the agreement, please feel free to contact me at (813) 957-6248, or Mike Healy with our general engineering consultant PBS&J at (813) 267-7058.

Sincerely,

Brooksville Concurrence



Ron Anderson
District Emergency Coordination Officer



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL

VIA: T. JENNENE NORMAN-VACHA
CITY MANAGER *[Signature]*

FROM: EMORY PIERCE
DIRECTOR OF PUBLIC WORKS *[Signature]*

SUBJECT: PIGGYBACK CONTRACT FOR LARGE SEWER PUMP REPAIRS

DATE: JULY 9, 2009

GENERAL SUMMARY: When we constructed the Cobb Road WWTP/WRF back in 2000 we also constructed two new large master lift stations, one at School St. and the other out on Howell Ave. Each of those lift stations has three large 88 hp submersible sewer pumps (a total of six). These pumps now need to be repaired/rebuilt over the coming months. Each rebuild is going to cost about \$10,000, which according to our purchasing policy requires formal bids unless we can find a suitable contract for similar work to piggy back on. The pumps were manufactured by Flygt and the only realistic option for repairs is to have Flygt do the repairs at their facility in Apopka, Fl.

We believe Pinellas County has a suitable contract for this type of work and we have attached the relevant portions. The Pinellas County bid procedures are substantially equivalent bidding procedures to those of the City and the bid prices are valid through January 2010. The basic costs will be \$68.00/hr. for labor plus the costs of the parts with a 5% discount from list price. A copy of a recent quote for one of these pumps is attached along with a letter from the manufacturer explaining the parts costs.

BUDGET IMPACT: Funds are available in the Sewer Apparatus Repair and Maintenance Acct No. 401 027 536 54610.

[Signature] **LEGAL REVIEW:** 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 City Council authorize the City Manager to sign purchase orders for the subject repairs based on the Pinellas County contract.

ATTACHMENTS: Letter from Jim Keliher, ITT Flygt Products, dated July 8, 2009.
Blanket Purchase Agreement
Bid Summary and Submittal
Request for Taxpayer Identification
Quotations



ITT

**Jim Keliher,
Service Manager**

**ITT Water & Wastewater,
Florida LLC**

Flygt Products

2152 Sprint Blvd
Apopka, FL 32703
Tel 407-880-2900
Fax 407-880-2962
jkeliher@itt.com

July 10, 2009

Emory Pierce
City of Brooksville
201 Howell Avenue
Brooksville, FL 34601-2041
Phone: (352) 544-5400

Dear Mr. Pierce,

It was a pleasure speaking with you on the phone today regarding the Flygt Pump that is in our facility for repair. It is our desire to provide the City with the fairest pricing and expedient service available for your wastewater needs.

In an effort to streamline the quote and repair process it was our desire to have the City of Brooksville use the repair contract we have in effect for Pinellas County. This contract was prepared and provided by Pinellas County for all bidding parties and required us to provide cost plus pricing. As we discussed our computer system is unable to generate a quote based on these requirements. Our finance department calculated our pricing structure and determined that our cost plus 30% for parts is equivalent to a 5% discount from list pricing. This determination has been accepted by Pinellas County, and has been in effect for at least the past two years. I would gladly provide the factory list price sheet in support of this pricing.

In closing I wish to point out that ITT Water & Wastewater Florida LLC is the only factory trained repair facility in the State of Florida, and we use only genuine Flygt spare parts in all our repairs.

I would be happy to discuss this further if you require additional information.

Sincerely,

Jim Keliher



**Jim Keliher,
Service Manager**

**ITT Water & Wastewater,
Florida LLC**

Flygt Products

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Apopka, FL 32703
Tel 407-880-2900
Fax 407-880-2962
jkeliher@itt.com

July 8, 2009

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201 Howell Avenue
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Sincerely,

Jim Keliher

COMPANY: ITT CORPORATION
 ITT WATER & WASTEWATER FLORIDA LLC
 2152 SPRINT BOULEVARD
 APOPKA, FL 32703
 FAX: (407)880-2962
 STEVE DENNIS (407)880-2900

Pinellas County Purchasing Department
 BOARD OF COUNTY COMMISSIONERS
 PINELLAS COUNTY
 400 S. Ft. Harrison Ave.
 6th Floor, Annex Building
 Clearwater, FL 33756

PO Number: 229662
 Rev. 0
 Page 1 of 1

THIS NUMBER MUST APPEAR ON ALL PACKAGES, SHIPPING NOTICES, INVOICES AND CORRESPONDENCE

SHIP TO: Various County Depts
 Clearwater, FL 33756

BILL TO: Various County Depts
 Clearwater, FL 33756

Blanket Purchase Agreement

DATE OF ORDER		DELIVERY DATE		REQUISITION NO.		REQUESTOR	
QUANTITY	UNIT	ITEM NO.	DESCRIPTION	UNIT PRICE	AMOUNT	ACCOUNT CHARGES	
			PUMPS, PARTS AND REPAIRS (CO-OP) REBID APPROVED BY BCC 1/6/09 CONTRACT PERIOD: 1/6/09 THROUGH 1/5/10 AWARDED TO THE FOLLOWING MANUFACTURER(S) ON AN AS NEEDED BASIS: FLYGT				
EACH		3892	PUMP, PARTS FOR PRODUCTION/DISTRIBUTION OF WATER & SEWER	1.0000			
EACH		4553	PUMP, NEW FOR PRODUCTION/DISTRIBUTION OF WATER & SEWER	1.0000			
EACH		23342	PUMP REPAIRS FOR PRODUCTION/DISTRIBUTION OF WATER & SEWER PUMPS	1.0000			
PAYMENT TERMS				SHIP VIA		FREIGHT TERMS	
NET 30				BEST WAY		TOTAL	
CONTRACT NO. 078-0459-B				DESTINATION		300,000.00	
				P.A./PHONE		SALES TAX EXEMPT NO. 85-8013287050C-7	
				Steale, Suzanne N		727/464-3311	

It is hereby certified that all provisions of the laws of Florida were complied with in issuing this order, and that there are sufficient and properly appropriated funds to liquidate this obligation. This purchase order is governed by the terms and conditions on reverse side.
 NOTICE: Vendors doing business with Pinellas County are required to show proof of current Pinellas Construction licenses, if applicable.

SEE REVERSE - SIGNED COPY MUST BE RETURNED TO PURCHASING

ACKNOWLEDGEMENT

BOARD OF COUNTY COMMISSIONERS
 PINELLAS COUNTY, FLORIDA

Julie Cantor
 (AUTHORIZED SIGNATURE)

PINELLAS COUNTY

TERMS AND CONDITIONS FOR SERVICES

INVOICING – Invoice(s) must be submitted in duplicate to billing address indicated on face of Purchase Order. Invoice must state Purchase Order Number, unit price(s), extension(s), Total, and SHIP TO ADDRESS.

ACCEPTANCE – ENTIRE AGREEMENT – Acceptance of this Purchase Order will be unconditional, and subject to and expressly limited by the Terms and Conditions hereon. Pinellas County and the Contractor shall not be bound by additional provisions or provisions at variance herewith that may appear in the Contractor's quotation, acknowledgement in force, or any other communication from Contractor to Pinellas County unless such provision is expressly agreed to and confirmed to in writing.

ASSIGNMENT – Any assignment of the work to be performed, in whole or in part, or any other interest hereunder, without our written consent, except an assignment confined solely to monies due or to become due; shall be void. It is expressly agreed that any such assignment of monies be void to the extent that it attempts to impose upon Pinellas County obligation to the assignee additional to the payment of such monies, or to preclude Pinellas County from dealing solely and directly with Contractor in all matters pertaining hereto, including the negotiation of amendments or settlements of amounts due.

COMPLIANCE WITH APPLICABLE LAWS – Contractor certifies that all of the products and services to be furnished hereunder will be manufactured or supplied by Contractor in accordance with all applicable provisions of State, Local and Federal laws, as of this date.

CANCELLATION – Pinellas County reserves the right to cancel this contract, without cause, by giving thirty (30) days prior written notice to the Contractor of the intention to cancel, or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Contractor to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of Pinellas County.

In addition to all other legal remedies available to the County, County reserves the right to cancel and obtain from another source any items which have not been provided within the period of time stated in the bid, or if no such time is stated, within a reasonable period of time from the date of request, as determined by the County.

INDEMNITY PROVISION – Contractor shall indemnify, pay the costs of defense, including attorney's fees and hold harmless the County from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons or property, by or from said contractor; or by or in consequence of any neglect in safeguarding the work; or through the use of unacceptable materials in the construction or improvements; or by, or on account of, any act of omission, neglect or misconduct of the said Contractor, or on account of any act or amounts recovered under the "Workers Compensation Law" or of any other laws, bylaws, ordinance, order of decrees, except only such injury or damage as shall have been occasioned by the sole negligence of the County. The first ten dollars (\$10.00) of compensation received by the Contractor represents specific consideration for this indemnification obligation.

AUTHORIZED SIGNATURE: 
DATE: 1/16/09

SIGNED ACKNOWLEDGEMENT MUST BE RETURNED TO THE PURCHASING DEPARTMENT
05/2005

INSURANCE – The Contractor shall maintain insurance acceptable to the County in full force and effect throughout the term of this Purchase Order. The Contractor must provide a Certificate of Insurance in accordance with Insurance Requirements, Section C of the Invitation to Bid, evidencing such coverage prior to the commencement of any work under this contract.

AUDIT – The Contractor shall retain records relating to this contract for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, Pinellas County reserves the right to audit such records pursuant to Pinellas County Code, Chapter 2.

GOVERNING LAW – The laws of the State of Florida shall govern this contract.

COMPENSATION – County shall pay Contractor upon Contractor's completion of, and County's acceptance of, the services required herein, as specified in the Invitation to Bid. All payments shall be made in accordance with the Florida Prompt Payment Act, Florida Statutes § 218.70, et. seq.

INDEPENDENT CONTRACTOR STATUS and COMPLIANCE with the IMMIGRATION REFORM and CONTROL ACT OF 1986 – The Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of the County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324 et. seq., and regulations thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the contract, at the discretion of the County.

PERMITS/LICENSES – Contractor is responsible for obtaining any permits/licenses necessary to complete the work covered by this order, at its own expense, prior to starting any work under this order.

FISCAL NON-FUNDING – In the event that sufficient budgeted funds are not available for a new fiscal period, the County shall notify the Contractor of such occurrence and the Contract shall terminate on the last day of then current fiscal period without penalty or expense to the County.

SEVERABILITY – If any section, subsection, sentence, clause, phrase, or portion of this contract is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portion thereof.

SECTION F - BID SUMMARY AND SUBMITTAL - CONTINUED

THE BELOW UNIT PRICES WILL BE FIXED FOR THE INITIAL CONTRACT PERIOD. DISCOUNTS MUST REMAIN FIRM FOR ENTIRE CONTRACT, INCLUDING RENEWALS.

Hourly Shop Labor Rate (all inclusive)	\$ 68.00
Hourly Field Labor Rate (all inclusive)	\$ 78.00
Emergency Hourly Shop Labor Rate (all inclusive)	\$ 102.00
Emergency Hourly Field Labor Rate (all inclusive)	\$ 117.00
New Pump: Cost plus	25%
Parts: Cost Plus	30%

GENERAL INFORMATION REQUIRED THAT WILL NOT BE FACTORED IN THE BID SUMMARY:

Unspecified work is not a guarantee to be needed during the contract and will be ordered and authorized solely at the discretion of the County or other entity.

UNSPECIFIED WORK	\$50,000
Hourly Inspection Fee (if repair not performed)	\$ 0

LIST PUMP MANUFACTURER'S BELOW THAT YOUR FIRM IS "OEM AUTHORIZED" TO SERVICE OR REPAIR:
(Use separate sheet if needed)

Flygt	

LIST PUMP MANUFACTURER'S BELOW THAT YOUR FIRM IS "CAPABLE" OF SERVICING OR REPAIRING:
(Use separate sheet if needed)

Flygt	

SECTION F - BID SUMMARY AND SUBMITTAL - CONTINUED
--

Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED pick up and unloaded to location(s) within Pinellas County. Actual delivery address(es) shall be identified at time of order.

Parts will be delivered/shipped within 30 days ARO.

Pumps will be repaired within 10 days after repair approved.

Contact Person/Telephone for pick-up/delivery of order: Dave Moffitt 407-553-4173

Contact Person for After Hours/Emergency Orders: On Call 407-880-2900

COMPANY: ITT Water & Wastewater Florida, LLC

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return) ITT WATER & WASTEWATER, FLORIDA, LLC	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see Instructions) ▶	
Address (number, street, and apt. or suite no.) 2152 SPRINT BLVD	Requester's name and address (optional) PINELLAS COUNTY
City, state, and ZIP code APOPKA, FLORIDA 32703	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number
13 5158950

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here

Signature of U.S. person ▶



Date ▶ **08/20/2008**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

ITT Water & Wastewater U. S. A.*

2152 SPRINT BLVD.
 APOPKA, FL 32703
 Tel. (407)880-2900

QUOTATION			
VOUCHER NO. 386582	BUS NO. 595828	YOUR PURCHASE ORDER NUMBER W. SMITH	
PRINT DATE 6/17/09	TRN Q1	WHS 220	PAYMENT TERMS NET 60 DAYS

Sold To:

Customer No. **104962**

Ship To:

CITY OF BROOKSVILLE
 FINANCE DEPT
 201 N HOWELL AVE

CITY OF BROOKSVILLE
 201 N HOWELL AVE

BROOKSVILLE FL 34601

BROOKSVILLE FL 34601

ORDER LEAD TIME		F.O.B/FREIGHT		ORDER PROCESSED BY	
1 week or less ex Flygt port		No Freight Charge		ORLANDO, FL BRANCH	
SHIP VIA		ORDER TEXT		CUSTOMER TEXT	
Branch Delivery		3300.181.9940102		TOM PALYDER	
POS	ITEM/DESCRIPTION	QUANTITY ORDERED	UNIT PRICE DISCOUNT/CHARGE	NET PRICE	EXTENDED AMOUNT
	FLYGT REFER TO REPAIR TAG # 3705 3300.181/464 88HP/460V SN:9940102 L/S HOWELL AVE				
001	0000000803241 KIT,O-RING NITRILE 3300 Additional % Discount-Position	1	190.00 5.000	180.500 Ship Date	180.50 06.17.09
002	0000000845375 BEARING,ROLLER CYL SNGL ROW 160X75X37MM,26X26MM, NU315ECP Additional % Discount-Position	1	204.00 5.000	193.800 Ship Date	193.80 06.17.09
003	0000000833703 BEARING,BALL ANG CONT DBL ROW 190X90X73MM, 3318C3GLAPP Additional % Discount-Position	1	559.00 5.000	531.050 Ship Date	531.05 06.17.09
004	0000006179901X SEAL,MECHANICAL RECONDITIONED	1	1,245.00	1,183.700 Ship Date	1,183.70 06.17.09

Cont on 2

ITT Water & Wastewater U. S. A.*

2152 SPRINT BLVD.
 APOPKA, FL 32703
 Tel.(407)880-2900

QUOTATION			
VOUCHER NO. 386582	FUS NO. 595828	YOUR PURCHASE ORDER NUMBER W. SMITH	
PRINT DATE 6/17/09	TRN Q1	WHS 220	PAYMENT TERMS NET 60 DAYS

Sold To: Customer No. 104962

Ship To:

CITY OF BROOKSVILLE
 FINANCE DEPT
 201 N HOWELL AVE

CITY OF BROOKSVILLE
 201 N HOWELL AVE

BROOKSVILLE FL 34601

BROOKSVILLE FL 34601

ORDER LEAD TIME		P.O B/FREIGHT		ORDER PROCESSED BY	
1 week or less ex Flygt port		No Freight Charge		ORLANDO, FL BRANCH	
SHIP VIA		ORDER TEXT		CUSTOMER TEXT	
Branch Delivery		3300.181.9940102		TOM PALIDER	
POS	ITEM/DESCRIPTION	QUANTITY ORDERED	UNIT PRICE DISCOUNT/CHARGE	NET PRICE	EXTENDED AMOUNT
004	0000006179901X Additional % Discount-Position		5.000		
005	0000003377911X SEAL, MECHANICAL RECONDITIONED Additional % Discount-Position	1	1,089.00 5.000	1,034.550 Ship Date	1,034.55 06.17.09
006	0000003193800 WEAR RING, STATIONARY Additional % Discount-Position	1	267.00 5.000	253.650 Ship Date	253.65 06.17.09
007	0000006465900 GASKET NBR Additional % Discount-Position	1	28.00 5.000	26.600 Ship Date	26.60 06.17.09
008	0000003913200 COVER, STEEL Additional % Discount-Position	1	28.00 5.000	26.600 Ship Date	26.60 07.31.09
009	0000002797601 PIPE, AIR BRASS Additional % Discount-Position	1	42.00 5.000	39.900 Ship Date	39.90 06.17.09

Cont on 3

*ITT Water & Wastewater U.S.A, Inc.(formerly ITT Flygt Corporation),ITT Water & Wastewater Florida,LLC, ITT Water & Wastewater Indiana,LLC, and WEDECO Inc.

