

**GULF BREEZE CITY COUNCIL  
REGULAR MEETING**

JUNE 7, 2010  
MONDAY, 6:30 P.M.  
COUNCIL CHAMBERS

**REMINDER: THERE WILL BE A WORKSHOP AT 5:30 P.M. TO  
DISCUSS UPDATE OF FUTURE LAND USE ELEMENT  
OF THE CITY'S COMPREHENSIVE PLAN**

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Approval of Minutes of May 17, 2010 (Regular Meeting)  
Approval of Minutes of May 17, 2010 (CRA Meeting)
4. **CONSENT AGENDA ITEMS:\***
  - A. Discussion and Action Regarding Local Government Symposium
  - B. Discussion and Action Regarding Stormwater Project on Pfeiffer Street
  - C. Discussion and Action Regarding Acquisition of Fire Boat, FEMA Alternate Project #09
  - D. Discussion and Action Regarding Shoreline Dr/South Sunset Boulevard Replacement Well
  - E. Discussion and Action Regarding Dispatch Service Agreement to National Park Service
  - F. Discussion and Action Regarding Engineering Fee for Natural Gas Pipeline -  
FEMA Alternative Project #05
  - G. Discussion and Action Regarding Ground Penetrating Radar Bid, FEMA Alternative  
Project #15
  - H. Discussion and Action Regarding Vactor Sewer Truck, FEMA Alternative Project #8
  - I. Discussion and Action Regarding Florida Department of Transportation - SB 1446  
Landscaping Architecture Consulting Services Contract

- J. Discussion and Action Regarding Report to Council of Critical Required Acquisitions and Procurements Relative to Oil Spill
- K. Discussion and Action Regarding Deconstruction of Fishing Bridge
- L. Information Items

**\* These are items considered routine in nature and will be considered by one (1) motion. If any citizen wishes to voice an opinion on one of these items you should advise the Council immediately.**

**ACTION AGENDA ITEMS:**

- A. Discussion and Action Regarding Breach of Contract - Traffipax
- B. Discussion and Action Regarding Proposal to Convert Overhead Electric Wiring to Underground
- C. Discussion and Action Regarding Rewrite of Future Land Use Element of the City's Comprehensive Plan
- 5. New Business: Discussion and Action Regarding Community Development Block Grant - Purchasing Policy
- 6. Open Forum
- 7. Adjournment

**If any person decides to appeal any decisions made with respect to any matter considered at this meeting or public hearing, such person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.**

**The public is invited to comment on matters before the City Council upon seeking and receiving recognition from the Chair.**

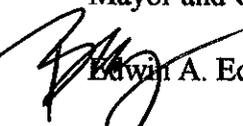


# City of Gulf Breeze

OFFICE OF THE CITY MANAGER

June 3, 2010

TO: Mayor and City Council

FROM:  Edwin A. Eddy, City Manager

SUBJ: **WORKSHOP, MONDAY, JUNE 7, 2010, ON THE FUTURE LAND USE ELEMENT OF THE CITY'S COMPREHENSIVE PLAN**

The Council directed staff to organize a workshop on the FLUE on June 7 at 5:30 p.m. The purpose of the workshop will be to discuss the changes staff and our consultant have made to the FLUE since the April 28 workshop on this matter. Attached is a blacklined version of the redraft. The old language has been stricken through and new language is underlined.

The first substantive change is on page 2-3, Policy 1.5.1. The references to height and number of stories have been deleted. For the Parks, Public Facilities, Neighborhood Business and Community Redevelopment categories we have added a suggested Floor to Area Ratio (FAR) to establish a maximum density on site coverage.

A simple way to look at floor to area ratio is as follows:

1. A .25 FAR means that a building on site can have a maximum floor space equal to 25% of the size of the site. If there was a one acre park site, the size of a building would be limited to one quarter of an acre.

$$.25 \times 43,560 \text{ sq. ft.} = 10,890$$

A 10,890 square foot building would be allowed. This could be two stories with 5,445 square feet on each floor.

2. A 2.0 FAR means that a one acre site could have a maximum of 87,120 square feet of building.

This maximum would have to be provided on at least three floors of 29,040 square feet each. A more likely scenario is four floors of 21,780 each in order to provide space for parking.

Workshop Information  
June 3, 2010  
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It is our intent to provide methods in the City Code in the Land Development section that a developer can use to propose a site plan over 35 feet.

The examples of the criteria the City is going to use to draft the LDC controlling site plan review are included on page 2-7, Police 1.5.9(6b).

On page 2-4, Policy 1.5.2, we included an overall paragraph that limits all buildings in the City to 35 feet in height unless the proposed building is in the CRA.

Most of the remaining changes are not substantive. They are for clarification. On page 2-8 and 2-0 you will note that the Land Use classifications we proposed for Medical and Research have been deleted. This will enable developers to have a mixed "Class A" office building without a specific designation.

Pursuant to Section 163.3177(6), Florida Statutes (F.S.), and Rule 9J-5.006, Florida Administrative Code (F.A.C.), the Future Land Use Element designates future land use patterns as depicted on the Future Land Use Map (FLUM) series and serves as a guide for development that benefits residents by protecting the City's natural character and promoting economic development. It establishes a land use pattern that allows for efficient growth and development, which can be served by adequate public facilities for the current and projected population. To accomplish this, the following must be met:

- Define future land uses and their locations.
- Recognize development trends.

**Goal 1:**

**Provide an improved quality of life that balances the natural, physical and economic environment through promotion of a sustainable development pattern that meets the needs of public and private development and redevelopment consistent with adequate levels of service, efficient use of facilities and protection of natural resources.**

**Objective 1.1: Coordinate future land uses with the topography and soil conditions unique to Gulf Breeze and with the availability of facilities and services required to support such development.**

**Policy 1.1.1:** Continue to implement the City's Concurrency Management System, which details procedures whereby facilities and services necessary to serve proposed developments at the adopted level of service (LOS) standards must be confirmed as available concurrent with the impacts of development prior to the issuance of development orders and permits.

**Policy 1.1.2:** Consideration of land use and zoning amendments shall include the relationship of the amendments to the availability of public services and facilities necessary to support proposed densities and intensities.

**Policy 1.1.3:** Require that the owner of any development project be responsible for the provision of sanitary sewer facilities and a stormwater management system that are consistent with soil conditions and natural drainage patterns to the maximum extent possible in compliance with City and State regulations.

**Objective 1.2: Promote the redevelopment and renewal of areas that are exhibiting evidence of decline within the City by implementing programs of the Gulf Breeze Community Redevelopment Agency (CRA) and through participation in County and State community development and housing rehabilitation programs.**

**Policy 1.2.1:** Maintain an active code enforcement program that ensures the maintenance of existing structures and identifies and requires removal of structures that are a hazard to the public health and safety.

**Policy 1.2.2:** Implement the redevelopment plans and programs of the Gulf Breeze CRA as detailed in the *City of Gulf Breeze Community Redevelopment Plan*, adopted in 2009, as amended. ~~With the exception of the City of Gulf Breeze Community Redevelopment Plan, adopted in 2009, as amended.~~ Each and every time the Community Redevelopment Plan is mentioned in the FLUE, it shall mean the Community Redevelopment Plan, adopted in 2009, as amended.