ITT Water & Wastewater U. S. A.*

2152 SPRINT BLVD.
 APOPKA, FL 32703
 Tel. (407)880-2900

QUOTATION			
VOUCHER NO. 386582	FUS NO. 595828	YOUR PURCHASE ORDER NUMBER W. SMITH	
PRINT DATE 6/17/09	TRN Q1	WHS 220	PAYMENT TERMS NET 60 DAYS

Sold To: Customer No. 104962

Ship To: Page 3

**CITY OF BROOKSVILLE
 FINANCE DEPT
 201 N HOWELL AVE**

**CITY OF BROOKSVILLE
 201 N HOWELL AVE**

BROOKSVILLE FL 34601

BROOKSVILLE FL 34601

ORDER LEAD TIME		F.O B/FREIGHT		ORDER PROCESSED BY	
1 week or less ex Flygt port		No Freight Charge		ORLANDO, FL BRANCH	
SHIP VIA		ORDER TEXT		CUSTOMER TEXT	
Branch Delivery		3300.181.9940102		TOM PALIDER	
QTY	ITEM/DESCRIPTION	QUANTITY ORDERED	UNIT PRICE DISCOUNT/CHARGE	NET PRICE	EXTENDED AMOUNT
010	0000004817204 IMPELLER, C HT CODE 461 CI Additional % Discount-Position	1	5,280.00 5.000	\$,016.000 Ship Date	5,016.00 07.31.09
011	1400000699802 MAT'L, LUBES, SOLVENTS-LARGE PUMP	1	58.00	58.000 Ship Date	58.00 06.17.09
012	1400000699835 ENVIRONMENTAL FEE >50HP	1	65.00	65.000 Ship Date	65.00 06.17.09
013	1400000699939 LABOR, SERVICE-APOPKA Reduction by Set \$ Value	11	77.00 9.00	68.000 ✓ Ship Date	748.00 06.17.09
014	1400000699947 RECONDITIONED PARTS Additional % Discount-Position	1	644.00 5.000	611.800 Ship Date	611.80 06.17.09
SUB-TOTAL OF POSITIONS USD					9,969.15
** ADD NO FREIGHT CHARGES **					.00

Cont on 4

ITT Water & Wastewater U. S. A.*

2152 SPRINT BLVD.
APOPKA, FL 32703
Tel.(407)880-2900

QUOTATION			
VOUCHER NO. 386582	FUS NO. 595828	YOUR PURCHASE ORDER NUMBER W. SMITH	
PRINT DATE 6/17/09	TRN Q1	WHS 220	PAYMENT TERMS NET 60 DAYS

Sold To:

Customer No. 104962

Ship To:

Page 4

CITY OF BROOKSVILLE
FINANCE DEPT
201 N HOWELL AVE

CITY OF BROOKSVILLE
201 N HOWELL AVE

BROOKSVILLE FL 34601

BROOKSVILLE FL 34601

ORDER LEAD TIME		F.O B/FREIGHT		ORDER PROCESSED BY	
1 week or less ex Flygt port		No Freight Charge		ORLANDO, FL BRANCH	
SHIP VIA		ORDER TEXT		CUSTOMER TEXT	
Branch Delivery		3300.181.9940102		TOM PALIDER	
EQ	ITEM/DESCRIPTION	QUANTITY ORDERED	UNIT PRICE DISCOUNT/CHARGE	NET PRICE	EXTENDED AMOUNT
					9,969.15
					NET AMOUNT BEFORE TAXES USD
					ORDER TOTAL USD
					9,969.15
					10:43:41 USS08 Tom Palider



CONSENT AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: GEORGE TURNER, CHIEF OF POLICE

[Handwritten signature of George Turner]

SUBJECT: Edward Byrne Memorial Justice Assistance Grant (JAG) Program – American Recovery and Reinvestment Act of 2009 – State Solicitation.

DATE: July 20, 2009

GENERAL SUMMARY: The 2009 Edward Byrne Memorial Justice Assistance Grant award amount for Hernando County is \$ 114,126.00. These funds can be used by local units of governments to support approved programs to prevent and control crime and to improve the criminal justice system.

As a condition of participation in this program, the units of government in each county must reach a consensus concerning the expenditure of these funds. This consensus must include the projects to be implemented as well as the agency responsible for such implementation. The Hernando County Board of Commissioners assumed responsibility as the coordinating unit of government and appointed Karen Nicolai / Substance Abuse Policy Advisory Board as the county coordinator for this program. The Certificate of Participation was filed by the B.C.C. 2009.

The Substance Abuse Policy Advisory Board met on Friday July 17, 2009 and submitted the following :

Hernando County Sheriff's Office: Drug Interdiction Technology/ Truth Verification Technology: \$ 71,792.00.

City of Brooksville Police Dept.: Narcotics and Prostitution Enforcement Program, \$42,234.00.

The Brooksville City Council is asked to vote on the recommendations on July 20, 2009. Final grant applications are due in the offices of F.D.L.E. August 01, 2009.

BUDGET IMPACT: There are no matching funds required. Grant will be utilized to implement a Narcotics and Prostitution Enforcement Program.

LEGAL REVIEW: Legal will review agreements.

STAFF RECOMMENDATION: Staff recommends the Brooksville City Council approve the 2009 Edward Byrne Memorial Justice Assistance Grant Program and authorize the Mayor to sign and forward the required letter of decision.

AGENDA ITEM
MEMORANDUM



TO: HONORABLE MAYOR AND CITY COUNCIL
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: GEORGE TURNER, CHIEF OF POLICE
SUBJECT: ORDINANCE NO. 774 – IMPOUNDMENT
DATE: JULY 20, 2009

GENERAL SUMMARY: As part of the City's effort to update and modernize its Code of Ordinances, Ordinance No. 774, regarding Impoundment is being proposed for City Council's consideration to set forth the procedural requirements for impoundment of vehicles used in conjunction with certain crimes, and in violation of certain parking statutes and code violations.

On May 18, 2009, the City Council reviewed the proposed Ordinance No. 774 – Impoundment and following discussion directed staff to revise proposed Ordinance, providing for impoundment only upon secondary or subsequent violations. Council was most concerned with strengthening the Ordinance for repeat violators.

At the Brooksville City Council meeting of June 1, 2009, Ordinance No. 774 was tabled from further discussion until July 6, 2009, Regular Session.

Ordinance No. 774 was revised to address City Council's concerns for repeat violators and the regulations in which a vehicle can be impounded.

On July 6, 2009, during Regular Session City Council reviewed and adopted Ordinance No. 774 for the first reading, with direction to remove Section 2, Paragraph D relating to handicap and disabled parking. That Paragraph has been removed from the final draft Ordinance presented for Council's review and staff is seeking final approval.

BUDGET IMPACT: There is no negative budget impact as a result of this ordinance.

LEGAL REVIEW: Pursuant to home rule authority provided for by Article VII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City Council has the power to conduct municipal functions and to adopt ordinances.

STAFF RECOMMENDATION: Staff recommends approval and final adoption of Ordinance No. 774.

ATTACHMENTS: Ordinance No. 774 – Impoundment

ORDINANCE NO. 774

AN ORDINANCE PROVIDING FOR THE IMPOUNDMENT OF VEHICLES USED IN CERTAIN CRIMES, NON-CRIMINAL VIOLATIONS, AND CODE VIOLATIONS; PROVIDING FOR PRELIMINARY AND FINAL HEARINGS ON SEIZURES AND IMPOUNDMENTS; ESTABLISHING PENALTIES AND FINES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville 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, pursuant to Section 1.03 and Section 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances; and,

WHEREAS, Chapters 901 and 943, Florida Statutes, define and provide for municipal law enforcement; and,

WHEREAS, use of vehicles in the commission of crimes is detrimental to the safety, health and welfare of the City's residents; and,

WHEREAS, use of vehicles in the commission of non-criminal infractions and code violations is detrimental to the safety, health and welfare of the City's residents; and,

WHEREAS, pursuant to §316.1955, Florida Statutes, law enforcement officers are authorized to remove vehicles parked in a designated parking spot for use by physically disabled persons in violation of §316; and,

WHEREAS, pursuant to Fla. Stat. Ch. §705 and §715, law enforcement officers are authorized to remove vehicles which are abandoned or unclaimed; and,

WHEREAS, pursuant to Section 38-54 of the City's Code of Ordinances, law enforcement officers are authorized to take and remove vehicles from property when such vehicle constitutes a traffic or other public hazard.

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

SECTION 1. DEFINITIONS. The following definitions shall apply for the purposes of this ordinance:

- (a.) Business Days means any day, Monday through Friday, which is not designated as an official City holiday.
- (b.) Owner means the person(s) or entity to whom a particular motor vehicle is registered or titled; such term shall also mean all other persons whom can be

reasonably identified as having a legal interest in the vehicle including lessors, renters or lien holders.

- (c.) Vehicle means any device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway.
- (d.) Hearing Officer means the code enforcement hearing officer(s) appointed by the City Council pursuant to Sections 2-191 to 2-200 of the City Code of Ordinances.
- (e.) Stolen means the trespassory taking and carrying away of the tangible personal property of another with the intent to permanently deprive.
- (f.) Police Officer means any person who is elected, appointed, or employed by the City; who is vested with authority to bear arms, and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal criminal, traffic or highway laws of the state, county or city. This definition includes all certified supervisory and command personnel of the police department, but does not include support personnel employed by the City Police Department.

SECTION 2. SEIZURE AND IMPOUNDMENT OF VEHICLES. The City may cause to be seized, removed or impounded a vehicle when:

- (a) a police officer has probable cause to believe that the vehicle:
 - 1. Was used to facilitate the commission or attempted commission of an act of prostitution, assignation or lewdness as defined in Fla. Stat. §796.07, as amended; or
 - 2. Contains any controlled substance as defined in Fla. Stat. §893.02, as amended; or
 - 3. Was used, intended or attempted to be used, to facilitate the commission of any violation of Fla. Stat. §316.061 (leaving the scene of an accident), as amended; or
 - 4. Was used, intended or attempted to be used, to facilitate the commission of any violation of Fla. Stat. §322.34(2), as amended, driving while license suspended, revoked, canceled, disqualified (with knowledge); or
 - 5. Was used, intended or attempted to be used, to facilitate the commission of any violation of Fla. Stat. Chapter 893 (drug abuse, prevention and control), as amended.
- (b) A police officer has probable cause to believe that the operator of the vehicle or other person in charge of the vehicle is incapacitated to such an extent as to be unable to provide for its custody, control or removal.

- (c) The operator of any vehicle is taken into custody by the police department and such motor vehicle would thereby be left unattended.
- (d) The vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle poses a danger to the public safety or to the motor vehicle.
- (e) A police officer has probable cause to believe that the vehicle was used to facilitate the commission of any violation of Fla. Stat. §316.3045, as amended, (operation of radios or other sound making devices in vehicles) or Section 82-52 (operation of radios or other mechanical sound making devices or instruments in vehicles) of the City's Code of Ordinances; provided that a motor vehicle bearing the same license plate or an owner /operator has been previously cited for a violation of Fla. Stat. §316.3045, Section 82-52, unlawful or illegal parking, or any City Code regulating parking, traffic or vehicles and the citations are outstanding for more than thirty (30) calendar days and have not been disposed of by payment of the fine or otherwise cancelled as a result of an order by the hearing officer.
- (f) The vehicle is unlawfully parked in violation of a provision of this Code which prohibits the parking of vehicles at the place where or time when such motor vehicle is found and a vehicle bearing the same license plate or an owner/operator has been previously cited for violations of any City Code provision regulating parking, traffic or vehicles and the citations are outstanding for more than thirty (30) calendar days and have not been disposed of by payment of the fine or otherwise cancelled as a result of an order by the hearing officer.

Except that, this section shall not apply and no vehicle shall be seized or impounded pursuant to this section if a law enforcement agency seizes the vehicle pursuant to the Florida Contraband Forfeiture Act.

SECTION 3. PROCEDURES UPON SEIZURE OR IMPOUNDMENT. Upon seizing a vehicle, the police officer or other officer or agent of the City shall:

- (a.) Arrange for the towing or removal of the vehicle; and,
- (b.) Provide written notice to any present owner, or person in control of the vehicle, of the fact of the seizure, the right to request a preliminary hearing pursuant to Section 4 and the right to request a final hearing pursuant to Section 5; and,
- (c.) Provide notice of seizure by hand delivery or send notice by certified mail to all other owner(s) of the vehicle at address(es) set forth in the vehicle registration, if any, within three (3) business days of the date of seizure; and,
- (d.) Notices as required by paragraph (b) and (c) of this Section 3 shall include the fact of the seizure, the right to request a preliminary hearing pursuant to Section 4 and the right to request a final hearing pursuant to Section 5.

SECTION 4. PRELIMINARY HEARING. Any owner of a seized or impounded vehicle may request a preliminary hearing in accordance with the following requirements:

- (a.) Within five (5) calendar days of receipt of the notice of seizure any owner may request a preliminary hearing by delivering to the city, at the address set forth in the notice, a written request for a preliminary hearing. The written request must be received by the city within the allotted time or the right to a preliminary hearing shall be waived. The request must include a telephone number(s) where the owner or the owner's designated agent can be telephonically notified of the date, time and location of the preliminary hearing, and the hours indicating when the owner or designated agent will be available for such telephonic notification.
- (b.) Upon timely receipt of an owner's written request for a preliminary hearing, the city shall schedule a hearing to be held within five (5) calendar days following the date of receipt of the request, or as soon as practicable thereafter. Notice of the preliminary hearing shall be provided in accordance with notice requirements set forth in Section 2-196 of the Code of Ordinances and shall include the date, time and location of the preliminary hearing. If the requesting owner fails to attend the preliminary hearing, and the hearing officer finds that the city has complied with the notice procedures, as set forth herein, then such failure shall constitute a waiver of the owner's right to a preliminary hearing. Any failure of the requesting owner to receive actual notice of the preliminary hearing shall not otherwise invalidate the administrative penalty proceedings as set forth herein.
- (c.) The preliminary hearing shall be held before a hearing officer. The sole issue to be considered by the hearing officer is whether the seizing police officer, or other officer or agent of the City, had probable cause under this section to seize and impound the vehicle. The formal rules of evidence shall not apply and hearsay evidence, including any relevant police report, is admissible. The burden of demonstrating probable cause is on the city.
- (d.) If a preliminary hearing is not requested, or if it was waived, or if the hearing officer finds that there was probable cause to seize and impound the vehicle, then the vehicle shall continue to be impounded pending final hearing or the payment of the appropriate administrative civil penalty or fine, as designated in Section 9, together with all towing costs and storage and outstanding penalties or fines for citations previously issued. Alternatively, the owner may secure release of the vehicle by posting a cash bond, either by money order or certified check, in the amount of the administrative penalty together with all towing and storage costs and outstanding penalties or fines for citations previously issued, plus final hearing costs of fifty dollars (\$50.00). If no probable cause is found at the preliminary hearing, the vehicle shall be released to the owner as soon as practical without the imposition of an administrative fine, towing and storage costs or hearing costs.

SECTION 5. FINAL HEARING. A final hearing may be requested by any owner in accordance with the following provisions:

- (a.) The vehicle owner may request a final hearing by delivering to the city, within fifteen (15) calendar days of receipt of the notice of seizure, a request for a final

hearing. The request must be delivered to the address provided in the notice of seizure and must include an address where the owner or the owner's designated agent can be notified of the date, time, and place of the final hearing.

- (b.) Upon timely receipt of a request for final hearing, the city shall schedule a hearing to be held within thirty (30) calendar days of the receipt of the request, or as soon as practicable thereafter. The city shall provide written notice, in accordance with notice requirements set forth in Section 2-196 of the Code of Ordinances, to the requesting owner at the address on the request for final hearing. The notice shall state the date, time and location of the final hearing to be conducted by the hearing officer pursuant to this section.
- (c.) If an owner fails to timely request a final hearing, or if the owner fails to attend the final hearing, and the hearing officer finds that the city has complied with the notice procedures as set forth herein, then such failure shall constitute a waiver of the owner's right to a final hearing and it shall be deemed admitted that the seized vehicle was used in violation of Section 2.
- (d.) If not waived, the final hearing shall be held before the hearing officer. The formal rules of evidence will not apply at the final hearing and hearsay evidence shall be admissible. The city shall have the burden to prove by clear and convincing evidence that the vehicle was used as set forth in Section 2. It shall be a defense that the vehicle was stolen at the time that it was seized and impounded; or that the owner was without knowledge as to the use of the vehicle in any violation of Section 2. The owner of the vehicle shall have the burden to prove said defense by a preponderance of the evidence.
- (e.) If the final hearing has been waived, or if, after the hearing, the hearing officer finds by clear and convincing evidence that the vehicle was used as set forth in Section 2, the hearing officer shall enter an order authorizing the continued impoundment of the vehicle pending payment of the appropriate administrative civil penalty prescribed in Section 9, towing and storage costs, outstanding penalties or fines for citations previously issued and hearing costs of fifty dollars (\$50.00) or until otherwise released by the city. In the event that an owner is in possession of his or her vehicle due to a bond posted pursuant to Section 4 and the bond amount is insufficient to satisfy the administrative civil penalty and costs identified in the hearing officer's order, the remaining balance shall be paid within five (5) calendar days of the date of the final order. If the hearing officer finds that the city did not meet its burden of proof, or that the vehicle owner has proven by a preponderance of the evidence a valid defense as set forth in paragraph (d) above, the vehicle shall be released to the vehicle owner as soon as practicable without the imposition of an administrative penalty, towing, storage or hearing costs, and any cash bond posted shall be returned.

SECTION 6. ENFORCEMENT; SALE; PROCEEDS; LIEN.

- (a) A copy of the final order issued by the hearing officer shall be recorded in the public record and, upon recording shall constitute a lien against the vehicle. The City as holder of a lien against the vehicle, to the extent the lien has not been

discharged or otherwise satisfied, may enforce the lien in any manner provided by law after ninety (90) calendar days from the date of the final order.

- (b) If the vehicle against which the lien is created is still under impoundment ninety (90) calendar days from the date of the final order and the owner has not satisfied the lien or the lien has not otherwise been discharged, the City may elect to sell the vehicle through a public sale or auction.
- (c) If the custodian elects to sell the vehicle, he or she must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given to the owner and an advertisement of the sale shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to any and all liens, except the city's lien. The advertisement must include a description of the vehicle and the time and place of the sale. The sale may take place no earlier than ten (10) calendar days after the final publication.
- (d) If the owner is absent from the sale, the proceeds of a public sale pursuant to this Section, after payment and satisfaction of the City's lien and the costs of transportation, storage and publication of notice, shall be deposited with the City into an interest-bearing trust account not later than thirty (30) calendar days after the date of sale and held there for one year. If no claim is made for these funds within a period of one year after the date of the sale, the proceeds shall become the property of the City and deposited into the appropriate City fund.
- (e) In the event that the sale proceeds are insufficient to satisfy the amount owed pursuant to the hearing officer's final order and the costs of transportation, storage and publication of notice, the order shall constitute a lien against any real or personal property owned by the vehicle owner. Such lien shall be superior to all other liens, except a lien for taxes, and shall bear interest at the maximum rate allowed by law, as set forth in Fla. Stat. §687.03, as amended from time to time, from the date of its filing. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the real or personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. The city attorney or his designee is authorized to foreclose any lien established hereby in the same manner as is provided by law for the foreclosure of other municipal liens or alternatively, as provided by law for the foreclosure of mortgages. No lien created pursuant to this chapter may be foreclosed on real property which is homestead under §4, Art. X of the State Constitution. In an action to enforce an order or to foreclose on a lien as provided in this section, the city shall be entitled to recover all costs, including a reasonable attorney's fee, which it incurs thereby.
- (f) Any vehicle not disposed by public sale shall become the property of the city and may thereafter be disposed of in accordance with the provisions of applicable law.

SECTION 7. EXCEPTIONS.

- (a.) The Police Chief, or his designee, is hereby authorized to enter into settlement agreements as may be appropriate to accomplish the objectives of this Ordinance.

- (b.) Nothing herein shall prohibit the city from releasing a vehicle seized under the provisions of this Ordinance, if such release is determined to be in the best interests of the city.
- (c.) Nothing herein shall be construed to prohibit the city from enforcing the provisions of this Ordinance against a vehicle initially seized pursuant to the Florida Contraband Forfeiture Act (but not both) if in the best interest of the city.
- (d.) Nothing herein shall preclude the City from utilizing the procedures specified under state law or under Chapter 38 of the City's Code of Ordinances governing the towing, storage and liens for the removal and storage of abandoned motor vehicles.

SECTION 8. APPEALS. The owner of the vehicle which was seized and impounded may appeal a ruling or order of the hearing officer by proceedings in the circuit court for the county in accordance with Rule 9.190, the Florida Rules of Appellate Procedure. An appeal shall be filed within thirty (30) calendar days of the execution of the order to be appealed. The nature of the appeal shall be from a final administrative order.

SECTION 9. ADMINISTRATIVE CIVIL PENALTIES AND FINES. The following penalties and fines apply:

- (a) A first violation shall be subject to an administrative civil penalty of two hundred dollars (\$200.00) plus all towing and storage fees as well as any applicable hearing costs; and any other applicable penalties or fines provided for in the City's Code of Ordinances.
- (b) A second violation shall be subject to an administrative civil penalty of two hundred fifty dollars (\$250.00) plus all towing and storage fees as well as any applicable hearing costs; and any other applicable penalties or fines provided for in the City's Code of Ordinances.
- (c) A third violation shall be subject to an administrative civil penalty of five hundred dollars (\$500.00) plus all towing and storage fees as well as any applicable hearing costs; and any other applicable penalties or fines provided for in the City's Code of Ordinances.

SECTION 10. 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 11. CONFLICTS AND REPEALER. This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where provisions of this Ordinance are in direct conflict with the provisions of such ordinance(s), in which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 12. 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 82 Traffic and Vehicles.

SECTION 13. CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Brooksville, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 10, 11, 12, 13 and 14 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 14. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

CITY OF BROOKSIVLLE, FLORIDA

Attest: _____
Janice Peters, City Clerk

By: _____
Joe Bernardini, Mayor

PASSED on First Reading July 6, 2009

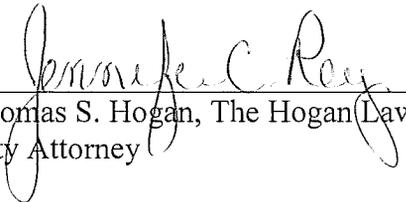
NOTICE Published on July 10, 2009

PASSED on Second & Final Reading _____

Approved as to form for the reliance of the City of Brooksville only:

VOTE OF COUNCIL:

- Bernardini _____
- Bradburn _____
- Johnston _____
- Lewis _____
- Pugh _____



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

**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: NATURAL GAS FRANCHISE – ORDINANCE NO. 776
SECOND READING

DATE: JULY 7, 2009

GENERAL SUMMARY:

At its July 6, 2009 meeting, City Council voted to approve attached Ordinance No. 776 on first reading. Ordinance No. 776 is being presented for second reading as is required by the City Code.

The proposed Ordinance is amending and renewing Ordinance No. 596 which grants a non-exclusive franchise for the distribution of Natural Gas to Peoples Gas System. Ordinance No. 596 was originally adopted on July 12, 1999 and was accepted by Peoples Gas on August 4, 1999. The Franchise granted by Ordinance No. 596 is set to expire on or about August 4, 2009.

Pursuant to paragraph 4(c) of Ordinance No. 596, upon completion of the ten year Franchise Term, the City retained the option to renew the Franchise upon request of Peoples Gas System. Under the terms of the Ordinance, renewal or amendment may be requested by either party at least one hundred eighty (180) calendar days prior to the renewal period. Peoples Gas System's request to renew and amend Ordinance No. 596 was received less than 180 calendar days prior to the renewal period; therefore, the City is not obligated to accept either their request for renewal or amendment. However, to the extent that the Council desires to renew or amend Ordinance No. 596, the Council may accept Peoples Gas System's request for renewal and amendment.

The requested amendments are sought to extend the Franchise to the sale, transportation or distribution of Natural Gas through the Gas Facilities, as defined in the ordinance.

BUDGET IMPACT: The proposed amended terms and renewal of Ordinance No. 596 do not affect the Franchise Fee rate; and therefore, will not have a budget impact.

STAFF RECOMMENDATION: Staff recommends approval of Ordinance No. 776 granting a renewal of a non-exclusive Franchise for the sale, transportation and distribution of Natural Gas.

ATTACHMENTS: Proposed Ordinance No. 776

City of Brooksville

and

Peoples Gas System

Natural Gas Franchise

NATURAL GAS FRANCHISE

Table of Contents

	<u>Page</u>
Section 1 Short Title	4
Section 2 Definitions.....	4
Section 3 Grant of Authority	5
Section 4 Term of Franchise.....	5
Section 5 Franchise Fee and Payments to Grantor	6
Section 6 Assignment	7
Section 7 Forfeiture	7
Section 8 Termination of Grant by Insolvency/Bankruptcy of Grantee.....	8
Section 9 Nature of Relationship.....	9
Section 10 Grantors Rights.....	9
Section 11 Installation and Maintenance of Gas Facilities	9
Section 12 Grantor Indemnification	11
Section 13 Waiver of Rights	11
Section 14 Records, Reports and Customer Billing	11
Section 15 Grantee Rules and Regulations	12
Section 16 Emergency Procedures	12
Section 17 Customer Requests and Complaints	12
Section 18 Rates for Gas Service	12
Section 19 Insurance	12
Section 20 Venue	13
Section 21 Severability.....	13
Section 22 Amendment	14

ORDINANCE NO. 776

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, RENEWING ORDINANCE NO. 596 FOR A TEN YEAR TERM; RENEWING A GRANT OF A NONEXCLUSIVE FRANCHISE TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, TO OPERATE AND MAINTAIN NATURAL GAS SERVICE IN THE CITY OF BROOKSVILLE, HERNANDO COUNTY, FLORIDA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR THE CITY OF BROOKSVILLE REGULATIONS AND USE OF THE GAS SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND THE MONETARY CONSIDERATION TO BE PAID THEREFORE BY THE COMPANY TO THE CITY AND THE METHOD OF PAYMENT, PROVIDING AN OPTION TO RENEW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Brooksville, Florida, a municipal corporation, the Grantor, deems it necessary, desirable and in the interest of the health, safety and welfare of its citizens to establish by Ordinance a Franchise for the distribution of Natural Gas within the Corporate Limits of the City; and,

WHEREAS, the City Council of the City of Brooksville adopted Ordinance No. 596 on July 12, 1999 granting a Franchise for the distribution of Natural Gas to Peoples Gas System, a division of Tampa Electric Company; and,

WHEREAS, on or about August 4, 1999, Peoples Gas System accepted the Franchise granted by Ordinance No. 596; and,

WHEREAS, pursuant to paragraph (c) of Section 4 of Ordinance No. 596, the Grantor retained the option to renew the Franchise upon request of the Grantee; and,

WHEREAS, Ordinance No. 596 will expire on or about August 4, 2009 unless renewed by the City of Brooksville; and,

WHEREAS, Peoples Gas System, the Grantee, has requested renewal of the Franchise established under Ordinance No. 596 to undertake the installation and operation of Gas Facilities to provide such Gas services under a Franchise from the Grantor for one ten (10) year term; and,

WHEREAS, Section 2, Section 3 and Section 4 of Ordinance No. 596 are being amended to address the sale, transportation and distribution of Gas to Customers within the Franchise area; and,

WHEREAS, the City of Brooksville deems it necessary and desirable to continue by Ordinance a Franchise for the distribution and transportation of Natural Gas within the Corporate Limits of the City granted to Peoples Gas System.

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

Section 1: Short Title. This ordinance shall be known and may be cited as the "Gas Franchise"

Section 2: Definitions. For purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (A) **"Consumer or Customer"** shall mean any Person provided with Natural Gas by Grantee within the Franchised area.
- (B) **"Fiscal Year"** shall mean the Grantor's Fiscal Year; October 1 through September 30.
- (C) **"Franchise"** shall mean the rights to use Streets in the Franchise Area for the purpose of installing and maintaining Gas Facilities required to distribute Natural Gas to Customer.
- (D) **"Franchise Area"** shall mean the Corporate Limits of the City of Brooksville as it now exists or as may be amended.
- (E) **"Franchise Fees"** shall mean Grantee's annual payment to Grantor based on Franchise Revenue, for the use of Streets within the Franchise Area.
- (F) **"Franchise Revenue"** shall mean a sum equal to total revenues which Grantee derives from the sale, transportation or distribution of Gas within the Franchise Area, exclusive of tax imposed by and collected for a governmental unit, Customer deposits, and payments from those Customers whom the Grantor has waived by Resolution the obligation of Grantee to include as Franchise Revenue.
- (G) **"Franchise Term"** shall mean the period during which Grantee may utilize Streets within the Franchise Area to provide Gas to Customers.
- (H) **"Gas Facilities or Gas Distribution Facilities"** shall mean pipe, pipe line, tube, main, service, trap, vent, manhole, meter, gauge, regulator, valve, regulator station, conduit, attachment, apparatuses, fixtures and related devices and equipment necessary or appropriate for the maintenance and operation of a Gas Distribution system, located under Streets and other public places in the Franchise Area, as provided for by Section 11 (A).
- (I) **"Gas Production and Gas Storage Facilities"** shall mean the plant and equipment required to produce or store Gas other than incidentally in the Gas Distribution System within the Franchise area.

- (J) **"Gas Service" or "Gas System"** shall mean the Gas Facilities and related equipment necessary to sell, transport, or distribute Gas to Customers in the Franchise Area.
- (K) **"Grantor"** shall mean the City of Brooksville, Hernando County, Florida.
- (L) **"Grantee"** shall mean Peoples Gas System.
- (M) **"Natural Gas or Gas"** shall mean natural gas and/or commingled natural gas and manufactured gas, which is sold, transported or distributed to Customers in pipes. It shall not mean Liquid Petroleum (L. P.) bottle gas or any other fuel distributed via trucks or tanks.
- (N) **"Person"** shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (O) **"Streets"** shall mean the public streets, lanes, alleys, courts, bridges (excluding the area above the deck level of said bridges), easements and other public rights-of-way or public places within the Franchise Area as it now exists, and all extensions and additions thereto, or as they may be established, or abandoned, at any time during the term of this Franchise.

Section 3: Grant of Authority. Grantor hereby grants to Grantee, the right and privilege to own, construct, operate, and maintain Gas Facilities under Streets necessary for the sale, transportation and distribution of Gas to Customers within the Franchise Area. The Franchise does not provide for or authorize Gas Production and Storage Facilities in the Franchise Area. This Franchise and the rights herein granted are subject to the provisions of the existing general and special laws of the State of Florida and those hereinafter enacted.

- (A) **Non-exclusive Grant.** The right to use and occupy Streets and other public places in the Franchise Area for Gas Facilities shall not be exclusive, and the Grantor reserves the right to grant a Franchise or otherwise permit Gas Distribution Facilities under Streets and other public places to any Person at any time.
- (B) **Annexation or De-annexation.** Grantee understands and agrees that the Franchise Area is subject to expansion by annexation and/or contraction by de-annexation of the corporate limits. The Grantor shall notify the Grantee of any expansion or contraction of the Franchise Area within ninety (90) days after the effective date of any such change.

Section 4: Term of Franchise. The Franchise and rights herein granted shall take effect and be in force from and after the final passage of this Ordinance, subject to acceptance by Grantee of all the terms thereof, as provided for herein, and shall continue in full force and effect for a term of ten (10) years from the date of adoption of this Ordinance.

- (A) **Acceptance by Grantee.** The Grantee shall within thirty (30) days after the passage of this Ordinance, notify the Grantor of acceptance of the Franchise in a form approved by Grantor and executed by proper officers of Grantee. If acceptance of this Franchise is not filed with Grantor within (30) thirty days after adoption of this Ordinance, the provisions of this Franchise shall be null and void.
- (B) **Cancellation.** Grantor reserves the right to addend or rescind this Franchise Ordinance and cancel any and all rights granted therein if Grantee has not provided continuous Gas Service to at least one Customer within the Franchise Area for a minimum of thirty (30) calendar days within eighteen (18) months from the date of adoption of this Franchise Ordinance, or for violation of the terms and conditions set forth herein.
- (C) **Renewal.** Upon completion of the ten (10) year Franchise Term, the Grantor retains the option to renew the Franchise upon request of the Grantee, for one (1) additional ten (10) year period. Either party may, by giving written notice to the other party at least one hundred eighty (180) calendar days prior to the renewal period if applicable, request renewal and/or amendments to this Franchise. If new terms cannot thereafter be agreed upon, the Franchise will terminate on the expiration date.

Section 5: Franchise Fee and Payment to Grantor. The Grantee shall pay to the Grantor for the privilege of using Streets in the Franchise Area subject to the terms and conditions herein provided, six (6%) per cent of the annual Franchise Revenue, as herein defined. Nothing herein shall be construed to be a limitation on the assessment and collection of valid taxes and licenses.

- (A) **Payment Schedule.** Payment of the Franchise Fee shall be made to the Grantor for each of the years this Franchise is in effect, and shall be based on the Franchise Revenue for the preceding Fiscal Year, including the part of the Fiscal Year at the beginning and end of the Franchise Term. Payments shall be made within ninety (90) calendar days after the end of each Fiscal Year. Any portion of the annual Franchise Fee not paid within thirty (30) calendar days after the payment due date shall be charged interest from the beginning of the Fiscal Year, at an interest rate of one and one-half percent (1.5%) per month until paid. If all amounts due are not paid within one hundred eighty (180) calendar days of the due date, this Franchise will be forfeited as provided for by Section 7 of the Ordinance.
- (B) **Franchise Fee Computations.** The Grantee will file with the Grantor contemporaneously with each Franchise Fee payment a statement of Grantee's Franchise Revenues for the preceding year, signed by an authorized official of the Grantee, in such reasonable form and detail as the Grantor may from time to time prescribe and sufficient to show the source and method of computation of Franchise Revenues and calculation of the Franchise Fee. All accounts and records of the Grantee necessary to determine the correctness of

any statement of Franchise Revenue, or the Franchise Fee, may be inspected during normal business hours by the Grantor, or Grantor's duly authorized representatives, and the Grantee will within thirty (30) calendar days after receiving a request in writing, make available to the Grantor or said representative such information related to the computation of Franchise Revenues and calculation of the Franchise Fee.

- (C) **Acceptance of payments.** The acceptance of any statement or payment from Grantee shall not stop the Grantor from asserting that the amount paid is not the amount due or from recovering any deficit by any lawful proceeding.
- (D) **Grantor's Agreement.** The Grantor covenants and agrees that it will not, during the term of this Franchise, engage in the business of distributing or selling Gas in competition with Grantee.

Section 6: Assignment. No sale, assignment, or transfer of the rights granted by this Franchise shall be effective unless the Grantee shall have filed written notice thereof with the City Clerk at least sixty (60) days prior to the scheduled date of such sale, assignment or transfer, and unless subsequent to the filing of such notice, the Grantor shall have by ordinance approved and consent, such approval and consent not to be unreasonably withheld, to such sale, assignment, or transfer, provided, however, this requirement will not apply to any sale, assignment or transfer decreed by a court or competent jurisdiction in any receivership or bankruptcy proceedings of Grantee, or assignment in connection with a merger or consolidation of Grantee with any other corporation.

Section 7: Forfeiture. Except in a Force Majeure situation as defined in Section 7(B) below, material violation by the Grantee of any of the covenants, terms, and conditions of this Franchise, or default by the Grantee in observing or implementing any of the covenants, terms, and conditions, including payment of the Franchise Fee, shall authorize and empower the Grantor to declare a forfeiture of and to revoke and cancel the Franchise and all rights granted hereunder will cease, provided, however, that before such action shall become operative and effective, the Grantee shall have been served a written notice of potential default by Grantor with respect thereto. If Grantee fails to correct or desist from any such material violation, or comply with any provision of the Franchise within thirty (30) days of such notice by Grantor, Grantee shall be deemed to have forfeited all grants, privileges, rights, licenses and immunities given by this Franchise.

However, a good faith dispute by the Grantee relating to an interpretation of this Franchise agreement shall not constitute grounds for declaration of forfeiture by the Grantor.

- (A) **Property of Grantee.** A forfeiture of this Franchise shall not extend to any taking of the property of Grantee, and shall be limited to revoking the privilege to use Streets for Gas Services. However, if the Grantee decides that it will no longer offer Natural Gas Service within the corporate limits of the Grantor, as indicated through public notice, an order of the Florida Public

Service Commission and the cessation of gas flow through all Gas Facilities located within the corporate limits, then any Gas Facilities located under Streets after expiration of one hundred eighty (180) calendar days from the Grantee's decision to no longer offer Natural Gas Service, or such longer period Grantor may approve in writing, will be considered abandoned by Grantee, and will become the property of the Grantor.