**Policy 1.2.3:** Require new development and redevelopment within the CRA to adhere to the *City of Gulf Breeze CRA and Central Business District Design Guidelines*, adopted June 11, 2006, as amended, ~~which is hereby incorporated by reference into the comprehensive plan.~~ Each and every time the Design Guidelines are mentioned in the FLUE it shall mean the Design Guidelines adopted June 11, 2006, as amended.

**Objective 1.3:** Land uses that are inconsistent with the FLUM and the character of the City shall be reduced or eliminated over time.

**Policy 1.3.1:** Non-conforming land uses and structures shall be prohibited within the City limits, except as may be essential and necessary to protect the public health and safety, through enforcement of the standards and procedures to ensure the limitations on expansion of non-conforming land uses and as set forth in the Land Development Code (LDC).

**Policy 1.3.2:** Consistency with the character of adjacent land use districts shall be reviewed during land use plan amendments or rezoning requests, considering potential maximum densities, intensities and the manner in which the land uses on the FLUM and zoning districts result in an appropriate transition of uses, densities and intensities.

**Policy 1.3.3:** Determination of inconsistent character shall be included in the review and approval of both new development and redevelopment; however, for redevelopment areas, incompatibility alone will not negatively affect the review, provided that ~~the following techniques including, but not limited to, the following~~ are defined and adopted in the LDC and applied ~~toused~~ in a proposed development to wholly or partially mitigate the inconsistencies:

- Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light and glare, and screening of physical features of a proposed development;
- Variable setbacks, based upon degree of difference in proposed density, intensity, scale, mass or height;
- Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage or other features with potential negative impacts;
- Effective transitions of on-site densities, intensities, scale, mass or height; and
- Other innovative site design features that strive to ~~effectively~~ achieve compatibility and effectively mitigate potential negative impacts.

**Policy 1.3.4:** The City has established zoning districts and regulations in its LDC that further implement the goals, objectives and policies of the comprehensive plan and the FLUM including:

- Regulations and performance standards that address the use of land in the City's zoning district provisions;
- Subdivision and master planning of land, including transportation and utility infrastructure, and provision of open space;
- Protection of environmental resources and areas subject to seasonal or periodic flooding;
- Design of on-site traffic flow, considering adequate parking facilities;
- Landscape, buffer and screening regulations; and
- Regulations for signage.

**Objective 1.4:** The City shall discourage the proliferation of urban sprawl through a future land use pattern that promotes orderly, compact development and the provision of energy-efficient public facilities and services that minimize costs and environmental impacts.

**Policy 1.4.1:** Coordinate with Santa Rosa County to establish joint policies regarding provision, location and expansion of urban services and facilities.

**Policy 1.4.2:** Adhere to the Public Schools Interlocal Agreement executed in October 2008, as amended, for siting of public school facilities and coordination on population projections.

**Policy 1.4.3:** Prioritize the funding of capital improvement projects in a manner that generally assigns priority to the renewal, reuse and/or rehabilitation of existing facilities or the replacement of existing obsolete or worn out facilities, as a preferred alternative to new construction.

**Policy 1.4.4:** The City shall encourage infill development through the use of higher density and higher intensity land use designations and mixed-use designations in areas desirable for infill development, and through the use of development incentives such as density bonuses, job creation, targeted business relocation bonuses and/or targeted redevelopment programs.

**Objective 1.5:** Ensure that future development and redevelopment activities occur in an orderly manner and in a pattern that promotes energy conservation, based on the future land uses assigned to appropriate areas of the City on the adopted Future Land Use Map (FLUM).

**Policy 1.5.1:** The adopted FLUM contains and identifies appropriate locations for the land use categories, hereby established at the densities and intensities shown on the following table.

Future Land Use Categories	Maximum Density/Intensity <sup>(1)</sup>	
<b>Conservation (CNS)</b>	N/A	N/A
<b>Parks/Recreation (P/R)</b>	<u>0.25 FAR</u>	30' to top of roof
<b>Public Facilities/Institutional (PF/I)</b>	<u>1.0 FAR</u>	35' to top of roof
<b>Residential</b>		
<b>Low-Density Residential (LDR)</b>	1-4 du per acre <sup>(2)</sup>	35' to top of roof
Medium-Density (MDR)	1-10 du per acre	35' to top of roof
High-Density (HDR)	5-15 du per acre	35' to top of roof
<b>Professional (PRF) Neighborhood Business (NB)</b>	1-10 du per acre/ <u>0.5 FAR</u>	35' to top of roof
<b>Commercial Community Redevelopment Area (CRA)</b>	5-15- <u>30</u> du per acre/ <u>2.0 FAR</u>	35' to top of roof
<b>Medical Technology (M-T)</b>		5 stories/60' to top of roof
<b>Research-Technology (R-T)</b>		5 stories/60' to top of roof

(1) Density is based on gross square feet of parcel

(2) DU means dwelling unit and only applies to categories that permit residential uses

(3) Height is measured from the base floor elevation to the top of roof FAR=Floor Area Ratio (square footage of total building area/square footage of parcel)

**Policy 1.5.2:** The maximum height for all buildings within the City shall be 35 feet, except that development located within the CRA future land use category, meeting criteria to be more specifically described in regulations that will be adopted in the LDC by March 2011, may be higher than 35 feet.

~~All development and redevelopment located within the Gulf Breeze CRA other than single-family detached dwellings and duplexes will be subject to review that requires compliance with the City of Gulf Breeze CRA and Central Business District Design Guidelines, adopted June 11, 2006, as amended.~~

**Policy 1.5.3:** The following uses are allowed in all land use categories unless specifically prohibited in an individual category, subject to standards and performance criteria set forth in this Plan and in the LDC:

- Accessory uses customarily incidental to the primary permitted use(s);
- Churches, schools, parks and open space, municipal facilities and other civic and cultural uses that don't meet the thresholds set within specific land use categories; and
- Minor public utilities such as telephone switching stations, lift stations, drainage infrastructure, small scale electrical generating and distribution facilities, and similar facilities.

**Policy 1.5.4: Conservation Land Use Category (CNS).** The conservation land use category is established for the long-term protection and preservation of publicly-owned lands that contain environmentally sensitive natural resources, such as wetlands, floodplains and unique ecological communities. ~~Only p~~Passive open space and passive recreational activities shall be the only uses allowed in the conservation category, limited to resource-enhancing facilities such as multi-purpose trails, bike paths and natural area land restoration projects. Interactive areas/facilities may be allowed as long as they are provided and managed consistent with goals, objectives and policies of this element as well as the goals, objectives, policies, standards and criteria set forth in the Conservation Element.

- Lands designated as conservation on the FLUM may be counted toward meeting the adopted level of service standards for recreation and open space for the City.
- ~~If it is impractical to designate the area containing conservation resources as conservation land use due to size, location or other factors, t~~The City shall have the option of obtaining a conservation easement from the private property owners to protect the area environmentally sensitive natural resources. Areas covered by a conservation easement shall be treated-permitted the same land use activities the same as areas designated as conservation land use on the FLUM. Regulations shall be included by March 2011 in the LDC to establish the process for conservation easements.

~~No development is permitted within the conservation category, except where the City or other governments or agencies having jurisdiction already allow development rights. The applicant shall bear the burden of proof in determining that development shall not adversely impact conservation resources.~~

**Policy 1.5.5: Parks/Recreation Land Use Category (P/R).** The parks and recreation land use category is established to provide sufficient space for public and private parks that are open to the public for active and passive recreation use. The P/R land use category is intended to accommodate existing public parks and recreation areas as well as committed public and

~~semi-public open spaces. The buildings are permitted at a maximum 30-foot height. Not all parks and recreational facilities are required to be shown as parks on the FLUM. Park and recreation uses shall be allowed in other categories as support uses.~~

**Policy 1.5.6: Public Facilities/Institutional Land Use Category (PF/I).** Areas delineated on the FLUM as PF/I land use are established to accommodate public and semi-public services including government administration buildings; public schools and not-for-profit educational institutions; public hospital facilities and supportive health care units; arts, cultural or civic facilities; essential public services and facilities; cemeteries; fire and emergency operation facilities; utilities; public and semi-public open spaces and other similar uses meeting threshold sizes established herein.

~~Building height shall not exceed 35 feet.~~

- Churches and religious institutions on parcels greater than two acres shall be designated as public facilities/institutional future land use category on the FLUM, otherwise these uses are allowed in any land use category.

~~Public and private schools on parcels greater than five acres shall be designated as public facilities/institutional future land use category on the FLUM.~~

- The City shall monitor the need for increased land area for public/institutional uses and shall ensure that this land use designation on the FLUM is expanded to accommodate the development of public and semi-public facilities such as government administration buildings; fire, police and rescue services; educational institutions and similar public uses.

~~**Residential-Environmentally Sensitive Land Use Category (R-ES).** Areas delineated on the FLUM as R-ES land use shall accommodate very low density residential use that has minimal impact on the natural resources of the land. Only single family detached homes are allowed, at a density of 1.75 dwelling units per acre. The primary residence is permitted a maximum height of 35 feet. All development within the R-ES category shall comply with the City's regulations pertaining to environmentally sensitive lands.~~

**Policy 1.5.7: Low-Density Residential (LDR).** Areas delineated on the FLUM as LDR land use shall accommodate a maximum density of up to four (4) dwelling units per acre and shall be comprised of single-family detached homes on individual lots. The primary residence is permitted a maximum height of 35 feet. Accessory residential uses (i.e., garage apartments) are permitted in the low-density future land use category, subject to standards and performance criteria set forth in the LDC that assures neighborhood character will not be adversely impacted and that infrastructure requirements, including adequate parking, are met. The maximum height for all buildings within the LDR category is 35 feet.

~~**Medium-Density Residential (MDR).** Areas delineated on the FLUM as MDR land use shall accommodate a maximum density of up to 10 units per acre. Permitted housing types are single-family detached homes, including zero-lot-line and cluster developments, duplexes, townhomes, condominiums and apartments. Nursing homes, assisted living facilities and independent living facilities are also permitted.~~

~~For single-family detached homes, duplexes and townhome-style construction, the primary residences are permitted a maximum height of 35 feet.~~

~~For multi-family development, including condominiums and apartments, the building height shall not exceed 35 feet.~~

~~The LDC shall include performance standards for townhomes, condominiums and apartments that control the location of proposed buildings in relation to the overall dimension of the site, and require that adequate open space is provided, as well as significant landscaping and buffers that will effectively screen these developments from low-density residential zoning districts.~~

~~Condominium or apartment developments of more than 40 units shall provide recreational facilities to meet the needs of the population of the development.~~

**High-Density Residential (HDR).** ~~Areas delineated on the FLUM as HDR land use are established to accommodate medium to high density residential development, which includes a variety of housing types such as townhomes, condominiums and apartments. Nursing homes, assisted living facilities and independent living facilities are also permitted.~~

~~The HDR category is not intended for the development of low density, detached, single-family residences. Any existing single family detached residences will be permitted to remain and shall not be considered a non-conforming use; however, the minimum density for any new residential development is 5 units per acre and the maximum density is 15 units per acre.~~

~~Building height shall not exceed 35 feet.~~

~~The LDC shall include performance standards for townhomes, condominiums and apartments that control the location of proposed buildings in relation to the overall dimension of the site, and require that adequate open space is provided, as well as significant landscaping and buffers that will effectively screen these developments from low-density residential zoning districts.~~

~~Condominium or apartment developments of more than 40 units shall provide recreational facilities to meet the needs of the population of the development.~~

**Policy 1.5.8: Professional Land Use Category (PRF) Neighborhood Business (NB).** This land use category is intended to provide for a mixture of low-intensity professional offices and very limited specialty-retail shops designed in a way to be compatible with and enhance the general character of the surrounding area. While areas delineated on the FLUM as PRF NB are established primarily to ensure availability of land for offices, small-scale offices and retail, the City also acknowledges the possibility of a certain amount of low to medium density residential development in these areas.

**Policy 1.5.9: Commercial Land Use Category Community Redevelopment Area (CRA).** This land use category is only allowed within the legal boundaries of the Gulf Breeze CRA and is intended to implement the redevelopment and economic development strategies in the City of Gulf Breeze Community Redevelopment Plan. The CRA category is intended to provide for a mixture of high-quality professional offices, residential uses, general retail establishments, service businesses, hotels and motels and automobile service and gasoline stations, as well as cultural and tourist facilities, recognized as characteristic of the City's historical commercial development. While areas delineated on the FLUM as CRA are established primarily to ensure availability of land for commerce, the City also acknowledges the possibility of a certain amount of medium to high density residential development in these areas to promote the "urban center" character desired for the CRA.

~~Building height shall not exceed 35 feet.~~

1. New development and redevelopment within the CRA shall adhere to the City of Gulf Breeze CRA and Central Business District Design Guidelines.

2. The CRA category is not intended for the development of low density, detached, single-family residences. Any existing single-family detached residences will be permitted to remain and shall not be considered a non-conforming use; however, the minimum density for any new residential development is ~~five-four (4)~~ four (4) units per acre and the maximum density is ~~1530~~ 15 units per acre.
3. Nursing homes, assisted living facilities and independent living facilities are permitted in the CRA category.
4. Although traditional heavy industrial uses are not allowed in the CRA category, certain industrial-type uses such as warehouses, high technology manufacturing facilities and similar light industrial uses may be considered compatible with the commercial and residential uses in the category, depending on the specific intent and design of the development project. ~~Therefore, these uses may be allowed as a special exception after review and approval by the City Council on a case-by-case basis.~~
5. ~~Performance standards~~ Criteria for the CRA category shall ~~may~~ include, but are not limited to, the following:
  - a. A mixed-use development may include a mixture of land uses on the same site and/or in the same building. For a mixed-use building, only offices, retail sales, and services and restaurants are permitted on the ground floor.
  - b. The LDC shall include requirements for enhanced landscaping and screening between new development or redevelopment in a mixed-use category and any abutting low-density residential land use categories.
  - c. Unified architectural and streetscape themes are encouraged for all mixed-use developments, provided the themes are consistent with the *City of Gulf Breeze CRA and Central Business District Design Guidelines*.
6. All development within the CRA category, except for single-family detached residences, shall be required to comply with certain criteria, including but not limited to those listed below, that will be more specifically described in regulations that will be adopted by March 2011 in the LDC and the City of Gulf Breeze Community Redevelopment Plan:
  - a. All development shall undergo site plan review for consistency with design guidelines adopted in the City of Gulf Breeze Community Redevelopment Plan and Central Business District Design Guidelines;
  - b. For all buildings proposed at a height over 35 feet, this site plan review for consistency with design guidelines adopted in the City of Gulf Breeze Community Redevelopment Plan and Central Business District Design Guidelines shall include specific review to mitigate any adverse compatibility impacts caused by the additional building height, including:
    - Enhanced landscape buffering;
    - Location of service drives and/or parking areas to mitigate noise and vehicular lights; and
    - Location and type of lighting, signage, dumpsters, etc.
    - Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light and glare, and screening of physical features of a proposed development;