- (B) **Force Majeure.** The respective duties and obligations of Grantor and Grantee hereunder shall be suspended while and only so long as performance thereof is prevented or impeded, due to lightning, fire, explosion, earthquake, flood, storm, ice, epidemic, landslide, hurricane, tornado, war (declared or undeclared), insurrection, riot, civil disturbance, acts of the public enemy, sabotage, or other acts of God, and the actions of any court, regulatory agency or other governmental authority.

In addition, the duties and responsibilities of the Grantee shall be suspended, subject to one hundred and eighty (180) calendar day maximum during the Franchise Term, for any other cause beyond the Grantee's direct control of including but not limited to unscheduled repairs of equipment, failure of contractors or suppliers of material, labor strikes or labor disputes by employees.

- (C) **Judicial Review.** If a forfeiture is protested in a court of competent jurisdiction (with right of appeal by either party), no such forfeiture shall take effect until the court has found that Grantee has failed to comply in a material respect with any of the provisions of this Franchise, or the willful misconduct or negligent act or omission of Grantee, except for delays in compliance for causes set forth in Section 7 (B). Timely contesting in good faith of forfeiture shall not constitute or be construed as willful misconduct or negligent act or omission.

- (D) **Removal of Gas Distribution Facilities.** If after a forfeiture is declared, or the expiration of the Franchise Term, Grantee may, if it has decided not to continue providing Natural Gas Service within the corporate limits of Grantor, as indicated through public notice, an order of the Florida Public Service Commission and the cessation of gas flow through all Gas Facilities located within the corporate limits, and after payment of any amounts due Grantor, remove at its sole expense any Gas Facilities from Streets in the Franchise Area following one hundred and eighty (180) calendar days from the Grantee's decision to no longer offer Natural Gas Service and Grantee shall restore the Streets to as good of condition as prior to the removal.

Section 8: Termination of Grant by Insolvency or Bankruptcy of Grantee. In the event of final adjudication of insolvency or bankruptcy of the Grantee, the Grantor shall have full power and authority to declare forfeiture and to terminate, revoke and cancel any and all rights granted under the provisions of this Ordinance upon ten (10) days written notice to Grantee.

Section 9: Nature of Relationship. Nothing herein is intended or shall be construed as to create a relationship of partners, contractors, co-venturers, employment, or other relationship between the Grantor and the Grantee, except as set forth in this ordinance.

Section 10: Grantor's Rights. The right is hereby reserved to the Grantor to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of Grantor's police power, provided that such regulation, by ordinance or otherwise, shall not be in conflict with, or represent an attempt to supplement or replace, the laws of the State of Florida, or the Federal Government, or the regulations of any governmental agency with the lawful authority to regulate the activities of Grantee. The rights and privileges granted by this Franchise to Grantee to use streets shall at all times be subordinated and inferior to the rights of Grantor, and nothing in this Ordinance shall be construed as a surrender by Grantor of its rights and power to regulate the use of Street in the Franchise Area.

- (A) **Construction.** Grantor reserves the right to install, construct, and maintain, or to authorize other Persons to install, construct, or maintain water and waste water lines, storm drains, electric and communication conduits, lines, cables, and other pipelines, and to do, or permit to be done, any underground work that may be deemed necessary or proper by the Grantor or other governmental entity having jurisdiction, across, along, or under any Street or other public place. In performing or permitting such work to be done, the Grantor shall not be liable to the Grantee herein for any damage to, or required relocation of, Grantees' Gas Facilities.
- (B) **Inspection.** The Grantor shall have the right to make or cause to be made, inspections of all construction and installation of Gas Facilities necessary to insure compliance with this Franchise, and applicable Ordinances.

Section 11: Installation and Maintenance of Gas Facilities. Grantee shall obtain all necessary permits and pay all required fees prior to commencing construction, excavation, or installation of Gas Facilities under Streets or other public places. The fees for such permits shall not exceed those charged to other Persons for construction, excavation, or similar installation under Streets. Grantors cost for locating underground water, sewer, drainage, communication, power, and other pipes, conduit, and equipment, and controlling access to protect the safety of the public, or providing other assistance or services to facilitate access for the safe installation or repair of Grantees Gas Facilities, shall be reimbursed by Grantee.

- (A) **Installation Standards.** The Grantee shall ensure all construction and installation of Gas Facilities are in full compliance with the provision of the United States Department of Transportation and other regulations adopted by the Florida Public Service Commission or its successors, for new construction, installation, metering, maintenance, operation and repair of Gas Facilities, and all requirements of other governmental agencies having jurisdiction. The Grantee shall file with Grantor, plans and specifications for

the location or relocation of all Gas Facilities prior to installation or construction under Streets for approval by Grantor. Grantee shall coordinate all construction, installation or repairs of Gas Facilities with Grantor and all governmental entities having jurisdiction, and notify other Persons which are authorized by Grantor to use Street in order to minimize any adverse effects, disruption or disturbance. All Gas Distribution Facilities shall be located underground unless approved in advance by the City. Some facilities including meter sets, regulator stations, gate stations, marking posts, test points, etc. may be located above the ground.

- (B) **Conditions of Street Use/Occupancy.** All Gas Facilities and related equipment installed or constructed under Streets within the Franchise Area shall be so located to avoid conflicts and to cause minimum interference with the use of Streets and other public places, and to cause minimum conflict or interference with the rights of reasonable convenience and access by adjoining property owners and the general public to any Streets or other public places. Grantee shall not place Gas Facilities where the same will interfere with, or with access to, any water main, water hydrant, storm drain, sewage line, cables, conduits or other structures constructed or permitted by the Grantor.
- (C) **Construction Damage.** Grantee shall not intentionally interfere with, change, relocate, or injure any water, sewers, draining, electric or communication systems or other facilities owned by Grantor or other persons permitted to use Streets, unless Grantee has received specific authorization from the Grantor. In the event any damage or disturbance of any Street, sidewalk, drainage facility, landscaping, driveway, pavement or other surface, or damages to Grantor's water, waste water, storm sewer or other structures and facilities or the structures and facilities of other persons authorized to use Streets by Grantor, is caused by the Grantee's installations, operations, maintenance and activities, Grantee shall, at its own expense and in a manner approved by Grantor, replace, repair and restore all such structures and facilities, paving, sidewalk, driveway, drainage facility, or surface of any Street disturbed, in as good or better condition as before said work was commenced, and shall maintain such restorations for a period of one (1) calendar year. Should Grantee fail to commence any such restoration after seven (7) calendar days written notice from Grantor, or complete such restoration within thirty (30) calendar days, or fail to maintain such restoration during the one (1) year period, Grantee authorizes Grantor to make such repair and/or restoration, and the cost shall be paid by the Grantee to Grantor within thirty (30) calendar days of notice of any such expense.
- (D) **Relocation of Gas Facility.** If by reason of establishing or changes in the grade, widening, grading, paving, or otherwise improving present or future Streets or public places, or in the location or manner of construction of any water, wastewater sewer, storm water, electric and communication systems, pipes, conduits, or other structures owned by Grantor, or the abandonment

or vacation of any Street, it shall be deemed necessary by the Grantor or other governmental entity having jurisdiction that Grantee alter, change, adapt, relocate, reconstruct, alter, discontinue or conform Gas Facilities, Grantee, at no expense to the Grantor, will comply with within thirty (30) calendar days after receipt of written notice of such requirement, or within such other longer time period acceptable to Grantor.

- (E) **Construction by Other Than Grantor.** If the Grantor shall require Grantee to adapt or conform, or in any way to alter, relocate, or change installed Gas Facilities to enable any other Person except the Grantor or any other governmental entity of the State, to use Streets, the Grantee shall be reimbursed, in a manner acceptable to the Grantee, by the Person desiring or occasioning such change, for the actual cost or expense caused by or arising out of such change, alterations, or relocation of Gas Facilities. Grantor will have no obligations relating to the collection of third Party's obligations.

Section 12: Grantor Indemnification. Grantee shall, at its expense, defend, indemnify, and hold harmless the Grantor, its officers, agents, and employees against any and all claims, suits, damages, liabilities, expenditures, judgments, attorney fees or causes of action of any kind to the extent incurred, assessed, or arising from Grantee's construction, operation, maintenance or activities of Gas Facilities or providing Gas Services, use of Streets, negligent exercise of this Franchise, or resulting or occurring from the acts, omissions, misconduct, or errors of the Grantee, its officers, agents, or employee. In the event Grantor incurs any damage or expense as the result of the foregoing action, activity or inactivity, nonfeasance, misfeasance, malfeasance, including operation of Gas Service or installing, operating, maintaining or relocating of Gas Facilities, Grantee will reimburse Grantor within thirty (30) calendar days written notice. The Grantee's indemnification obligations under this provision shall be limited to the proportional share of the total amount of damages, losses and expenses which is equal to its relative degree of fault.

Section 13: Waiver of Rights. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege under the Franchise shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy or privilege with respect to any other occurrence.

Section 14: Records, Reports and Customer Billing. Prior to commencing service to any Customers, Grantee will provide Grantor with a copy of the Natural Gas Tariff on file with the FPSC applicable to the Customers located within the Franchise Area. The Grantee shall provide to the Grantor, a report showing Franchise Revenues during the preceding Fiscal Year from the Franchise Area, within ninety (90) calendar days of the end of each Fiscal Year. The Grantee shall provide to the Grantor upon request the Customer class billing, revenues and other records on computer readable media and/or actual collections documents to the extent necessary to test reported Franchise Revenues and the calculation of the Franchise Fee. The Customer class billing and other records will not be to the level of detail which allows identification of specific Customers. Such records as are

required herein shall be kept and maintained in accordance with generally accepted accounting principles. All of the said records shall, on written request of the Grantor, be open for examination and audit by Grantor or designated representative during ordinary business hours within fifteen (15) calendar days following receipt by Grantee of a written request. Such records shall be retained by the Grantee for a minimum of three (3) Franchise Years, or such longer periods as may be required by other governmental agencies having jurisdiction.

Section 15: Grantee Rules and Regulations. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this Franchise and to assure uninterrupted Gas Service to its Customers, provided that such rules, regulations, terms and conditions shall be consistent with and implemented pursuant to the terms and conditions of this Franchise, the Rules of the Public Service Commission of the State of Florida, or other agencies lawfully empowered to regulate the activities of the Grantee. Copies of such rules, regulations, terms, rates and conditions of service adopted by Grantee for the conduct of business with Customers within the Franchise Area shall be provided to Grantor within thirty (30) calendar days upon written request by the Grantor.

Section 16: Emergency Procedures. In the event of an accidental release of Gas which may be a real or potential danger to the health, safety, or welfare, of inhabitants or property within the Franchise Area, Grantee shall take immediate action to contain, control or abate such danger or potentially dangerous condition. Grantee will immediately replace, or repair as appropriate, any damaged or defective Gas Facility. Grantee shall, in conjunction with the Grantee's representatives, prepare an emergency plan for their mutual response to the release of Gas into the atmosphere due to damage or failure of Gas Facility, and shall assist with the training of Grantor employees in such emergency procedures. Grantee will provide 24 hour emergency service with a response time of less than sixty (60) minutes to discontinue Gas Service in an emergency at any location within the Franchise Area when directed by Grantors Public Safety Department.

Section 17: Customer Requests and Complaints. Grantee shall comply with all applicable Florida statutes and the rules and regulations of the Florida Public Service Commission or other governmental agency having jurisdiction in responding to requests for service or assistance and processing complaints relating to the actions and operations of services provided by Grantee. In the event such regulations or procedures are no longer required by other governmental jurisdictions in the future, Grantee will establish equivalent procedures acceptable to Grantor.

Section 18: Rates For Gas Service. The Florida Public Service Commission, or other governmental entity having jurisdiction, shall determine the rates that may be charged for Gas service unless otherwise permitted by law.

Section 19: Insurance. At all times during the term of the Franchise, Grantee shall maintain general comprehensive public liability and property damage insurance with a combined single limit of not less than five million dollars (\$5,000,000) per occurrence,

which will include indemnification, defending, and saving the Grantor, its officers, agents, and employees harmless from any and all claims. The insurance requirements of the Grantee hereunder shall not be affected by any insurance which the Grantor may carry in its own name.

- (A) **Certificate of Insurance**. The insurance policy or policies obtained by the Grantee in compliance with this section shall be issued by a company or companies authorized to issue such policies in the State of Florida. Said policies shall name the Grantor as an additional insured and shall contain a provision that a written notice of cancellation or any reduction in coverage of said policy shall be delivered to the Grantor thirty (30) calendar days in advance of the effective date thereof. Within thirty (30) calendar days of the effective date of this Franchise Agreement, the Grantee shall file with the Grantor evidence of required insurance. It is understood and agreed that Grantee will not install any Gas Facility or provide any Gas service to any Customer in the Franchise Area unless such insurance is in force, and that failure to maintain such insurance will be considered a material breach of this Franchise by virtue of which the Grantor may: (a) terminate this franchise upon thirty (30) calendar days written notice to the Grantee, or the effective date of termination of insurance coverage, if sooner, or (b) obtain such coverage on behalf of Grantee, the cost of which will be paid to Grantor within thirty (30) calendar days of notice to Grantee.

- (B) **Cash Deposit**. The Grantee retains the option, in lieu of the insurance requirement set forth herein, to place a letter of credit, surety bond, or cash deposit of not less than five million dollars (\$5,000,000) with Grantor, which Grantor may utilize to settle any claims arising from Grantee operations or the action or inactions of its officers, employees, or agents. Any interest occurring on any such deposit shall be paid to Grantee. The amount of any such funds dispersed by Grantor to settle claims, will be replaced by Grantee within thirty (30) days notice from Grantor.

- (C) **Self Insurance** - The Grantee retains the options in lieu of the insurance requirement set forth herein, to utilize a program of self insurance with an independent third party acceptable to Grantor, who will annually certify the sufficiency and availability of the self insurance program, or a Certificate of Insurance issued by an independent third-party acceptable to Grantor evidencing self-insurance.

Section 20: Venue. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by, and construed in accordance with, the laws of the State of Florida. Hernando County shall be the venue for any litigation concerning the interpretation or performance of the Franchise.

Section 21: Severability. This agreement is divided into numbered Sections, subsections, and paragraph headings. The order in which they are placed is intended only for convenient reference to the provisions of the Franchise and both the Sections and the

sub-sections are referred to as "Sections. In construing this Agreement, the word Section should be given the meaning which it suggests and doubts should be resolved in favor of the broader designation. The provisions of the Franchise and each Section or subsections hereof are independent of and separable from each other. If any section, part of section, subsection, paragraph, sentence, clause, phrase or word is held by any court to be void, invalid, unenforceable or unconstitutional in whole or in part, it shall not affect the validity of the remaining portion of this Ordinance, which shall remain in full force and effect; provided, however, that if Grantor or Grantee finds that an invalidated provision is essential to the Franchise, Grantor or Grantee may declare the Franchise to be terminated.

Section 22. Amendment. Except as amended herein in this Ordinance, all other provisions of Ordinance No. 596 remain in full force in effect.

CITY OF BROOKSVILLE

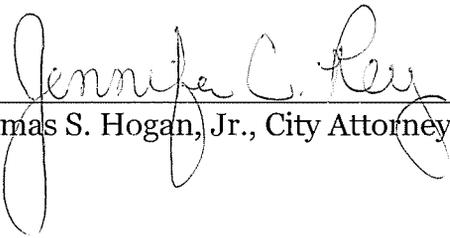
By: _____
Joe Bernardini, Mayor

Attest: _____
Janice L. Peters, City Clerk, CMC

PASSED on First Reading July 6, 2009
NOTICE Published on July 10, 2009
PASSED on Second & Final Reading _____

Approved as to form for
the reliance of the City of
Brooksville only:

VOTE OF COUNCIL:
Bernardini _____
Bradburn _____
Johnston _____
Lewis _____
Pugh _____



Thomas S. Hogan, Jr., City Attorney

CITY OF BROOKSVILLE FINANCE DEPARTMENT

Date: July 8, 2009
To: Honorable Mayor and City Council Members
VIA: T. Jennene Norman-Vacha, City Manager
From: Stephen J Baumgartner, Finance Director
RE: Adopting Tentative Millage rate for 09 /10Budget



State of Florida Truth in Millage (TRIM) requirements mandate that Florida governments set a tentative 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 1st. 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, 2009.

Traditionally, the City Council votes a higher millage than they expect to levy. In 2008 and 2007 the tentative millage was 7.000 mills and in 2006 the tentative rate was set at 8 mills. The millage history is attached. 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	6.0690
Current Year Gross Taxable Value for operating purposes	\$469,710,996
Prior Year re-certified final Taxable Values	\$558,474,395
Current Year rolled-back rate	7.4380
Prior Year rolled-back rate	6.5830
Majority vote maximum millage rate allowed	8.2000
Two-thirds vote maximum millage rate allowed	9.0200

7/8/2009

CITY OF BROOKSVILLE FINANCE DEPARTMENT

For the required announcement, our rolled-back rate is 7.4380. Our first budget hearing is scheduled for Wednesday, September 9, 2009, at 6:00 p.m. in the City of Brooksville Council Chambers.