- Variable setbacks, based upon degree of difference in proposed density, intensity, scale, mass or height;
  - Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage or other features with potential negative impacts;
  - Effective transitions of on-site densities, intensities, scale, mass or height; and
  - Other innovative site design features that strive to achieve compatibility and mitigate potential negative impacts.
- c. Any development or redevelopment within the CRA category proposing a building or buildings over 35 feet shall require additional review and approval to ensure that specific redevelopment and economic development standards are met. These standards will be established by March 2011 in the LDC and the *City of Gulf Breeze Community Redevelopment Plan*. These standards may include, but are not limited to, development incentives such as density bonuses, job creation, targeted business relocation bonuses and targeted redevelopment programs, which shall will be prepared and incorporated by March 2011 within the *City of Gulf Breeze Community Redevelopment Plan*.
- d. Based upon research and analysis and at the recommendation of the City Manager, the City Council may also impose reasonable conditions that meet or exceed the compatibility criteria described in Policy 1.3.3 that are intended to mitigate any proven adverse compatibility impacts caused by the additional building height.

**Medical-Technology Land Use Category (M-T).** ~~This land use category is only allowed within the boundaries of the Gulf Breeze redevelopment area and is intended to implement the economic development strategies in the *City of Gulf Breeze Community Redevelopment Plan*, adopted in 2009, as amended. The medical category allows for hospitals, pharmacies, medical offices and clinics, and medical technology uses, as well as professional office, retail business and service support uses.~~

~~Professional office, retail business and service support uses are allowed, provided these uses shall not occupy more than 20 percent of the gross floor area of a single building or the said uses are part of an approved site plan for more than one building, and the amount of space for these uses does not exceed 20 percent of the combined floor area of all buildings. A freestanding restaurant/cafeteria is permitted in the M-T category, provided that the parcel does not exceed 10 percent of the land area within the medical land use category.~~

~~Building height shall not exceed 60 feet and five stories, except that any part of a building located within 250 feet of a low-density residential district is limited to a maximum height of 35 feet.~~

~~The LDC shall include requirements for expanded building setbacks and enhanced landscaping and screening between new development or redevelopment in an M-T category and any abutting low-density residential land use categories.~~

~~Stand-alone or attached parking garages are an allowable use in the medical land use category and may be used to provide off-street parking requirements by more than one business, subject to standards and performance criteria set forth in the LDC and the execution of a shared parking agreement approved by the City.~~

~~**Research-Technology Land Use Category (R-T).** The research-technology land use category is only allowed within the boundaries of the Gulf Breeze redevelopment area and is intended to implement the economic development strategies in the *City of Gulf Breeze Community Redevelopment Plan*, adopted in 2009, as amended. The research-technology land use category is intended to accommodate research and technology facilities, corporate offices and support services and facilities in a campus-like, high-quality environment.~~

~~Limited professional office, retail business and service support uses are allowed, provided these uses shall not occupy more than 25 percent of the gross floor area of a single building or the said uses are part of an approved site plan for more than one building, and the amount of space for these uses does not exceed 25 percent of the combined floor area of all buildings. A freestanding restaurant/cafeteria is permitted in the R-T category, provided that the parcel does not exceed 10 percent of the land area within the medical land use category.~~

~~Building height shall not exceed 60 feet and five stories, except that any part of a building located within 250 feet of a low density residential district is limited to a maximum height of 35 feet.~~

~~The LDC shall include requirements for expanded building setbacks and enhanced landscaping and screening between new development or redevelopment in an R-T category and any abutting low density residential land use categories.~~

~~Stand-alone or attached parking garages are an allowable use in the medical land use category and may be used to provide off-street parking requirements by more than one business, subject to standards and performance criteria set forth in the LDC and the execution of a shared parking agreement approved by the City.~~

**Objective 1.6: Protect and restore natural and historic resources through identification, classification, planning and management and limitations on use consistent with the degree of protection required. (Note: There are no existing potable water wells located within the City, nor are any proposed throughout the planning timeframe.)**

**Policy 1.6.1:** Coordinate with the Northwest Florida Water Management District (NWFWM) in its plans to develop and implement a comprehensive aquifer recharge area protection program and address this in the City's Water Supply Facilities Work Plan.

**Policy 1.6.2:** Require the review and approval of development proposals by the appropriate environmental agencies prior to the issuance of any development permit by the City.

**Policy 1.6.3:** Review the Florida Natural Areas Inventory (FNAI), during the Evaluation and Appraisal process, to update listed species and their habitats in the City.

**Policy 1.6.4:** Require development in identified flood prone areas to be in accordance with the City's Floodplain Management Ordinance. The LDC will continue to implement the FEMA floodplain restrictions by adhering to the Flood Insurance Rate Maps (FIRM), as updated. To prevent duplication of agency requirements for floodplain management, the LDC will be revised, and new definitions included that combine are consistent with the State and FEMA language.

**Policy 1.6.5:** Environmentally sensitive lands, as designated in the coastal management and conservation elements shall be protected through the process of development, redevelopment, land use plan amendments and changes in zoning. The protection of environmentally sensitive lands shall be accomplished by maintaining provisions in the City's

LDC that require one or more of the following best management practices techniques, based on the degree of protection required.:

~~During platting of environmentally sensitive lands, the City will require that 50 percent of wetlands on-site be set aside as contiguous conservation area. The City will allow lot layout and setbacks to vary so that development on remaining portions of the site can be clustered on uplands.~~

~~All development within environmentally sensitive lands is required to be connected to a central sewer system.~~

~~To maintain the natural function of wetlands, the City will require driveway and/or roadway culverts as necessary to maintain natural hydrology.~~

~~Permits for development adjacent to wetlands will require that any septic tanks be setback at least 100 feet from wetlands where no public sewer facilities are available.~~

~~All publicly owned environmentally sensitive lands will be designated as conservation land use on the FLUM.~~

~~Areas of native vegetation located within public parks shall be preserved to the extent possible.~~

- ~~• Environmentally sensitive resources shall be protected from development and encroachment of development through the use of buffer zones.~~

**Policy 1.6.6:** Encourage owners of historically significant housing (i.e. housing over 50 years of age) to apply for and utilize state and federal assistance programs and incentives to redevelop the structure in a manner sensitive to its original character.

**Policy 1.6.7:** ~~Prior to issuance of building permits for all development that will require excavation of 24 inches or more, developers shall be required to submit evidence, satisfactory to Gulf Breeze City Council, that a professional archaeological survey of the area has indicated the absence of significant historical or archeological artifacts or that the presence of such artifacts is unlikely. In the case where such surveys reveal the presence of significant historical or archaeological artifacts, developers will be required to obtain development plan approval from the City with specific attention given toward preservation and protection of identified significant historical and archaeological sites.~~ The City shall adopt regulations in its LDC by March 2011 that establish the conditions under which development shall require an archaeological survey and processes that will be used for the review of such identified developments.