Presently, the City Manager has directed Finance to use the prior year operating millage of 6.0690 for preliminary budget revenue projections at 95%.

sjb

CITY OF BROOKSVILLE

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Current Year Gross Taxable Value	222,444,561	223,608,049	236,798,225	252,221,165	275,057,175	279,807,297	355,254,847	486,674,322	543,050,744	568,653,310	469,710,996
Prior Year Final Gross Taxable Value	205,743,879	224,602,537	225,960,962	239,021,702	253,713,238	274,404,384	287,393,489	351,157,823	482,065,315	545,843,654	568,431,915
Roll Back Rate	7.3994	8.0355	7.6339	7.5941	7.5738	7.8700	6.4197	5.5408	6.9484	6.5830	7.4380
Proposed Millage Rate	8.0000	8.0000	8.0000	8.0000	8.0000	8.0000	7.5000	7.5000	6.3230	6.0690	6.0690
Difference between Rates	-0.6006	0.0355	-0.3661	-0.4059	-0.4262	0.0000	-1.0803	-1.9592	0.6254	0.5140	1.3690
Ad Valorem Revenue at Roll-back Rate	1,661,924	1,815,709	1,799,827	1,799,627	1,915,393	2,202,083	2,280,630	2,696,565	3,773,334	3,743,445	3,493,710
Ad Valorem Revenue at proposed rate	1,796,820	1,807,687	1,791,654	1,791,654	2,017,769	2,202,083	2,664,411	3,650,057	3,433,710	3,451,157	2,850,676
Difference in Ad Valorem Revenue	134,896	-8,022	-7,973	-7,973	102,376	0	383,781	953,492	-339,824	-292,288	-643,034
Value of a Mill (1.0000)	225,961	225,961	235,741	235,741	252,897	279,807	355,255	486,674	543,051	568,653	469,711
Value of tenth of Mill (0.1000)	22,596	22,596	23,574	23,574	25,290	27,981	35,525	48,667	54,305	56,865	46,971
Value of hundredth of Mill (0.0100)	2,260	2,260	2,357	2,357	2,529	2,798	3,553	4,867	5,431	5,687	4,697

Millage Rate Matrix:

Current Year Taxable Value for budgeting purposes:
469,710,996.00

Millage Rate Matrix	Anticipated Revenue at Given Millage from Roll-back	Revenue Difference
10.0000	4,697,110	1,203,400
9.9000	4,650,139	1,156,429
9.8000	4,603,168	1,109,458
9.7000	4,556,197	1,062,487
9.6000	4,509,226	1,015,516
9.5000	4,462,254	968,544
9.4000	4,415,283	921,573
9.3000	4,368,312	874,602
9.2000	4,321,341	827,631
9.1000	4,274,370	780,660
9.0000	4,227,399	733,689
8.9000	4,180,428	686,718
8.8000	4,133,457	639,747
8.7000	4,086,486	592,776
8.6000	4,039,515	545,805
8.5000	3,992,543	498,833
8.4000	3,945,572	451,862
8.3000	3,898,601	404,891
8.2000	3,851,630	357,920
8.1000	3,804,659	310,949
8.0000	3,757,688	263,978
7.9000	3,710,717	217,007
7.8000	3,663,746	170,036
7.7000	3,616,775	123,065
7.6000	3,569,804	76,094

Millage Rate Matrix	Anticipated Revenue at Given Millage from Roll-back	Revenue Difference
7.5000	3,522,832	29,122
7.4380	3,493,710	0
7.4000	3,475,861	-17,849
7.3000	3,428,890	-64,820
7.2000	3,381,919	-111,791
7.1000	3,334,948	-158,762
7.0000	3,287,977	-205,733
6.9000	3,241,006	-252,704
6.8000	3,194,035	-299,675
6.7000	3,147,064	-346,646
6.6000	3,100,093	-393,617
6.5000	3,053,121	-440,588
6.4000	3,006,150	-487,560
6.3230	2,969,179	-534,531
6.3000	2,959,179	-544,531
6.2000	2,912,208	-591,502
6.1000	2,865,237	-638,473
6.0690	2,850,676	-643,034
5.9690	2,803,705	-690,005
5.8690	2,756,734	-736,976
5.7690	2,709,763	-783,947
5.6000	2,630,382	-863,328
5.5000	2,583,410	-910,300

ROLL-BACK RATE

09/10 Millage Rate



**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: CONSTRUCTION AND OCCUPANCY AGREEMENT – ENRICHMENT
CENTER – QUARRY PROJECT

DATE: JULY 7, 2009

GENERAL SUMMARY: At its June 15, 2009 meeting, the City Council offered a variety of suggestions for modifications to the proposed Construction and Occupancy Agreement between the City and the Enrichment Center of Hernando County, Inc. The Council directed the City Attorney to revise the Agreement based on Council input and to move forward in negotiating with the ECI. A revised proposed Agreement has been drafted to encompass direction received from City Council; however, there are still a few areas where clarification is needed and we need to obtain further direction from Council. Attached is a revised proposed Agreement. Deletions are noted in red strikethrough and additions are noted in blue underline. There are essentially five areas in which direction is needed and the attached agreement provided various options to be considered in each of those areas, in particular:

- Paragraph 3 Term of the Agreement sets forth three (3) options for Council’s consideration.
- Paragraph 7(c) Premises Maintenance Fund sets forth four (4) options for Council’s consideration.
- Paragraph 12 Dispute Resolution sets forth three (3) options for Council’s consideration.
- Paragraph 14 Termination sets forth two (2) options for Council’s consideration.
- Paragraph 15 Termination Payments sets forth three (3) options for Council’s consideration.

BUDGET IMPACT: Certain proposed options as set forth in the Agreement may have a budget impact.

LEGAL REVIEW: The City has the authority to enter into contracts and to negotiate the terms of its contractual obligations.

STAFF RECOMMENDATION: Staff seeks direction from Council as to each of the enumerated paragraphs noted above and asks that Council select a particular option for each paragraph.

ATTACHMENTS: Proposed Agreement with Optional Terms/Provisions

**CONSTRUCTION AND OCCUPANCY AGREEMENT FOR A SPECIAL NEEDS
EMERGENCY SHELTER AT BROOKSVILLE QUARRY**

THIS AGREEMENT, made and entered into effective as of ____ day of _____, 2009, by and between the **CITY OF BROOKSVILLE, FLORIDA**, a municipal corporation, (hereinafter referred to as the "CITY" or "LESSOR") and **THE ENRICHMENT CENTERS INC. OF HERNANDO COUNTY**, a Florida non-profit corporation, (hereinafter referred to as the "ECI" or "LESSEE") (severally, a **PARTY**; or collectively, the **PARTIES**.)

RECITALS

WHEREAS, the ECI offers various health and recreational programs for senior citizens, community and recreation-oriented groups, and health-related organizations, among others and operates two (2) enrichment centers in Hernando County, Florida (the COUNTY), both of which are dedicated to providing activities and programs designed to enrich the lives, and promote the good health, of their clients and customers;

WHEREAS, the ECI operates one (1) of its two (2) centers within the CITY (the BROOKSVILLE CENTER);

WHEREAS, the CITY recognizes the substantial benefits and services rendered by the ECI, and, in particular, its BROOKSVILLE CENTER, to the residents of the CITY, and desires to facilitate its continued presence in the CITY;

WHEREAS, pursuant to the December 1, 2008 City of Brooksville Parks and Recreation Agreement (the COLLABORATIVE AGREEMENT), attached hereto as Exhibit A, between the ECI and the CITY, the BROOKSVILLE CENTER has relocated to, and is temporarily occupying, and providing its services within and/or from the CITY'S Jerome Brown Community Center (JBCC); and,

WHEREAS, the ECI has been seeking funding and community ~~"partnerships"~~collaboration to establish a special needs emergency shelter in the COUNTY (the SHELTER);

WHEREAS, the Florida (the STATE) Legislature (the LEGISLATURE) has allocated to the ECI a SHELTER appropriation of \$600,000 (the STATE APPROPRIATION);

WHEREAS, ECI has entered into a State Funded Sub-grant Agreement, Contract Number 09-CP-15-05-37-01-285, (SUBGRANT CONTRACT) with the State of Florida, Division of Emergency Management (DIVISION);

WHEREAS, Hernando County (the COUNTY) has allocated to the ECI a SHELTER appropriation of \$100,000 (COUNTY APPROPRIATION);

WHEREAS, the CITY owns a building, located at 800 John Gary Grubbs Boulevard, on land with parking and area for building restoration at its Quarry Golf Course property, currently valued at a minimum of \$701,290; the building is in solid structural condition, but is in need of substantial restoration before it can be occupied (the BUILDING);

WHEREAS, the CITY recognizes the need for a SHELTER in the COUNTY, and wishes to partner with the ECI by contributing its BUILDING, for its participation in establishment of such a SHELTER within the CITY, in the BUILDING;

WHEREAS, the ECI and the CITY have determined that the structural integrity of the BUILDING is sufficient to permit it to be restored, remodeled, and retrofitted into a configuration that can function successfully and efficiently as a SHELTER;

WHEREAS, the ECI and the CITY have determined that they can successfully and efficiently provide services within the SHELTER, when said BUILDING is not actually in use as a SHELTER;

WHEREAS, the ECI and the CITY desire that the BROOKSVILLE CENTER conduct its activities and programs within the BUILDING, when the same is not being used, during a declared emergency, as a SHELTER;

WHEREAS, the ECI and the CITY desire that various CITY recreational programming activities including, but not limited to, a pro shop (the PRO SHOP), mining museum (MINING MUSEUM), First Tee golf program, First Serve Tennis program and other recreational activities (collectively referred to as RECREATIONAL PROGRAMS) are conducted within the BUILDING, when the same is not being used, during a declared emergency, as a SHELTER;

WHEREAS, the ECI and the CITY have determined that the BUILDING, in a two (2) story configuration, can accommodate the BROOKSVILLE CENTER, CITY RECREATION PROGRAMS, the PRO SHOP, and the MINING MUSEUM (collectively, EVENTS); and,

WHEREAS, pursuant to the COLLABORATIVE AGREEMENT, (attached as Exhibit A) the CITY agreed to make the BUILDING available to ECI and the ECI agreed to utilize both the STATE APPROPRIATION and the COUNTY APPROPRIATION to restore, remodel, and retrofit the BUILDING, and provide therein space for the SHELTER, space for use by ECI when no emergency is declared, and space for the PRO SHOP, MINING MUSEUM and RECREATION PROGRAMS.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter set forth, the PARTIES covenant and agree, each with the other, as follows:

1. **INCORPORATION OF RECITALS.** The above recitals incorporated herein by reference as fully as if set forth in full text, and shall be deemed to be the representations and warranties of the PARTIES, each to the other.

2. **LEASE.** The LESSOR hereby grants the LESSEE a lease (the LEASE) for the SHELTER SPACE and BUILDING, and for sufficient adjacent grounds to meet parking and drainage retention area (DRA) requirements, the leased premises being described in EXHIBIT B, attached hereto and incorporated herein in haec verba (collectively, with the BUILDING, the PREMISES).

3. TERM OF THE AGREEMENT.

- a. The LEASE shall run for a period of forty (40) years with a renewal option for a like term, to be exercised, in writing, executed by both PARTIES, not less than six (6) months prior to the expiration hereof.; or
- b. The LEASE shall run for a period of forty (40) years with a renewal option for a like term upon request of the LESSEE not less than six (6) months prior to the expiration of the original term; except that, upon exercise of the renewal option, a monthly lease payment in the amount of \$ _____ shall be due by the fifteen of each month.; or
- a.c. The LEASE shall run for a period of sixty (60) years.

3.4. ENVIRONMENTAL MATTERS. The LESSOR shall perform or provide a completed Phase I Environmental Study on the PREMISES to the LESSEE for the PROJECT. CITY shall undertake and complete clean-up measures as indentified by the study and required for the PROJECT. CITY shall remain liable for all existing environmental issues prior to the date of this AGREEMENT.

4.5. PROJECT. The LESSEE, as consideration, and advance payment of rentals, for the LEASE, shall remodel, restore, and retrofit the BUILDING and PREMISES (the PROJECT) to provide the SHELTER SPACE for a special needs emergency shelter pursuant to the SUBGRANT CONTRACT.

- a. **Project Design and Construction.** The LESSEE shall select, and contract with, such qualified and licensed design, construction and other professionals as are reasonably necessary and appropriate to meet deadlines required by the STATE APPROPRIATION for the documentation for the PROJECT.
- b. **Common Space.** Common Space within the Project shall include public access points from the exterior of the building, hallways and walkways, stairwells and elevators, bathroom facilities.
- c. **Kitchen Space.** Kitchen Space within the Project shall be shared among the parties. The LESSEE shall have scheduling priority, including a first right of refusal, for use of the Kitchen Space from Monday through Friday, except that after 4:00 p.m. Monday through Friday and on Weekends the City shall have first right of refusal for use Kitchen Space. Either party upon reasonable notice and

request to the other party may use the Kitchen Space with the other party's approval, which approval shall not be unreasonable withheld.

- d. **Storage Space.** The LESSEE and the LESSOR shall have a secure room of sufficient size within which to store their respective records, equipment, and other items and shall retain physical control, safety, and integrity, and such rooms shall not be deemed to be part of the SHELTER SPACE, and will not be accessible by the emergency management agency (EMA.)
- e. **Pro Shop Space.** Pro Shop Space shall be not less than 865 s.f. space located in the west half of the second floor of the BUILDING as depicted on Exhibit B.
- f. **Museum Space.** Museum Space shall be not less than 330 s.f. of space located in the west half of the second floor of the Building as depicted on Exhibit B and shall include the Common Space.-
- g. **Other Space.** All other space in the BUILDING which shall be available for ECI EVENTS and/or RECREATION PROGRAMS, as otherwise agreed in this Agreement.
- h. **JBCC Collaborative Agreement.** Upon the completion of the PROJECT, and the use of the BUILDING by the LESSEE, the operations of the BROOKSVILLE CENTER shall be removed from the JBCC and relocated to the BUILDING, after which the LESSEE will no longer be obligated to provide a periodic operational expense payment to the LESSOR for the use of the JBCC, as is otherwise contemplated in the COLLABORATIVE AGREEMENT; provided however, that EVENTS of the BROOKSVILLE CENTER that either require a large open-floor space, or otherwise can more effectively and efficiently be conducted therein, may be held in the JBCC pursuant to the LESSOR'S standard terms and conditions for use and/or rental of the JBCC. If the event of function is open to the public without charge and serves City residents, customary rental fees will be waived.
- i. **Subsequent Improvements.** After completion of the PROJECT, any and all structural or additional capacity improvements to the PREMISES necessary to accommodate the operational needs of the LESSEE are subject to prior written approval by the City Council, which approval shall not be unreasonably withheld, and such improvements shall become part of and remain with the PREMISES upon termination of this Agreement. After completion of the PROJECT, any other improvements to the BUILDING necessary to accommodate the operational needs of the LESSEE are subject to prior written approval by the City Manager, or his or her designee, which approval shall not be unreasonably withheld, and such improvements shall become part of and remain with the PREMISES upon termination of this Agreement. The LESSEE shall bear all costs and expenses incurred as a result of improvements to PREMISES or BUILDING that are necessary to accommodate the operational needs of the LESSEE, and, should any

damage to PREMISES occur as a result of improvements, LESSEE shall be responsible for the cost of repair thereof. Further, the City will make no changes in the interior configuration of the PREMISES that will have the effect of adversely impacting the conduct of the ECI'S programs and/or operations, without the written consent of the LESSEE which consent will not be unreasonably withheld.

5.6. PROGRAMMING ACTIVITIES. Except when there is a declared state of emergency either by the STATE and/or the COUNTY and/or the LESSOR requiring the use of the SHELTER SPACE, the LESSEE shall operate its BROOKSVILLE CENTER, and the LESSOR shall ~~simultaneously~~ operate its RECREATIONAL PROGRAMS, PRO SHOP AND MUSUEM SPACE programs within the BUILDING, as described below.

- a. **Calendaring/Scheduling.** The LESSEE and the LESSOR shall coordinate and publish a calendar of EVENTS and RECREATION PROGRAMS that each plans to operate, provide, or present in the BUILDING each month, identifying dates, times, and locations that each may reserve time and space in the BUILDING. The LESSEE shall have scheduling priority, including a first right of refusal for use of space in the BUILDING from Monday through Friday, except that after 4:00 p.m. Monday through Friday the City shall have first right of refusal for use of two classroom areas within the BUILDING. The PRO SHOP and MUSEUM SPACE are excluded from the space in the building subject to the LESSEE's first right of refusal. If scheduling conflicts arise, which must be resolved within 72 hours, the CITY'S Manager, shall have sole and absolute discretion and final authority to determine the ~~appropriateness~~, scheduling and priority of any event held at and any other use of BUILDING with due consideration begin given to the scheduling and planned activities of the LESSEE.
- b. **Event Setup.** The LESSEE and the LESSOR shall each be responsible for preparation and setup of the space for an EVENT to be sponsored by that PARTY, and, further, shall be responsible for maintaining and leaving the space of the other in good and clean condition, and shall assure that the space of the other is left in a similar condition in which it was found, but, in no event, less than "broom clean," after any EVENT in the space of the other.
- c. **Event Standards.** Any EVENT held by either the LESSEE or the LESSOR in the space of the other will be conducted in accordance both with appropriate health and safety standards, and with all ordinances, statutes, rules, regulations, and other applicable law.

6.7. OPERATIONAL & MAINTENANCE MATTERS.

- a. **Utilities.** The LESSOR, at its expense, shall provide utility services, including water, sewer and electric, reasonably necessary and/or appropriate for the operation of the PREMISES.

b. **Repair & Maintenance.** The LESSOR will be responsible for all exterior and interior maintenance, repair and replacement for the PREMISES including, but not limited to: (a) the structure and structural systems; (b) mechanical equipment and systems; and (c) interior and exterior operational cleaning and janitorial requirements and services, both for (i) esthetic and decorative features, and for (ii) grounds, DRAs, and parking areas; provided, however, that the LESSEE shall be responsible for all damages either to the PREMISES, or to the contents of the BUILDING from the use thereof either by its guests, licensees, and/or invitees.

c. **Premises Maintenance Fund.** Premises Maintenance Fund (PMF) obligations shall commence as of the date of issuance of the certificate of occupancy. The LESSOR shall establish a PMF “special fund” for the specific purpose of defraying the costs of utilities, maintenance and repairs of the PREMISES.

i. The LESSEE shall pay to the LESSOR’S PMF an initial contribution of \$10,000 as of November 1st 2010. By November 1 of each subsequent year, an annual contribution of 50% of the prior fiscal year’s actual operating expenses of the PREMISES shall be paid to the ~~special~~ PMF fund by the LESSEE.; or

ii. The LESSEE shall pay to the LESSOR’S PMF an initial contribution of \$ _____ as of November 1st, 2010. By November 1 of each subsequent year an annual contribution of ___% of the prior fiscal year’s actual operating expenses of the PREMISES shall be paid to the PMF by the LESSEE; or

iii. The LESSEE shall pay to the LESSOR’S PMF a monthly installment of \$ _____ beginning November 1, 2010 for each month of the term of this AGREEMENT.; or

iv. The LESSEE will generate fee income for the use of the BUILDING by individuals and groups, for EVENTS not otherwise sponsored or promoted by the LESEE, and shall deposit such income, net of its expenses incurred with regard to those EVENT(S), in an account maintained by the CITY for the sole and exclusive benefit of the LESSEE in defraying the costs both of operating the BUILDING, and of promoting and conducting its EVENTS, and the LESSOR shall issue disbursement therefrom, for documented such purposes, upon the order, and at the direction, of the LESSEE.