**Policy 1.6.8:** Coordinate with the South Santa Rosa/Escambia Resource Management Plan, as updated, in the implementation of its recommendations.

**Objective 1.7: Development, redevelopment, land use plan amendments and changes to the zoning of a site shall be consistent with the availability of adequate services and facilities, including assurance that land is available for the needed utility facilities and services.**

**Policy 1.7.1:** All development orders or permits, including any redevelopment activities, shall be issued only if there are public facilities and services available with sufficient capacities to maintain the level of service standards concurrent with the impacts of the proposed development. Prior to the issuance of a building permit, the City shall verify that adequate sanitary sewer, potable water, stormwater management and solid waste facilities and services will be available to serve new development no later than the anticipated date of issuance of the certificate of occupancy.

**Policy 1.7.2:** The City of Gulf Breeze has been designated a "Dense Urban Land Area" (DULA) pursuant to Section 163.3164, F.S., and hereby eliminates state mandated transportation concurrency. The City shall monitor transportation as a matter of local law. By July 2011, the City shall adopt land use and transportation strategies to support and fund mobility within the Transportation Concurrency Exception Area (TCEA).

**Policy 1.7.3:** Ensure the availability of suitable land for public services and facilities by requiring dedication of adequate rights-of-way for use as roadways, to provide for potable water, sanitary sewer and stormwater management facilities, and for new construction, service extensions or facility improvements required by utility companies.

**Policy 1.7.4:** Small-scale, site-specific, or off-grid electrical generation systems serving single users or small clusters of users and which use alternative energy sources shall be allowed in all land use categories without exception. Such alternative systems shall be allowed to connect to an available electrical energy distribution system to sell excess power to an electric utility provider. All substations adjacent to residential neighborhoods or visible from a public roadway shall be required to provide landscaping and buffering to minimize visual and noise impacts.

**Objective 1.8: Provide the opportunity for use of innovative land development regulations.**

**Policy 1.8.1:** The City shall review its planned unit development provisions in the LDC and make revisions by ~~December 2012~~March 2011, if necessary, to ensure they are consistent with the goals, objectives and policies of the comprehensive plan.

**Policy 1.8.2:** Consider and act upon initiatives to allow transfer of development rights and/or other forms of regulatory trade-offs in order to achieve the objectives of the comprehensive plan.

**Policy 1.8.3:** The City shall continue to allow home occupations as long as they do not generate excessive traffic and parking, consistent with the LDC.

**Objective 1.9: Proposed new development, redevelopment and changes in future land use shall be coordinated with the local mitigation strategy and the regional hurricane evacuation study.**

**Policy 1.9.1:** Coastal area population densities shall be coordinated with the 1999 Northwest Florida Hurricane Evacuation Study, as updated.

**Policy 1.9.2:** ~~The City shall implement~~ the applicable recommendations of the Santa Rosa County Local Mitigation Strategy.

**Objective 1.10: New development in the City shall comply with "Smart Growth" principles that minimize the emission of greenhouse gases and reduce vehicle miles of travel as opposed to conventional development standards that encourage urban sprawl. The following policies shall be incorporated into the City's land development regulations by ~~December 2012~~March 2011:**

**Policy 1.10.1:** Development in the Gulf Breeze Community Redevelopment Area shall provide pedestrian-friendly street design (~~buildings close to street; porches, windows and doors; tree-lined streets; hidden parking lots; garages in rear; narrow, slow-speed streets~~). New

development, as well as infill development where feasible, shall provide interconnected street grid networks to disperse traffic and to encourage walkability. As appropriate based upon size and scale, developments may include a hierarchy of narrow streets, boulevards and alleys; high-quality pedestrian networks; designs that encourage a greater use of bicycles, rollerblades, scooters and walking as daily transportation; connectivity to public transit; and a land use mix that demonstrates reduced external trips by encouraging internal trips.

**Policy 1.10.2:** New development and infill development may provide a mix of shops, offices, apartments and homes on site and provide mixed-use within neighborhoods, within blocks and within buildings in the Gulf Breeze Community Redevelopment Area and in planned unit developments.

**Policy 1.10.3:** Promote viable alternative transportation modes, including public transit facilities and connections, sidewalks and bicycle paths as well as, where safety criteria can be met, paths or routes for small electric vehicles.

**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA**

The 1,152<sup>nd</sup> regular meeting of the Gulf Breeze City Council, Gulf Breeze, Florida, was held at the Gulf Breeze City Hall on Monday, May 17, 2010, at 6:30 p.m.

Upon call of the roll the following Councilmen were present: Dana Morris, J. B. Schluter, Joseph Henderson and Mayor Beverly Zimmern. Councilman Richard Fulford was out of town.

**APPROVAL OF MINUTES:**

Councilman Schluter moved for approval of the minutes for the regular meeting held on Monday, May 3, 2010. Councilman Henderson seconded. The vote for approval was 4 - 0.

Councilman Henderson moved for approval of the minutes for the special meeting held on Thursday, May 6, 2010. Councilman Schluter seconded. The vote for approval was 4 - 0.

**RESOLUTION NO. 14-10: ADOPTING AN ANTI-DISPLACEMENT POLICY AND  
RELOCATION PLAN AS PART OF ITS PARTICIPATION  
IN THE COMMUNITY DEVELOPMENT BLOCK GRANT  
(CDBG)**

The resolution was read by title only by the City Clerk. The City Manager explained the purpose of the policies. Councilman Schluter moved for approval. Councilman Morris seconded. The vote for approval was 4 - 0.

**CONSENT AGENDA ITEMS:**

**RECOMMENDATION:**

**That the City Council approve the following Consent Agenda Items: A, B, C, D, E, F, G and H:**

**A. SUBJECT: DISCUSSION AND ACTION REGARDING DEVELOPMENT  
REVIEW BOARD REFERRALS OF MAY 4, 2010**

- I. June Biggs - 418 North Sunset Boulevard  
Requests to Construct a 12.7" x 12.7" Uncovered  
Boat Lift Connected to their Existing Pier

**RECOMMENDATION:**

**That the City Council accept the project as presented with the stipulation that all permits are received by staff before boat lift is built.**

- II. Richard Holifield - 38 Highpoint Drive  
Requests to Construct a New Vinyl Retaining Wall

**RECOMMENDATION:**

**That the City Council accept the project with the requirement that a 45 degree return be added to the wall and the plans be amended accordingly.**

- III. Kimberly and Alan Turner - 483 Deer Point Drive  
Requests to Construct a Covered Boat Slip

**RECOMMENDATION:**

**That the City Council deny the project. No one appeared to present the Turner case.**

- B. SUBJECT: DISCUSSION AND ACTION REGARDING PROPOSED DREDGING OF WOODLAND BAYOU**

Reference: City Manager memo dated May 7, 2010

**RECOMMENDATION:**

**This item was withdrawn.**

- C. SUBJECT: DISCUSSION AND ACTION REGARDING SPECIAL ASSESSMENT PROGRAM FOR HARBOURTOWN**

Reference: City Manager memo dated May 7, 2010

**RECOMMENDATION:**

**This item was withdrawn.**

- D. SUBJECT: DISCUSSION AND ACTION REGARDING SPECIAL EVENT REQUEST FROM GULF BREEZE QUARTERBACK CLUB FOR A 5K RUN TO BE HELD SATURDAY, SEPTEMBER 4, 2010, 7:30AM**