~~7.8.~~**STATE OF EMERGENCY.** If either the STATE, COUNTY, or LESSOR declares a state of emergency, pursuant to the legal authority to so declare, the LESSEE and the LESSOR shall vacate the PREMISES, and relinquish the operation and control thereof of the SHELTER SPACE to the appropriate emergency management authority (EMA), or its designee which (a) shall be responsible for operation of the SHELTER during the continuance of the emergency; (b) shall pay all costs and expenses associated therewith; and (c) shall be responsible for repair of

any damage either to the PREMISES, or to any of the contents of the BUILDING, that occurs during the continuance of the emergency, and/or before returning control thereof to the LESSOR and LESSEE.

8.9. **INSURANCE.** As a condition of this Agreement for use of the PREMISES as set forth herein, the LESSEE shall maintain insurance at all times in the amounts set forth below with the LESSOR named as Additional Named Insured and as a Certificate Holder.

- a. General Liability in an amount not less than \$1,000,000/\$3,000,000; Fire and Property Damage, \$500,000; and Worker's Compensation Statutory Limits plus Employee Liability \$100,000.
- b. The LESSOR, in the LESSOR'S ~~reasonable sole and absolute~~ discretion, reserves the right to require additional lines of coverage in the event services offered by the LESSEE change or require such additional coverage; or
- c. If the LESSEE begins to hold EVENTS which involve the use of vehicles, other than publicly operated transportation, including either participant and/or SPONSOR owned and/or operated vehicles, for transport, by and/or for the EVENT, all driver's shall be properly licensed accordingly to law, and the LESSEE, shall maintain vehicle insurance coverage limits of not less than \$1,000,000/\$3,000,000 for liability, \$25,000 for property damage, and \$100,000 for medical payments.

9.10. **SUBGRANT CONTRACT.** This Agreement is subject to the terms and conditions of the State Funded Sub-grant Agreement, Contract Number 09-CP-15-05-37-01-285, (SUBGRANT CONTRACT) between LESSEE and the DIVISION. Same is attached hereto as Exhibit C and incorporated herein as if set forth in haec verba.

10.11. **GOOD FAITH.** Both the LESSEE and the LESSOR mutually agree both to take, or to forebear from taking, all actions, and both to sign all documents, and to do all things, that may be necessary, appropriate, or desirable to completely and effectively both carry out the terms and conditions, and implement the intent and purposes, of this AGREEMENT.

12. **DISPUTE RESOLUTION.** All personnel both of the LESSEE and of the LESSOR shall cooperate, each with the other, to assure the highest level of service and efficiency, both for the clients and customers of the LESSEE, and for both the residents of, and the participants in the EVENTS sponsored by, the LESSOR.

- a. If there is an operational or procedural dispute between the personnel of the LESSEE and the personnel of the LESSOR, or a dispute regarding the interpretation of the terms of this AGREEMENT, the dispute shall be resolved by the CITY'S Manager, and/or the ECIS Executive Director, or their respective designees, in their respective sole and absolute discretion. The City Manager shall

have final authority to resolve any such matter except as otherwise provided herein.; or

- b. If there is an operational or procedural dispute between the personnel of the LESSEE and the personnel of the LESSOR that does not require a decision within 72 hours, or a dispute regarding the interpretation of the terms of this AGREEMENT, the dispute shall be resolved by a Three Party Panel that shall consist of the CITY'S Manager, and the ECIS Executive Director, or their respective designees, and one other person selected by mutual agreement of the City's Manger and the ECI's Executive Director. The Three Party Panel shall have final authority to resolve any such matter except as otherwise provided herein.; or
- c. If there is an operational or procedural dispute between the personnel of the LESSEE and the personnel of the LESSOR that does not require a decision within 72 hours, or a dispute regarding the interpretation of the terms of this AGREEMENT, the dispute shall be resolved by a Three Party Panel that shall consist of the CITY'S Manager, and the ECIS Executive Director, or their respective designees, and {Identify a Specific Position/Person}. The Three Party Panel shall have final authority to resolve any such matter except as otherwise provided herein.

~~11.13.~~ **DEFAULT.** In the event of a default and/or breach of any provision hereof by either PARTY, the non-defaulting PARTY shall give the defaulting PARTY written notice thereof, and the defaulting PARTY shall have sixty (60) calendar days to cure the default.

- a. If the default is not cured, or the curative process for a default that reasonably requires a longer period for cure has not been commenced, within the sixty calendar-day (60) period, the defaulted PARTY shall have the right to seek whatever remedies, against the defaulting PARTY, may be available pursuant to any provision of law.
- b. In the event of a material default of this AGREEMENT, by either PARTY, the defaulted PARTY, after giving the notice hereinabove provided, and if the material default is not cured within the sixty (60) calendar day notice period, may terminate this AGREEMENT by giving the defaulting PARTY an additional ninety (90) calendar day notice to cure the material default, after which the defaulted PARTY may terminate this AGREEMENT if the material default either is not cured, or the curative process has not been commenced; provided, however, that the LESSEE shall have, in any event, not less that six (6) months to vacate the premises.

14. TERMINATION.

- a. Either PARTY may terminate this AGREEMENT without cause with six (6) months prior written notice to the other PARTY.; or

e.b. Either PARTY may terminate this AGREEMENT with cause with six (6) months prior written notice to the other PARTY. Cause shall be defined as (i) an intentional act of fraud, embezzlement, theft or any other material violation of law that occurs during the term of this Agreement; (ii) intentional damage to the PREMISES; (iii) any material breach of the provisions of or obligations under this Agreement; or (iv) willful conduct by either party that is demonstrably and materially injurious to the other party, monetarily or otherwise. For purposes of this paragraph, an act, or a failure to act, shall not be deemed willful or intentional, unless it is done, or omitted to be done, by either party in bad faith or without a reasonable belief that the action or omission was in the best interest of the other party. (In the event this option b is selected, the paragraph 15 is eliminated along with Exhibit D Depreciation Schedule.)

15. TERMINATION PAYMENT. In the event this Agreement is terminated by the LESSOR without good cause, or by the LESSEE with good cause, prior to the expiration of the initial or extended or renewed term hereof, the LESSOR shall pay the LESSEE the then current value of the initial cost of and investment in the PROJECT based on a forty (40) year depreciation schedule for capital improvements calculated from the initial date of construction.

a. See Exhibit D Depreciation Schedule attached hereto and incorporated herein if as set forth in haec verba. LESSOR shall have six (6) months following termination to make final payment.; or

b. See Exhibit D Depreciation Schedule attached hereto and incorporated herein if as set forth in haec verba. The Parties agree that Exhibit D Depreciation Schedule may be amended, to accommodate future cash investments made by LESSEE for additional capital improvements to the PREMISES. LESSOR shall have six (6) months following termination to make final payment.; or

c. See Exhibit D Depreciation Schedule attached hereto and incorporated herein if as set forth in haec verba; however, the LESSEE shall receive no less than \$100,000 as a Termination Payment under this Paragraph 15. The Parties agree that Exhibit D Depreciation Schedule may be amended, to accommodate future cash investments made by LESSEE for additional capital improvements to the PREMISES. LESSOR shall have six (6) months following termination to make final payment.

~~12.~~**16. ENTIRE AGREEMENT.** Unless otherwise specified herein, this AGREEMENT constitutes the sole and only agreement of the PARTIES hereto, and supersedes any prior written or oral understandings or agreements between the PARTIES regarding the subject matter hereof, including, but not limited to, the COLLABORATIVE AGREEMENT.

~~13.~~**17. NOTICE.** All notices, demands, and other writings either required and/or permitted under this AGREEMENT shall be deemed to have been fully given or made or sent

when it is either: (a) prepared in writing and deposited in the United States Mail, postage pre-paid, and properly addressed to the PARTY to be notified at the address hereinabove noted; or (b) actually delivered by a nationally recognized courier service, with receipt thereof by the addressee being acknowledged by an authorized signature. Any notice or disclosure required and/or permitted under this AGREEMENT, and any change of the address and/or identity of a person to be notified, shall be made in accordance with the above notice provision, and such notices shall be sent to:

If to ENRICHMENT CENTERS/LESSEE:
Deborah L. Walker-Druzbeck
Executive Director
**The Enrichment Centers Inc. of Hernando
County**
11375 Cortez Blvd.
Spring Hill, Florida 34613

If to CITY/LESSOR:
T. Jennene Norman-Vacha
City Manager
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

With a Copy to:

Joseph M. Mason, Jr., Esquire
McGee & Mason. P.A.
101 South Main Street
Brooksville, Florida 34601

With a Copy To:

The Hogan Law Firm, LLC
20 S. Broad Street
Brooksville, Florida 34601

14.18.DISCLAIMER. Other than the covenants, promises, representations, and warranties provided in this AGREEMENT, neither PARTY has made any covenants, promises, representations, or warranties, of any nature whatsoever, to the other PARTY.

15.19.PARTIES BOUND. It is expressly acknowledged and agreed, by the PARTIES, that the terms and provisions of this AGREEMENT shall be binding upon, and shall inure to the benefit of, both the PARTIES hereto, and their respective successors and assigns.

16.20.WAIVER. No waiver or estoppel as to or against any PARTY shall result from any failure to exercise or enforce any right or power hereunder, save only to the extent necessarily implied as to the particular matter directly and explicitly concerned, and then only for that occurrence, and not either as to future such occurrences, or as to any other matter or occurrence.

17.21.SEVERABILITY. Whenever possible, each provision and term of this AGREEMENT shall be interpreted in a manner to be effective and valid, but if any provision or term hereof is held to be prohibited or invalid, then such provision or term shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever either the remainder of such provision or term, or the remaining provisions or terms hereof.

18.22.MODIFICATION AND ASSIGNMENT. No amendment, modification, or alteration of the terms of this AGREEMENT shall be binding unless the same is in writing, dated

subsequent to the date hereof and duly executed by the PARTIES hereto. This Agreement may not be assigned, transferred, or pledged by either PARTY without the other PARTY'S prior written consent. LESSEE shall not sub-lease any of its interest or use of PREMISES authorized under this Agreement, without prior written consent of the LESSOR.

~~19.23.~~ **LAW OF AGREEMENT.** All questions, issues, or disputes arising from this AGREEMENT, shall be governed by the laws of the State of Florida.

~~20.24.~~ **VENUE.** Any action or proceeding seeking to enforce any provision of, or based on any right arising either out of or from, this LESSEE/LESSOR AGREEMENT may be brought, by either PARTY against the other PARTY, only in the County or Circuit Courts of the Fifth Judicial Circuit, in and for Hernando County, Florida, or the U.S. District Court for the Middle District of Florida, Tampa Division, and each of the PARTIES irrevocably consents to the lawfully invoked jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding, waives any objection to venue being laid therein, and agrees that both initial and other process in any action or proceeding contemplated herein may be served upon either PARTY anywhere in the world.

~~21.25.~~ **ATTORNEY'S FEES.** In the event any dispute arises between or among any of the parties hereto, the prevailing party in such dispute shall be entitled to recover its attorneys' fees, expenses, and costs, regardless of whether litigation is filed, including, but not limited to, fees for administrative hearings, quasi-judicial hearings, trials, and appeals from any of the same.

IN WITNESS WHEREOF, the PARTIES hereto, THE ENRICHMENT CENTERS, INC. OF HERNANDO COUNTY, and the CITY OF BROOKSVILLE, FLORIDA, respectively, have executed and attested this Agreement, and caused their seals to be affixed hereto, effective as of the day and year first above written, for the purposes herein expressed, and with the intent that both they and their respective successors and assigns shall be hereby bound.

<p>ATTEST:</p> <p>(Seal)</p> <p>By: _____ DEBORAH L. WALKER-DRUZBICK, As its Executive Director Date signed: _____</p>	<p>THE ENRICHMENT CENTERS INC. OF HERNANDO COUNTY, a Florida corporation not-for-profit</p> <p>By: _____ NICHOLAS J. MORANA, As its President Date signed: _____</p>
<p>ATTEST:</p> <p>(Seal)</p> <p>By: _____ JANICE PETERS, As its City Clerk Date signed: _____</p>	<p>CITY OF BROOKSVILLE, a political subdivision of the State of Florida</p> <p>By: _____ JOE BERNARDINI, As its Mayor Date signed: _____</p>

Approved as to legal form.

By: _____

Thomas S. Hogan, Jr., City Attorney

Date signed: _____

CITY OF BROOKSVILLE

MEMORANDUM

To: Honorable Mayor and City Council Members
Via: T. Jennene Norman-Vacha, City Manager
From: Emory H. Pierce, Director of Public Works
Date: 7/10/2009
Re: AMENDED AND RESTATED UTILITY SERVICE AGREEMENT
BETWEEN THE CITY OF BROOKSVILLE AND OREO CORP. OF
OHIO

General Summary: Levitt & Sons of Hernando County, LLC, the Developer for the Cascades project, filed for bankruptcy and abandoned the Project. Key Bank, N.A., the lien holder of the Property, foreclosed on the lien and now holds title to the Property under its real estate holding company, OREO Corp. of Ohio.

The amended and restated agreement distinguishes between a developer and an owner, clarifies the owners requirements for providing reuse water to the development and that no offsite improvements are needed to provide utility service to Phases I & II. Under the amended and restated agreement, the City is committing treatment capacity to serve Phases I and II without requiring the Owner to build more treatment capacity. However, as only Phase I utility lines are in place, the City is only committing to provide water and sewer service to Phase I. Any commitments by the City to provide water and sewer service to Phase II is dependent on the City recovering and receiving funding from the performance and payment bond suits securing the installation of the utility infrastructure. Additionally, the payment of twenty percent of the impact fees in advance has been reduced to just address Phase I and Phase II.

Financial/Budget Impact: None

Legal Impact: The Project is currently subject to litigation in the matters styled *Westchester Fire Insurance Company v. City of Brooksville* and *City of Brooksville v. Bond Safeguard Insurance Company* relating to the foreclosure on performance and payment bonds which secure the various public works improvements required for final plat approval including roads and water and sewer lines. The attached agreement contains certain provisions which are designed to protect the City's interests in the present litigation.

Staff Recommendation: Staff recommends that City Council authorize the Mayor to sign the proposed amended and restated agreement as attached.

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**AMENDED AND RESTATED
UTILITY SERVICE AGREEMENT
CITY OF BROOKSVILLE
&
OREO Corp. of Ohio
(Cascades Subdivision)**

This AMENDED AND RESTATED UTILITY SERVICE AGREEMENT (herein “RESTATED AGREEMENT”) is made and entered into this ____ day of July, 2009, between the CITY OF BROOKSVILLE, FLORIDA, a municipality incorporated under the laws of the State of Florida, hereinafter referred to as the “CITY” and OREO Corp., incorporated under the laws of the State of Ohio, which transacts business in the State of Florida as OREO Corp. of Ohio, hereinafter referred to as the “OWNER”. For and in consideration of Ten Dollars (\$10.00) each in hand paid to the other and other valuable consideration, the parties agree as follows:

WHEREAS, CITY and Levitt & Sons of Hernando County, LLC, a Florida limited liability company (“Levitt”), entered into that certain Utility Service Agreement dated December 12, 2005, recorded in the public records of Hernando County, Florida (“Public Records”) in Official Records Book 2302, Page 990 (“Original Agreement”);

WHEREAS, Levitt filed for bankruptcy and subsequently abandoned the DEVELOPMENT;

WHEREAS, OWNER is the successor in interest to Levitt as to fee simple ownership of the real property located in the limits of CITY, as more particularly described in Exhibit A attached hereto, by virtue of that certain Certificate of Title, recorded in Official Records Book 2622, Page 90, of the Public Records (“Property”);

WHEREAS, the Property is properly zoned to accommodate the development as depicted on the master plan, attached hereto as Exhibit B (herein “DEVELOPMENT”);

WHEREAS, Levitt requested that the CITY provide potable water and wastewater service to the DEVELOPMENT, subject to the terms of the Original Agreement;

WHEREAS, Levitt proceeded to obtain final subdivision plat approval from the CITY for Phases One and Two of the DEVELOPMENT, and the CITY granted such final plat approval subject to certain conditions and the fulfillment of certain obligations by Levitt pursuant to the CITY's rules and regulations, including, without limitation, City Ordinance Section 129-3(c)2, requiring the posting of performance and payment bonds to guarantee the construction of certain utility facilities ("Public Works Improvements") within the platted lands to ensure that future owners would be able to connect their lots to the CITY's utility services;

WHEREAS, Levitt delivered the required performance and payment bonds to the CITY;

WHEREAS, the Bonds are more specifically described as Bond #K07314541 secured on behalf of Levitt as Principal in favor of City, Obligee, in connection with Cascades at Southern Hills Phase Two Storm/Water/Reclaimed/Sanitary Sewer and Bond #K0731453A secured on behalf of Levitt as Principal in favor of City, Obligee, in connection with Cascades at Southern Hills, Phase Two General Conditions/Roadwork/Earthwork (collectively referred to as "Bonds");

WHEREAS, CITY has filed suit¹ to foreclose on the Bonds in order to secure the funding ("Bond Funds") to complete the Public Works Improvements required by the final plat;

WHEREAS, OWNER acquired fee simple title to the Property in reliance upon the existence and terms of the Bond, which ensure payment to the CITY to enable the CITY to construct the infrastructure secured thereby if Levitt failed to do so, and OWNER valued its acquisition of the Property in consideration of the value of the Bond and the committed improvements;

¹ *Westchester Fire Insurance Company v. City of Brooksville*, Case No. 8:09CV00062-T23TBM, filed in U.S. District Court in and for the Middle District of Florida, Tampa Division.