Reference: Deputy Police Chief memo dated May 3, 2010

**RECOMMENDATION:**

**That the City Council approve the 5K run to be held on Saturday, September 4, 2010, at 7:30 a.m.**

- E. SUBJECT: DISCUSSION AND ACTION REGARDING SCHOOL RESOURCE OFFICER AGREEMENT**

Reference: City Manager memo dated May 5, 2010

**RECOMMENDATION:**

**That the City Council approve the School Resource Officer Agreement for 2010-2011 and authorize Mayor Zimmern to sign agreement.**

- F. SUBJECT: DISCUSSION AND ACTION REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT - AMERICAN RECOVERY AND REINVESTMENT ACT - PAYMENT OF INVOICE FROM JORDAN AND ASSOCIATE IN THE AMOUNT OF \$9,549.75**

Reference: Assistant City Manager dated May 4, 2010

**RECOMMENDATION:**

**That the City Council authorize payment to Jordan & Associates of \$9,549.75 for Professional Services rendered.**

- G. SUBJECT: DISCUSSION AND ACTION REGARDING AMENDMENT TO CITY PURCHASE POLICY**

Reference: Assistant City Manager memo dated May 6, 2010

**RECOMMENDATION:**

**That the City Council accept staff recommendation and direct that changes be added immediately to the current purchasing policy of the City.**

- H. SUBJECT: DISCUSSION AND ACTION REGARDING ACQUISITION OF FIRE BOAT, FEMA ALTERNATIVE PROJECT #09**

Reference: Fire Chief memo dated April 30, 2010

**RECOMMENDATION:**

**That the City Council authorize staff to solicit bids for a 25 foot fire-rescue vessel (alternate project (#09) and authorize staff to submit the expenditure for reimbursement under PW 3817.**

Councilman Henderson moved for approval of Consent Agenda Items A, B, C, D, E, F, G, and H. Councilman Schluter seconded. The vote for approval of the consent agenda items was 4 - 0.

**ACTION AGENDA ITEMS:**

- A. SUBJECT: DISCUSSION AND ACTION REGARDING SPECIAL EVENT REQUEST FROM THE BRIDGE BAR AND SUNSET LOUNGE FOR BEER TASTING FESTIVAL, SATURDAY, MAY 29, 2010 FROM 11:00 A.M. TO 7:00 P.M.**

Reference: Deputy Police Chief memo dated May 3, 2010

**RECOMMENDATION:**

**That the City Council approve the event contingent on the organizers receiving the temporary beverage license, have two police officers to monitor traffic and assist pedestrian and satisfy the tent requirements. (Mr. Pat Bolster, 723 Valley Drive, Pensacola, FL 32503 was present to discuss the event with Council. He stated organizers understand and agree that law enforcement officials will be empowered to shut down the festival if they deem necessary.)**

Councilman Henderson moved for approval. Councilman Morris seconded. The vote for approval was 3 - 1, with Councilman Schluter dissenting.

- B. SUBJECT: DISCUSSION AND ACTION REGARDING GULF BREEZE PEDESTRIAN OVERPASS**

Reference: Assistant City Manager memo dated May 6, 2010

**FIRST RECOMMENDATION:**

Councilman Schluter moved that City Council approve dark tan as the color to paint the pedestrian overpass. There was no second and the motion died.

**SECOND RECOMMENDATION:**

Mayor Zimmern passed the gavel to Mayor Pro Tem Schluter and moved that medium gray green, the color recommended by Land Design Innovations, be selected as the color to paint the pedestrian overpass. Mayor Pro Tem Schluter passed the gavel back to Mayor Zimmern and seconded. The vote was 2 - 2, with Councilmen Morris and Henderson dissenting.

**THIRD RECOMMENDATION:**

Councilman Schluter moved that medium gray green be selected as the color to paint the pedestrian overpass. Councilman Morris seconded. The vote for approval was 3 - 1, with Councilman Henderson dissenting.

- C. SUBJECT: DISCUSSION AND ACTION REGARDING FLORIDA DEPARTMENT OF TRANSPORTATION - SB 1446 LANDSCAPING GRANT ARCHITECTURE CONSULTING SERVICES CONTRACT - WORKSHOP

(COVERED UNDER WORKSHOP PRIOR TO THE COUNCIL MEETING.)

- D. SUBJECT: DISCUSSION AND ACTION REGARDING FLORIDA DEPARTMENT OF TRANSPORTATION - SB 1446 LANDSCAPING GRANT ARCHITECTURE CONSULTING SERVICES CONTRACT - PAYMENT OF INVOICE FROM LAND DESIGN INNOVATIONS IN THE AMOUNT OF \$4,318.93

Reference: Assistant City Manager memo dated May 6, 2010

**RECOMMENDATION:**

That the City Council direct staff to make payment to LDI for services in the amount of \$4,318.93 against the contract for Florida Department of Transportation SB 1446 Landscaping Grant Architecture Consulting Services Contract and to ask that an estimate be provided for the costs to expand the scope of work to include the construction documents for Phase II.

Councilman Henderson moved for approval. Councilman Schluter seconded. The vote for approval was 4 - 0.

**E. SUBJECT: DISCUSSION AND ACTION REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT**

Reference: Assistant City Manager memo dated May 6, 2010

**RECOMMENDATION:**

**That the City Council accept and approve staff recommendation and direct the Mayor to sign the following plans and Resolution No. 14-10: (1) Citizen Participation Plan with a Citizen Complaint Process; (2) Anti-Displacement Policy and Relocation Plan, Resolution No. 14-10; and (3) Affirmative Action Plan.**

(COVERED UNDER RESOLUTION SECTION ABOVE.)

**NEW BUSINESS: DISCUSSION AND ACTION REGARDING AUTHORIZATION TO BID RECREATION CENTER EXPANSION, FEMA ALTERNATE PROJECT #1**

Reference: Assistant City Manager memo dated May 14, 2010

**RECOMMENDATION:**

**That the City Council authorize staff to solicit bids for the design of the Recreation Center Expansion, FEMA Project #1 until June 3, 2010.**

Councilman Schluter moved for approval. Councilman Morris seconded. The vote for approval was 4 - 0.

**OPEN FORUM:** Mr. Bobby Switzer, 92 Highpoint Drive, spoke regarding the purchase of the Fire Boat.

**ADJOURNMENT:** Mayor Zimmern adjourned the meeting at 7:12 p.m.

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CITY CLERK

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MAYOR

**MINUTES OF A MEETING OF THE BOARD OF DIRECTORS  
FOR THE COMMUNITY REDEVELOPMENT AGENCY**

A meeting of the Board of Directors for the Community Redevelopment Agency, Gulf Breeze, Florida, was convened at the Gulf Breeze City Hall on Monday, May 17, 2010, at 7:04 p.m. Upon call of the roll for the Community Redevelopment Agency meeting the following Board members were present: Councilmen Dana Morris, J. B., Schluter, Joseph Henderson, and Mayor Beverly Zimmern. Councilman Richard Fulford was out of town.

The purpose of the meeting was for the Board of Directors for the Community Redevelopment Agency to consider the following items:

**A. SUBJECT: DISCUSSION AND ACTION REGARDING DECORATIVE FENCE  
U.S. HIGHWAY 98**

Reference: City Manager memo dated May 7, 2010

**RECOMMENDATION:**

**That the City Council meet Monday, May 17, 2010, as the Board of Directors, of the Community Development Agency and authorize expenditure of \$234,556 for purchase of a decorative fence on U. S. Highway 98.**

Councilman Schluter moved for approval of the project. Councilman Morris seconded. The vote for approval was 4 - 0.

**B. SUBJECT: DISCUSSION AND ACTION REGARDING CITY OF GULF  
BREEZE COMPREHENSIVE PLAN**

Reference: Assistant City Manager memo dated May 6, 2010

**RECOMMENDATION:**

**That the City Council meet on Monday, May 17, 2010 as the Board of Directors of the Community Redevelopment Agency and that the CRA Board authorize payment to Indever, Inc., of \$4,500 for professional services rendered (Photo montage preparation). (Council directed staff to speak with Ms. Stephania Wilson, Indever, LLC, regarding the billing rates for various projects.)**

Councilman Schluter moved for approval. Councilman Morris seconded. The vote for approval was 4 - 0.

The meeting was adjourned at 7:10 p.m.

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CITY CLERK

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MAYOR

Councilmen Present: Dana Morris, J. B. Schluter, Richard Fulford, Joseph Henderson  
and Mayor Zimmern

**ACTION AGENDA ITEMS:**

**A. SUBJECT: DISCUSSION AND ACTION REGARDING LOCAL GOVERNMENT SYMPOSIUM**

Reference: City Manager memo dated May 28, 2010

**Recommendation:**

**No Council action needed. The City Manager reviewed the program and introduced the students who attended the symposium to Council. Certificates of completion will be signed by Council and sent to each student.**

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**B. SUBJECT: DISCUSSION AND ACTION REGARDING STORMWATER PROJECT ON PFEIFFER STREET**

Reference: Assistant Public Service Director memo

**RECOMMENDATION:**

**That the City Council waive the normal bidding process and authorize Utility Services Company to perform stormwater drainage corrective work at the end of Pfeiffer Street for the sum of \$10,251.00. (This project to be funded from stormwater funds.)**

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**C. SUBJECT: DISCUSSION AND ACTION REGARDING ACQUISITION OF FIRE BOAT, FEMA ALTERNATIVE PROJECT #09**

Reference: Fire Chief memo dated May 24, 2010

**RECOMMENDATION:**

**That the City Council accept Brunswick Commercial and Government Products bid in the amount of \$147,907.00 (\$145,000.00 from the FEMA Public Assistance Grant and \$2,907.00 from the Fire Department's donation fund) for the 25 foot fire-rescue boat and authorize the Fire Chief to execute the purchase contract.**

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**D. SUBJECT: DISCUSSION AND ACTION REGARDING SHORELINE DRIVE - SOUTH SUNSET BOULEVARD REPLACEMENT IRRIGATION WELL**

Reference: Parks and Recreation Director memo dated May 24, 2010

**RECOMMENDATION:**

**That the City Council authorize Foxworth & Moore Irrigation and John Brown Electric to proceed with the installation of the replacement well at the intersection of Shoreline Drive and South Sunset at a total project cost of \$8,580.**

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**E. SUBJECT: DISCUSSION AND ACTION REGARDING DISPATCH SERVICE AGREEMENT TO NATIONAL PARK SERVICE**

Reference: Police Chief memo dated May 19, 2010

**RECOMMENDATION:**

**That the City Council approve the agreement for the Police Department to provide dispatch services to the National Park service from 10-01-2010 through 09-30-2011 and receive compensation in the amount of \$65,063 for equipment and personnel costs.**

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**F. SUBJECT: DISCUSSION AND ACTION REGARDING ENGINEERING FEE FOR NATURAL GAS PIPELINE - FEMA ALTERNATIVE PROJECT #15**

Reference: Assistant Public Services Director memo dated May 17, 2010

**RECOMMENDATION:**

**That the City Council approve the consulting fee of \$171,898 proposed by Baskerville-Donovan, Inc., for design services related to the Natural Gas Pipeline to Pensacola Beach.**

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**G. SUBJECT: DISCUSSION AND ACTION REGARDING GROUND  
PENETRATING RADAR BID, FEMA ALTERNATIVE PROJECT  
#15**

Reference: Assistant Public Services Director memo dated May 24, 2010

**RECOMMENDATION:**

**That the City Council approve the purchase of two ground penetrating radar units for \$39,000 from Ditch Witch of Alabama and authorize staff to seek reimbursement.**

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**H. SUBJECT: DISCUSSION AND ACTION REGARDING VACTOR SEWER  
TRUCK, FEMA ALTERNATIVE PROJECT #8**

Reference: Assistant Public Services Director memo dated May 17, 2010

**RECOMMENDATION:**

**That the City Council authorize staff to make the final payment of \$120,246.93 to BancorpSouth for the Vactor sewer truck, as well as seek reimbursement from FEMA.**

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**I. SUBJECT: DISCUSSION AND ACTION REGARDING FLORIDA DEPART-  
MENT OF TRANSPORTATION - SB 1446 LANDSCAPING  
ARCHITECTURE CONSULTING SERVICES CONTRACT**

Reference: Assistant City Manager memo dated May 27, 2010

**RECOMMENDATION:**

**That the City Council direct staff to make payment to Land Design Innovations for services in the amount of \$6,017.40 against the contract for Florida Department of Transportation - SB 1446 Landscaping Grant Architecture Consulting Services Contract.**

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**J. SUBJECT: DISCUSSION AND ACTION REGARDING REPORT TO COUNCIL OF CRITICAL REQUIRED ACQUISITIONS AND PROCUREMENTS RELATIVE TO OIL SPILL**

Reference: Finance Director memo dated May 26, 2010

**RECOMMENDATION:**

**That the City Council endorse the expenditures and direct staff to apply to the state for reimbursement.**

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**K. SUBJECT: DISCUSSION AND ACTION REGARDING BREACH OF CONTRACT - TRAFFIPAX**

Reference: City Manager memo dated May 27, 2010

**RECOMMENDATION:**

**That the City Council direct the City Attorney and staff to initiate legal proceedings against Traffipax.**

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**L. SUBJECT: DISCUSSION AND ACTION REGARDING DECONSTRUCTION OF FISHING BRIDGE**

Reference: City Manager memo dated May 28, 2010

**RECOMMENDATION:**

**That the City Council direct staff and Tetra Tech to proceed with the advertising and bidding process for deconstruction and removal of the City's fishing bridge.**

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**M. SUBJECT: DISCUSSION AND ACTION REGARDING PROPOSAL TO CONVERT OVERHEAD ELECTRIC WIRING TO UNDERGROUND**

Reference: City Manager memo dated May 26, 2010

**RECOMMENDATION:**

**That the City Council direct staff to look into creating an account to save an established amount of funding each year to cover the costs of underground wiring.**

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**N. SUBJECT: DISCUSSION AND ACTION REGARDING REWRITE OF FUTURE LAND USE ELEMENT OF THE CITY'S COMPREHENSIVE PLAN**

Reference: City Manager memo dated May 28, 2010

**RECOMMENDATION:**

**That a workshop on the future land use element of the City's comprehensive plan be scheduled for Monday, June 7, 2010, at 5:30 p.m. and that consideration of the FLUE be placed on the agenda for the June 7, Council meeting.**

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**O. INFORMATION ITEMS**



# City of Gulf Breeze

OFFICE OF THE CITY MANAGER

June 1, 2010

TO: Mayor and City Council

FROM:  Edwin A. Eddy, City Manager

SUBJ: COMMUNITY DEVELOPMENT BLOCK GRANT-PURCHASING POLICY

We recently transmitted copies of various policies to the State Department of Community Affairs (DCA) that are required for the CDBG process. Our policy for purchasing was rejected by DCA.