WHEREAS, the OWNER hereby requests potable water and wastewater service from the CITY subject to the parties restating the Original Agreement to provide said service for the DEVELOPMENT;

WHEREAS, the CITY enters into this RESTATED AGREEMENT to fulfill certain of its obligations and responsibilities for protecting the public health, safety, and welfare associated therewith pursuant to law and the Constitution of the State of Florida, and the Comprehensive Land Use Plan of the City of Brooksville, Florida as adopted and approved, including, without limitation, the obligation of the CITY to ensure that utility services will be provided to the purchaser and/or owner of lands within areas for which the CITY has granted final subdivision plat approval;

WHEREAS, the CITY requires the proceeds of the Bonds to fulfill the CITY'S commitment as set forth in the Original Agreement and herein as to Phase Two of the DEVELOPMENT;

WHEREAS, the CITY has certain ordinances and implementing policies in effect as of the date of this RESTATED AGREEMENT providing for connection to and service by CITY owned and operated utility systems;

WHEREAS, said ordinances additionally provide for the levying of specific fees, charges and assessments for service to be rendered,;

WHEREAS, the parties desire to delineate, make certain and define each of their respective responsibilities and obligations with respect to the provision of water and wastewater services to the DEVELOPMENT; and

WHEREAS, CITY and OWNER desire to amend certain terms of the Original Agreement on mutually acceptable terms as provided for herein, and to restate the Original Agreement in its entirety.

IT IS THEREFORE agreed by and between the parties, in consideration of the mutual terms, covenants and conditions herein, the commitments by the OWNER, the commitments by the CITY, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both the CITY and OWNER, as follows:

1. The WHEREAS recitals herein are true and correct.

2. The following attachments and exhibits which are attached hereto and incorporated into the content of this RESTATED AGREEMENT by reference:

- “Exhibit A” Legal Description
- “Exhibit B” Proposed Master Plan
- “Exhibit C” Wastewater Element
- “Exhibit D” Water Element
- “Exhibit E” Reuse Element
- “Exhibit F” Over-sizing Element
- “Exhibit G” *INTENTIONALLY DELETED*
- “Exhibit H” Utility Fee Payment Element
- “Exhibit I” Easement Provision
- “Grant of Easement Form”

3. Both parties agree that any correspondence about the RESTATED AGREEMENT will be considered officially served by hand delivery or a receipt for U.S. Postal Service certified to the following address:

For the OWNER: OREO Corp of Ohio
 MailcodeOH-01-27-0504
 127 Public Square
 Cleveland, Ohio 44114-1217

For the CITY: City Clerk
 City of Brooksville
 201 Howell Avenue
 Brooksville, Florida 34601

4. The OWNER agrees to obtain all easements or right-of-way use permits required to install and operate all utility improvements installed by the OWNER, if any, and without the obligation to so install the Public Works Improvements required by final plat approval for Phases One and Two of the DEVELOPMENT. The OWNER also agrees to grant the CITY utility easements, by record plat or using the CITY’S Grant of Easement form, along with the right of ingress and egress within the DEVELOPMENT for those specific water and wastewater improvements that will be constructed by and/or dedicated to the CITY. The OWNER agrees to furnish the CITY officially recorded copies of all public utility easements or right-of-way use permits obtained for the DEVELOPMENT.

5. The CITY and OWNER acknowledge that the RESTATED AGREEMENT provides terms which constitute the CITY'S response to the OWNER'S request for utility services from the CITY. The availability of such services is based upon and subject to the terms of the RESTATED AGREEMENT and applicable regulations and regulatory approval by other governmental agencies if and as required.
6. The RESTATED AGREEMENT may not be changed orally. Amendment hereto shall be in writing and signed by the parties.
7. Titles and captions to paragraphs are inserted for convenience only, and in no way define, limit, extend or describe the scope or intent of the RESTATED AGREEMENT or the paragraphs or provisions herein.
8. Failure of either party to exercise any right or power given herein, or to insist upon compliance by the other party with its obligations set forth herein, shall not constitute a waiver of either party's rights to demand strict compliance with the terms and provisions of the RESTATED AGREEMENT.
9. Neither party shall declare the other in default of any provisions of the RESTATED AGREEMENT without giving the other party at least thirty (30) calendar days advance written notice of intention to do so, during which time the other parties shall have the opportunity to remedy the default. The notice shall specify the default with particularity.
10. The terms and provisions of the RESTATED AGREEMENT shall be a commitment and obligation which shall not only bind the CITY and the present OWNER of said described real property, but shall be a covenant which shall run with the land and shall bind and be enforceable against the heirs, successors and assigns of the OWNER.
11. The RESTATED AGREEMENT will be in full force and effect for a term of fifty (50) years, or such longer term as the CITY provides water or wastewater service to the DEVELOPMENT, unless terminated as provided herein.
12. The OWNER shall reimburse the CITY for any costs incurred by the CITY to record the RESTATED AGREEMENT in the official record books of Hernando County. Connection to the CITY'S Utility System will not be authorized until these recording costs are paid to the CITY.

13. The respective duties and obligations of the parties herein shall be suspended while and so long as performance thereof is prevented or impeded by any cause outside the control of such parties, including and/or similar to the following which is beyond the reasonable control of the party from who the affected performance was due, due to an act of God, epidemic, landslide, severe weather, lightning, earthquake, fire, explosion, flood, hurricane, tornado, act of public enemy, war blockade, insurrection, riot, civil disturbance, general arrest or restraint by government of individuals or the public, or the CITY'S inability to recover or receive the Bond Funds under the Bonds to fund the construction of the Public Works Improvements necessary to provide service to Phase Two of the DEVELOPMENT.

14. In the event OWNER notifies CITY in writing that services are no longer required by DEVELOPMENT, or the facilities are not operated and maintained by OWNER as required herein, service may be discontinued at CITY'S option upon ninety (90) calendar days notice to OWNER.

15. The RESTATED AGREEMENT and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Florida. The parties further agree that the venue of any legal action concerning this RESTATED AGREEMENT will be Hernando County, Florida. The prevailing party in any litigation arising out of this RESTATED AGREEMENT will be entitled to cost and reasonable attorney fees.

16. The RESTATED AGREEMENT is predicated on the representation by the OWNER that the specific use of the DEVELOPMENT is as stated herein. The CITY may require an amendment to the RESTATED AGREEMENT or a separate RESTATED AGREEMENT in the event of a material change in scope of the DEVELOPMENT affecting the amount of water/waste water service required.

17. The CITY agrees to provide water and wastewater utility capacity and service only for Phases One and Two of the DEVELOPMENT, the plats for which are recorded respectively in the Public Records as the plat of Cascades at Southern Hills Plantation, Phase One, recorded in Plat Book 37, Pages 3 through 10, as modified by the Replat of Cascades at Southern Hills Plantation Phase One, recorded in Plat Book 39, Pages 1 through 9, and the plat of Cascades at Southern Hills Plantation, Phase Two, recorded in Plat Book 37, Pages 38 through 44, provided such commitment expires seven (7) years after the date of this RESTATED AGREEMENT unless extended by an amendment hereto; provided, however, that the CITY'S commitment to provide service (but not treatment

capacity) to Phase Two is contingent upon the CITY'S recovery and receipt of the Bond funds to enable the construction of the Public Works Improvements including the transmission and distribution improvements necessary to provide such service. Nothing herein shall diminish the CITY'S commitment to water and sewer capacity for Phases One and Two, and the CITY hereby reaffirms such capacity commitment. For any future phases of the DEVELOPMENT, beyond Phases One and Two, it is specifically agreed that the CITY'S utility service commitment shall be contingent on compliance with all applicable regulations and all required permits (other than certificates of occupancy) being issued prior thereto, and with proof of such issuance being provided to the CITY in the form of an original or certified true copy of such permit documentation which shall be incorporated herewith as a condition precedent, which shall become a part hereof. Water and/or sewer improvements may not be placed in service until the applicable permit close-out certifications for such portion of the improvements have been provided to the CITY in the form of an original or certified true copy of such permit documentation, and final inspection and approval by the CITY.

18. This commitment is subject to the prompt payment of CITY's fees for water and wastewater services, according to the rates, category and frequency established by the CITY, which may from time to time be adopted or amended and set forth in the CITY Code and this Agreement.

19. Any improvements installed by the OWNER and dedicated to the CITY herein will remain the property of the OWNER until accepted by the CITY in writing. Said improvements shall be maintained by the OWNER until accepted by the CITY. Final acceptance will be given 365 calendar days following construction and final inspection and approval by the CITY. The CITY will promptly perform inspections for such work and shall perform a final inspection of the installed improvements, thirty (30) calendar days prior to acceptance and will provide the OWNER a written notice of acceptance upon correction of inspection concerns, if any. Any expenses sustained by the CITY prior to final acceptance because of a failure of the improvements installed by the OWNER and the OWNER'S unwillingness or inability to restore service within a four hour period shall be repaid by the OWNER.

20. The OWNER agrees to provide the CITY with one complete copy of the record drawings of any improvements installed by OWNER, signed and certified by the project engineer, upon final completion of the DEVELOPMENT.

21. The OWNER agrees to protect the CITY from all claims of ownership for rights and privileges granted by the OWNER to the CITY.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this ___ day of July, 2009.

FOR THE OWNER

By: OREO Corp. d/b/a OREO Corp. of Ohio

By: _____

STATE of _____
COUNTY of _____

The forgoing instrument was acknowledged before me this ___ day of July, 2009 A.D., by an individual, who is personally known to me or who has produced _____, as identification and who (DID) (DID NOT) take an oath.

(Signature of Notary Public)

(Printed Name of Notary Public)

FOR THE CITY

By: _____

ATTEST:

Approved as to form for the reliance of the City of Brooksville only.

Thomas S. Hogan, City Attorney

Approved as to technical content and City requirements.

Will Smith, Utilities Supt.

“EXHIBIT A”
LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN AND BEING A PART OF SECTIONS 4, 9, 10 AND 16, TOWNSHIP 23 SOUTH, RANGE 19 EAST, HERNANDO COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE N 00° 24' 49" E A DISTANCE OF 449.67 FEET; THENCE S 90° 00' 00" E A DISTANCE OF 210.00 FEET; THENCE N 00° 00' 00" E A DISTANCE OF 210.00 FEET; THENCE 90° 00' 00" W A DISTANCE OF 210.00 FEET; THENCE N 00° 16' 55" E A DISTANCE OF 660.35 FEET; THENCE N 89° 47' 38" W A DISTANCE OF 38.21 FEET; THENCE N 26° 19' 35" W A DISTANCE OF 31.31 FEET; THENCE N 0° 17' 12" W A DISTANCE OF 56.61 FEET; THENCE N 05° 39' 10" W A DISTANCE OF 53.89 FEET; THENCE N 72° 47' 15" E A DISTANCE OF 5.74 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1060.00 FEET, A DELTA OF 21° 58' 10", A CHORD DISTANCE OF 403.96 FEET AND A CHORD BEARING OF S 71° 02' 25" E; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 406.45 FEET TO THE POINT OF TANGENCY; THENCE S 82° 01' 30" E A DISTANCE OF 180.06 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 2560.00 FEET, A DELTA OF 05° 20' 01", A CHORD DISTANCE OF 238.22 FEET AND A CHORD BEARING OF S 84° 41' 31" E; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 238.30 FEET; THENCE S 09° 16' 01" W A DISTANCE OF 738.72 FEET; THENCE S 03° 49' 30" E A DISTANCE OF 574.96 FEET; THENCE S 18° 22' 51" E A DISTANCE OF 1983.76 FEET; THENCE S 25° 17' 46" E A DISTANCE OF 508.97 FEET; THENCE S 03° 48' 51" E A DISTANCE OF 991.52 FEET; THENCE S 69° 56' 33" E A DISTANCE OF 1013.97 FEET; THENCE S 39° 12' 36" E A DISTANCE OF 1222.00 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF SEABOARD COASTLINE RAILROAD; THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE S 52° 11' 38" W A DISTANCE OF 856.48 FEET; THENCE S 00° 18' 40" W A DISTANCE OF 38.13 FEET; THENCE S 52° 11' 38" W A DISTANCE OF 134.79 FEET; THENCE N 89° 47' 54" W A DISTANCE OF 32.48 FEET; THENCE S 52° 11' 38" W A DISTANCE OF 1452.28 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF POWELL ROAD; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE N 37° 34' 05" W A DISTANCE OF 132.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 785.30 FEET, A DELTA OF 18° 45' 13", A CHORD DISTANCE OF 255.89 FEET AND A CHORD BEARING OF N 47° 52' 08" W; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 257.04 FEET TO THE POINT OF TANGENCY; THENCE N 57° 14' 45" W A DISTANCE OF 448.10 FEET; THENCE N 57° 12' 10" W A DISTANCE OF 551.70 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1388.82 FEET; A DELTA OF 05° 18' 15", A CHORD DISTANCE OF 128.50 FEET AND A CHORD BEARING OF N 59° 52' 29" W; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 128.55 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 367.04 FEET, A DELTA OF 25° 54' 42", A CHORD DISTANCE OF 164.58 FEET AND A CHORD BEARING OF N 75° 28' 57" W; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 165.99 FEET; THENCE N 00° 37' 21" E A DISTANCE OF 1299.15 FEET; THENCE N 89° 51' 08" W A DISTANCE OF 2659.94 FEET; THENCE N 00° 25' 56" E A DISTANCE OF 982.09 FEET; THENCE S 89° 51' 42" E A DISTANCE OF 1328.98 FEET; THENCE N 00° 25' 20" E A DISTANCE OF 2977.22 FEET TO THE NORTH BOUNDARY OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE ALONG SAID NORTH BOUNDARY S 89° 53' 35" E A DISTANCE OF 1328.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 411.26 ACRES, MORE OR LESS.

LESS AND EXCEPT:

DRAINAGE AND COMMON AREA TRACTS A, B, E, F, G AND H OF CASCADES AT SOUTHERN HILLS PHASE 2 AS RECORDED IN PLAT BOOK 37, PAGE 38 OF THE PUBLIC RECORDS OF HERNANDO COUNTY, FLORIDA.

{00155578}Cascades Utility Service Agmt 7 9 09 (00156200).DOC

AND LESS AND EXCEPT:

DRAINAGE AND COMMON AREA TRACTS A, B, C, D, E, F, G, I, K, AND M OF CASCADES AT SOUTHERN HILLS PLANTATION PHASE ONE REPLAT AS RECORDED IN PLAT BOOK 39, PAGE 1 OF THE PUBLIC RECORDS OF HERNANDO COUNTY, FLORIDA.

AND LESS AND EXCEPT:

LOTS 61 THROUGH 66, 69, 77, 78, 109, 110, 146, 149, 151, 166, 167, 168, 170, 171, 172, 174, 175, 183, 184, 185 AND 186 OF CASCADES AT SOUTHERN HILLS PHASE 1, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 39, PAGE 1 THROUGH 9, OF THE PUBLIC RECORDS OF HERNANDO COUNTY, FLORIDA.

**“EXHIBIT B”
PROPOSED MASTER PLAN**

(Master Plan Goes Here)

“EXHIBIT C”
WASTEWATER ELEMENT

1. The OWNER has requested wastewater service from the CITY. The OWNER agrees to provide centralized wastewater service by the installation of wastewater collection lines, transmission lines, force mains and pumping stations from the DEVELOPMENT to a point of connection at an existing gravity sewer line in the right-of-way of Southern Hills Boulevard to the extent such facilities are necessary for future phases, other than Phases One and Two.

2. In addition, the OWNER shall construct in phases, at the OWNER’S expense, the on-site wastewater collection lines, pump stations and related appurtenance required by the OWNER for the future phases of the DEVELOPMENT, other than Phases One and Two. Said facilities shall be constructed to CITY standards subject to plan review and approval by the CITY and the cost of said lines shall not receive connection fee credit/offset. The CITY shall accept wastewater collection and transmission lines and appurtenances thereto constructed by the OWNER, in accordance with provisions herein, subject to final inspection and approval by the CITY, successful closure of the FDEP operating permit(s) and construction as-built drawing approval. The CITY shall assume all maintenance responsibility for all wastewater facilities installed in public rights-of-ways or easements dedicated to the CITY. The point of connection for all wastewater connections to lots or structures shall be the front lot line, unless otherwise agreed to by the CITY.

3. All wastewater improvements installed by the OWNER and dedicated to the CITY herein will remain the property of the OWNER until accepted by the CITY in writing. Said improvements shall be the responsibility of the OWNER until accepted by the CITY. Final acceptance will be given after a 365 calendar day warranty/maintenance period following construction and the successful closure of applicable FDEP permit, provided the system passes a final inspection and approval by the CITY. Any expenses sustained by the CITY because of a failure of the improvements installed by the OWNER during the one-year warranty/maintenance period shall be repaid by the OWNER within thirty (30) days of being invoiced by the CITY.

4. The OWNER shall provide at no cost to the CITY all easements and rights of ingress and egress within the PROPERTY for the installation, operation and maintenance of all wastewater facilities dedicated to the CITY. Said easements and rights of ingress and egress shall be included on the recorded

subdivision plat or the OWNER agrees to furnish the CITY officially recorded copies of all easements.

5. The OWNER agrees that all wastewater facilities that are constructed by OWNER will be designed and constructed in accordance with the CITY Code and CITY standards as they exist at the effective date of the RESTATED AGREEMENT.

6. The OWNER hereby agrees that wastewater service by the CITY for Phase One is contingent on the OWNER's payment of impact fees as provided herein. The OWNER hereby agrees that wastewater service by the CITY for Phase Two is contingent on the OWNER'S payment of impact fees as provided herein and upon the recovery and receipt of Bond funds for the construction of the Public Works Improvements necessary to provide service.

7. The DEVELOPMENT is within property previously included in a Development Agreement between Hampton Ridge Developers, LLC, and the CITY, recorded in the Official Records Book 1938, Page 1758 of the Public Records, as previously amended (collectively, the "Development Agreement"). The OWNER hereby agrees wastewater service by the CITY for phases of the DEVELOPMENT beyond Phases One and Two is contingent on Hampton Ridge Developers, LLC, fulfilling its obligations in regards to construction of off-site wastewater facilities, the OWNER constructing the on-site wastewater improvements described herein, and payment of impact fees as provided herein.

8. If the CITY requires any over-sizing of the wastewater facilities being constructed by the OWNER (other than what is needed for the projected flows of the DEVELOPMENT or the minimum size required by CITY standards), the CITY agrees to reimburse the OWNER for all additional construction costs for over-sizing. Provided, however, the OWNER'S agreement to construct the CITY required over-sizing is contingent on the CITY notifying the OWNER in writing of the over-sizing requirements prior to OWNER receiving final approval for the design of the wastewater facilities described in paragraph 1 above. The CITY shall pay the OWNER for all cost of the over-sizing upon completion of construction and acceptance by the CITY.

“EXHIBIT D”
WATER ELEMENT

1. **DEFINITIONS:** For the purpose of this RESTATED AGREEMENT, unless the context clearly indicates otherwise, the following terms shall have the following meanings.

- a. **WATER SUPPLY** shall mean all off-site potable water lines and attendant facilities used to supply potable water to the DEVELOPMENT, as shown on “Exhibit B”.
- b. **WATER DISTRIBUTION** shall mean all on-site potable water lines and attendant facilities that are within the specific physical boundaries or needs of the DEVELOPMENT.

2. **WATER SUPPLY:** The DEVELOPMENT shall be supplied water from the existing capacity of the CITY’S existing wells and water treatment plants. The point of connection for water service is a twenty (20) inch water line currently in the right-of-way of Southern Hill Boulevard. The CITY requires that a sixteen (16) inch water line be extended to the property line of the DEVELOPMENT as shown in “Exhibit B” in order to connect to the CITY’S water lines located in Powell Road, outside of the DEVELOPMENT, providing a looped water system and adequate fire safety pressure and capacity for surrounding properties and developments. The OWNER has agreed to grant to the CITY an easement, described in Exhibit “I” below, to accommodate such requirements, and enable the CITY to provide for installation of such line. The CITY acknowledges and agrees that the sixteen (16) inch water line is oversized from a twelve (12) inch line that would be necessary to service the DEVELOPMENT in order to provide fire safety and similar services to other projects in the area of the DEVELOPMENT, and, if installed by OWNER, will be subject to the CITY’S repayment obligation as provided in the oversizing provisions contained herein. Said facilities will be dedicated to the CITY upon final acceptance by the CITY as provided for herein. The CITY agrees to maintain said water line in good working order and in compliance with applicable rules and regulations.

3. **WATER DISTRIBUTION:** The OWNER, at its own expense, agrees to install all water mains, service lines to lots or units, fire hydrants and appurtenances to be sufficient to provide water service within the DEVELOPMENT as shall be approved by the CITY. Said facilities will be dedicated to the City upon acceptance by the CITY as provided herein.

4. **METERING:** The units in the DEVELOPMENT shall be supplied water by the installation of individual meters near the property line as approved by the CITY. Either the CITY or the OWNER shall install the meters provided the meters are installed by a properly licensed plumber and in accordance with CITY standards. Meters installed by the OWNER will be dedicated to the CITY upon final acceptance by the CITY as provided for herein. All meters will be installed at the OWNER's expense. The CITY agrees to maintain the meter in good working order. In the event the OWNER installs the meter, the CITY agrees to waive the hook-up fee.

5. **BACKFLOW DEVICES:** All connections to the drinking water system shall have a reduced principal backflow device installed between the meter and the first connection downstream of the water meter. Either the CITY or the OWNER shall install the backflow devices. Backflow devices installed by the OWNER must be installed by a properly licensed plumber and in accordance with CITY standards. These devices shall be installed and maintained at the OWNER'S or subsequent homeowner's expense.

6. **MAINTENANCE OF INSTALLED FACILITIES:** All water improvements installed by the OWNER within the DEVELOPMENT and dedicated to the CITY as provided herein will remain the maintenance responsibility of the CITY.

7. **DESIGN AND PERMITTING STANDARDS:** The OWNER agrees that all water system design, permitting and construction shall comply with the rules, recommendation and specifications of the CITY, the American Water Works Association, the Federal and State Department of Environmental Protection, and any other regulatory agencies having jurisdiction, and shall be subject to inspection and final approval by the CITY.

“EXHIBIT E”
REUSE ELEMENT

Levitt has installed reuse storage pond(s), a reuse pumping system and a reuse distribution system to provide public access reuse water for irrigation and other beneficial uses within the DEVELOPMENT. OWNER will install, in accordance with plans to be approved by the CITY, approximately 100 feet of reclaimed-water line within Southern Hills Boulevard outside of the DEVELOPMENT to connect the reclaimed-water line within the DEVELOPMENT to the CITY’S existing reclaimed water line. All reuse facilities within the DEVELOPMENT will be owned and maintained in good working order by the OWNER, or a homeowners association for the DEVELOPMENT, in accordance with regulatory requirements.

The OWNER hereby agrees that the reuse commitment by the CITY set forth in this Agreement is contingent on Hampton Ridge Developers, LLC, fulfilling its obligations in regards to construction of off-site utilities facilities, the OWNER constructing the improvements described herein.

The OWNER will purchase reuse water from the CITY provided there is no conflict with any reuse purchase contract existing prior to the date of this RESTATED AGREEMENT, including but not limited to OWNER’S agreements with Hampton Ridge Developers, LLC, including but not limited to the agreements referenced in a certain Memorandum of Agreement recorded in Official Records Book of Hernando County 1942, Page 542, and provided Hampton Ridge Developers, LLC does not have adequate reuse water to provide OWNER.

The CITY agrees to maintain the reuse transmission line in good working order in accordance with regulatory requirements. It is contemplated that there will be no off-site facilities to be constructed by the OWNER, except as otherwise specifically stated herein.

The CITY agrees to cooperate with the OWNER to obtain any available government funding program for funding of the reuse components, provided the OWNER covers all costs and liabilities associated with said funding program.

The CITY hereby makes no assurances and has no control over any other government agency funding for the DEVELOPMENT. Both parties agree that a separate reuse agreement may be needed to address other government agency funding arrangements.

“EXHIBIT F”
OVERSIZING ELEMENT

The OWNER agrees the CITY may require additional lines or larger line sizes than are needed for the DEVELOPMENT and hereby agrees to install those lines provided the CITY pays for all additional cost and the CITY notifies the OWNER during the CITY plan review cycle. Payment by the CITY for any additional lines or all over-sizing requirements will be done upon completion and regulatory close out of the subject lines.

For those water, wastewater or reuse improvements constructed by the OWNER, where the CITY participates in the costs as provided herein, either through direct payment or connection (impact) fee credits, the OWNER agrees to obtain a minimum of three (3) sealed bids from qualified and licensed contractors for the construction of the facilities and to include an alternative bid item to meet the CITY’S over-sizing requirements, if any. Prior to issuing the bid, the CITY shall have the right to review and approve the bid documents and materials. All bids received shall be opened in front of CITY staff and the CITY reserves the right to accept or reject the bid price for the over-sizing requirements.

“EXHIBIT H”
IMPACT FEE PAYMENT ELEMENT

Impact Fees:

The minimum impact/connection fees for the DEVELOPMENT are assessed as follows:

Area	Units	Minimum ERUs	Water Fees	Connection	Sewer Fees	Connection
Phase One	190	190.0	\$ 127,680.00		\$ 328,320.00	
Phase Two	192	192.0	\$ 129,024.00		\$ 331,776.00	
Amenity Center	--	4.0	\$ 2,688.00		\$ 6,912.00	
Guardhouse	--	1.0	\$ 672.00		\$ 1,728.00	
Column Totals -	<u>382</u>	<u>387.0</u>	<u>\$ 260,064.00</u>		<u>\$ 668,736.00</u>	

The water and sewer impact (formerly known as connection) fees are based on the current rate of \$1,728.00 for one (1) sewer ERU (200 gpd) and \$672 for one (1) water ERU (250gpd). Impact fee rates are subject to increases. The impact fee rate is the rate at the time the fee is paid or at the time the impact fee credit is created.

Payment:

1. The CITY requires a down payment of twenty percent (20%) (to be held in escrow by the CITY) of the minimum utility impact fees for Phases One and Two of the DEVELOPMENT to be paid on a phase-by-phase basis (each a “Down Payment”). OWNER shall deliver to the CITY the Down Payment for Phase One, equal to twenty-eight (28) ERUS (*i.e.*, 20% of 141 remaining residential units equals 28 ERUs), prior to applying for any further building permits in Phase One. OWNER shall deliver to the CITY the Down Payment for Phase Two, equal to thirty-eight (38) ERUS (*i.e.*, 20% of 192 residential units equals 38 ERUs), prior to the CITY accepting the water and sewer lines/infrastructure within Phase Two. The Down Payments may be funded by either a cash deposit or ERU Credits assigned to OWNER by Hampton Ridge Developers, LLC, provided that within thirty (30) calendar days after the date of this AGREEMENT but prior to obtaining any new building permits, OWNER will provide evidence acceptable to the CITY, in the sole and absolute discretion of the CITY, of the assignment of such ERU Credits to OWNER.
2. Water and sewer impact fees for Phases One and Two shall be paid as building permits are issued; provided that if OWNER is not otherwise in default of any terms, covenants and conditions of this Agreement, then (a)

upon the application for building permits for the final twenty-eight (28) residential units within Phase One, the CITY shall apply one (1) ERU, or another amount of ERU's as otherwise calculated by the City, to each building permit application applied for as each permit fee falls due, and (b) upon the application for building permits for the final thirty-eight (38) residential units within Phase Two, the CITY shall apply one (1) ERU, or another amount of ERUs as otherwise calculated by the City, to each building permit application applied for as each permit fee falls due.

3. All water and sewer impact fees for the balance of the DEVELOPMENT shall be paid (or ERU credits assigned and used) as each building permit is issued.

“EXHIBIT I”
EASEMENT PROVISION

The OWNER hereby agrees to grant the CITY utility easement(s) within the DEVELOPMENT over the entire length of Cotillion Blvd. (which easements shall be within the right-of-way of Cotillion Blvd.) so the CITY will have a continuous easement from southerly termination of Cotillion Blvd. as shown on the plat of Phase Two, to the right-of-way of Powell Road, as indicated in Exhibit “B”, that will allow the CITY to connect to water and sewer lines with the DEVELOPMENT and extend said lines to the limits of the DEVELOPMENT. Said easement shall be granted to the CITY upon execution of this RESTATED AGREEMENT by both parties. The easement shall be relocatable by the OWNER at its sole cost at the option of the OWNER provided it still functions for its intended purpose.

GRANT OF EASEMENT

THIS AGREEMENT made and entered into this _____ day of _____, _____, by and between _____, hereinafter called the Grantor, the City Of Brooksville, hereinafter called the Grantee.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the sum of \$1.00 and other valuable consideration, cash in hand paid, the receipt of which is hereby acknowledged, the Grantor has this day bargained and sold, and by these presents do bargain, sell, convey, transfer, and deliver unto the Grantee, a permanent easement and right-of-way, including the perpetual right to enter upon the real property hereinafter described, at any time that it may see fit, and construct, maintain and repair underground pipelines and/or mains for the purpose of conveying water over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said pipelines and/or mains, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, maintenance, and operation of said pipelines and/or mains.

The land affected by the grant of this easement and right-of-way is located in the County of Hernando, and the State of Florida, and is more particularly described as follows to-wit:

SEE ATTACHED LEGAL DESCRIPTION
[Insert legal description of Cotillion Boulevard.]

The Grantor hereby covenants with the Grantee that Grantor is lawfully seized and possessed of the real property above-described, thereof, and that Grantor will forever warrant and defend the title thereto against the lawful claims of all persons whomever.

As a part of the consideration for this grant, the Grantor does hereby release any and all claims for damages from whatsoever cause incidental to the exercise of the rights herein granted. The Grantee will use its reasonable good faith efforts not to unreasonable interfere with the quiet use and enjoyment of the Development for its intended purpose, while exercising its rights as set forth in the Grant of Easement. Grantor reserves the right to relocate any facilities installed by Grantee pursuant to Grantee's rights hereunder, at Grantor's sole cost and expense, provided that such relocation does not interfere with the operation of such facilities, Grantor provides Grantee with fifteen (15) days prior notice of such planned relocation activities, and Grantor provides Grantee's with drawings showing the locations of the relocated facilities. Upon any such relocation, Grantee shall cooperate with Grantor in amending this Grant of Easement to provide a substituted legal description of the actual location of such relocated facilities.

IN WITNESS WHEREOF, the Grantor, has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in the presence of:

(Witness)

By: _____

(Witness)

STATE of FLORIDA

COUNTY of

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____, to me known to be the persons described herein in or who produce _____ as identification and who executed the foregoing instrument and said persons acknowledged before me that said the same.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, A.D., _____.

Notary Public
{00155578}Cascades Utility Service Agmt 7 9 09 (00156200).DOC

CORRESPONDENCE-TO-NOTE

REGULAR COUNCIL MEETING – July 20, 2009

1. **TYPE:** Letter
 DATE: July 1, 2009
 RECEIVED FROM: Southwest Florida Water Management District
 ADDRESSED TO: T. Jennene Norman-Vacha, City Manager
 SUBJECT: Notice of Extension of Water Shortage Orders

2. **TYPE:** Letter
 DATE: June 22, 2009
 RECEIVED FROM: National Arbor Day Foundation
 ADDRESSED TO: Joe Bernardini, Mayor
 SUBJECT: Congratulations on the City's commitment to trees and the environment
 through participation in the Tree City USA program

NOTE: COPIES OF ALL CORRESPONDENCE ON FILE IN THE OFFICE OF THE CITY CLERK



An Equal Opportunity Employer

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

TDD only 1-800-231-6103 (FL only)

On the Internet at: WaterMatters.org

Bartow Service Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Lecanto Service Office
Suite 226
3600 West Sovereign Path
Lecanto, Florida 34461-8070
(352) 527-8131

Sarasota Service Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Service Office
7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

Todd Pressman
Chair, Pinellas

Ronald E. Oakley
Vice Chair, Pasco

Hugh M. Gramling
Secretary, Hillsborough

Sallie Parks
Treasurer, Pinellas

Bryan K. Beswick
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Jennifer E. Closshey
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Albert G. Joerger
Sarasota

Maritza Rovira-Forino
Hillsborough

H. Paul Senft, Jr.
Polk

Douglas B. Tharp
Sumter

Judith C. Whitehead
Hernando

David L. Moore
Executive Director

William S. Bilensky
General Counsel

July 1, 2009

Jennene Norman-Vach
City Manager, City of Brooksville
201 Howell Ave.
Brooksville, FL 34601

SUBJECT: Notice – All Water Shortage Orders Extended
(restrictions and other response measures will continue)

Dear Ms. Norman-Vach:

During its meeting on June 23, 2009, the Governing Board of the Southwest Florida Water Management District (District) extended all of the existing water shortage orders previously issued by the Board (described below). This action does not affect any emergency water shortage orders previously issued by the Executive Director. In making this decision, Board members took into consideration a drop in rainfall associated with the recent heat wave and uncertainties in weather forecasts for the remainder of the summer rainy season.

No changes to the existing Board orders were made except to extend the expiration dates. Here are the new expiration dates and a summary of the existing orders:

- Order SWF 07-02 was extended to September 30, 2009. It requires once-per-week lawn watering and other Modified Phase II (Severe Water Shortage) measures for all uses in Citrus, Hardee, Hernando, Highlands, Lake, Levy, Polk and Sumter counties, and The Villages of Marion in Marion County as well as any use not covered by a Phase III or Phase IV declaration in seven other counties.
- Order SWF 09-009 was extended to July 31, 2009. It requires stricter lawn watering hours and other Modified Phase III (Extreme Water Shortage) measures for select uses in Charlotte, DeSoto, Manatee and Sarasota counties. It also requires monthly system status reporting by water utilities in these counties.
- Order SWF 08-044 was extended to July 31, 2009. It requires Modified Phase III measures for select uses in Hillsborough, Pasco and Pinellas counties. The system status reports for water utilities in these counties are due bi-weekly.
- Order SWF 09-012 was extended to July 31, 2009. It requires Modified Phase IV (Critical Water Shortage) measures for certain potable water uses in Hillsborough, Pasco and Pinellas counties. These measures include a 78-degree Fahrenheit limit on water-based air conditioning and bans on fountain operation, do-it-yourself car washing and do-it-yourself pressure washing.

For complete information about any of these water shortage orders, please visit the District's website (www.WaterMatters.org) or contact the District's hotline team (call 1-800-848-0499 or e-mail water.restrictions@WaterMatters.org).

Sincerely,

David L. Moore, P.G.
Executive Director



CTN
07/20/09
JFK



The National Arbor Day Foundation®

211 N. 12th St. • Lincoln, NE 68508 • 402-474-5655 arborday.org

We inspire people to plant, nurture, and celebrate trees.

June 22, 2009

Joe Barnardini
Mayor
201 Howell Avenue
Brooksville, FL 34601

Dear Joel,

We noticed that Brooksville was recognized on *Hernandotoday.com* for your community's commitment to trees and the environment through your participation in the Arbor Day Foundation's Tree City USA program. Brooksville has received this national recognition for 15 years.

We would like to take this opportunity to congratulate you on behalf of Brooksville for this recognition of your commitment to community forestry. Tree City USA is a successful program because of leaders just like you, across the country, in communities large and small, working to improve the quality of life for the residents of your city.

Trees are an essential component of the infrastructure in our cities and towns. They clean our air and water, control storm water runoff, moderate temperature, conserve soil, and bring nature into our daily lives. A community, and its citizens, that recognize these benefits and provide needed care for its trees deserves recognition and thanks.

Thank for your leadership, and never hesitate to contact us if we can help in any way.

Once again, congratulations on your commitment to Brooksville's tree care program.

Sincerely,

Dan Lambe
Vice President, Programs

cc: Shirley Frazier

Your love of trees can make a lasting difference.
Please consider The National Arbor Day Foundation in your will.



Handwritten notes: LAMBE, CTN, 7-20-09, 9/14