DCA and our consultant, Jordan and Associates, provided the attached draft policy today for staff review and, presentation to the Council. It is very detailed and lengthy, however, it is a good policy statement for staff to follow for procurement of goods and services associated with the CDBG project. (This includes building a lift station at York and Navarre, providing central sewer lines on York Street and resurfacing some streets in the CRA near Joachim.)

We provided the City Attorney with a copy of this document on this date. Subject to his review and recommendation, we are prepared to recommend action as follows:

**RECOMMENDATION:**

**That the City Council approve the attached City of Gulf Breeze Community Development Block Grant Program Purchasing Policy.**

EAE:msr

CITY OF GULF BREEZE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
PURCHASING POLICY  
INCLUDING THE  
MINORITY BUSINESS ENTERPRISE POLICY

SECTION 1      PURPOSE

This policy is adopted to assure that commodities and services for the Community Development Block Grant (CDBG) Programs are obtained efficiently and effectively in free and open competition and through the use of sound procurement practices. All City ("City") staff and other persons (subgrantees or contractors) with designated responsibility for the administration of CDBG award contracts are responsible for ensuring compliance with all applicable federal and state laws and regulations. These include but are not limited to: OMB Circular A-102, Attachment O; 24 CFR Part 85 Section 85.36; s. 287.055, Florida Statutes.

SECTION 2      APPLICATION OF POLICY

This policy shall apply to contracts or agreements for the procurement of all materials, supplies, services, construction and equipment for any CDBG Program solicited or entered into after the effective date of this policy.

SECTION 3      PURCHASING DIRECTOR

The CDBG Program Coordinator shall serve as the central purchasing officer (the "Purchasing Officer") of the City for all contracts or agreements described in Section 2.

SECTION 4      PURCHASING CATEGORIES; THRESHOLD AMOUNTS

Except as to Sole Source Purchases (Section 4.06) and Cooperative Purchasing (Section 4.07), all purchases and contract awards are to be made subject to the provisions of the appropriate Section according to the following threshold amounts:

- A. Small Purchases (Section 4.02) ..... \$ 1 to \$ 1,000
- B. Purchasing Quotes (Section 4.03) ..... \$ 1,000 to \$ 5,000
- C. Competitive Sealed Bids/Proposals (Section 4.04 & 4.05) ..... \$ 5,000 and above

SECTION 4.02      SMALL PURCHASES

The purchase of commodities, equipment and services which cost less than the threshold authorized in Section 4 does not require solicitation of quotes or bids. Small purchases shall be authorized by the Purchasing Officer or his/her designees.

SECTION 4.03      PURCHASING QUOTES

The purchase of goods and services which cost within the range authorized for purchasing quotes in Section 4 shall require competitive quotations from three or more vendors. The quotations shall be

obtained by the Purchasing Division and shall be reviewed and awarded by the Purchasing Officer.

#### SECTION 4.04 COMPETITIVE SEALED BIDDING

- A. Conditions For Use. All contracts for purchases of a single item, services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where price, not qualifications, is the basis for contract award, shall be awarded by competitive sealed bidding.
- B. Invitation to Bid. An invitation to bid shall be issued and shall include specifications, all contractual terms and conditions, and the place date, and time for opening or submittal. No later than five working days prior to the date for receipt of bids, a vendor shall make a written request to the City for interpretations or corrections of any ambiguity, inconsistency or error which the vendor may discover. All interpretations or corrections will be issued as addenda. The City will not be responsible for oral clarifications. No negotiations, decisions or actions shall be initiated or executed by the proposer as a result of any discussions with any City employee prior to the opening of proposals. Only those communications which are in writing from the City may be considered as a duly authorized expression on the behalf of the Council. Also, only communications from firms or individuals which are in writing and signed will be recognized by the Council as duly authorized expressions on behalf of proposers.
- (1) Alternate(s). Alternate bids will not be considered unless authorized by and defined in the Special Conditions of the bid specifications.
  - (2) Approved Equivalents. The City reserves the right to determine acceptance of item(s) as an approved equivalent. Bids which do not comply with stated requirements for equivalents in the bid conditions are subject to rejection. The procedure for acceptance of equivalents shall be included in the general conditions of the bid.
- C. Public Notice. Public notice shall be by publication in a newspaper of general circulation at least twelve (12) working days prior to bid opening. Notice of the invitation to bid shall give the date, time, and place set forth for the submittal of proposals and opening of bids.
- D. Bid Opening. Bids shall be opened publicly. The Purchasing Officer or his/her designee shall open the bids in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The amount of each bid, and other such relevant information as may be deemed appropriate by the Purchasing Officer together with the name of each bidder, and all witnesses shall be recorded. The record (Bid Report) and each bid shall be open to public inspection.
- E. Bid Acceptance and Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include, but not be limited to criteria to determine acceptability such as: inspection, testing, quality, recycled or degradable materials content, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. No criteria may be used in bid evaluations that are not set forth in the Invitation to Bid, in regulations, or in this policy.

- F. Bid Agenda Item. After evaluation, the Purchasing Officer will prepare a recommendation and shall place the item on the agenda of the City Council.
- G. Correction or Withdrawal of Bids; cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitations for Bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can know by clear and convincing evidence that a mistake on a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in the bid price or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw his bid if:
- (1) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - (2) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Officer.
- H. Multi-Step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
- I. Award. The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid. The City reserves the right to waive any informality in bids and to make an award in whole or in part when either or both conditions are in the best interest of the City. Any requirement which is waived must be documented and kept in the file.
- (1) Notice of Intended Award. The contract shall be awarded by written notice. Every procurement of contractual services shall be evidenced by a written agreement. Notice of the intended award, including rejection of some or all of bids received, may be given by posting the bid tabulations where the bids were opened, by telephone, by first class mail, or by certified United States mail, return receipt requested, whichever is specified in bid solicitation. A vendor may request, in their bid submittal, a copy of the tabulation sheet to be mailed in a vendor provided, stamped, self-addressed envelope for their record.
  - (2) Notice of Right to Protest. All notices of decision or intended decisions shall contain the statement: Failure to file a protest within the time prescribed in Section 4.08 of the CDBG Purchasing Policy of the City shall, constitute a waiver of proceedings under that section of this Policy.
- J. Cancellation of Invitations for Bids. An invitation for bids or other solicitation may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interests

of the City, as determined by the Council. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items.

K. Disqualification of Vendors. For any specific bid, vendors may be disqualified by the Purchasing Director, Purchasing Officer, for the following reasons:

- (1) Failure to respond to bid invitation three consecutive times within the last eighteen (18) months period.
- (2) Failure to update the information on file including address, project or service, or business description.
- (3) Failure to perform according to contract provisions.
- (4) Conviction in a court of law of any criminal offense in connection with the conducting of business.
- (5) Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.
- (6) Clear and convincing evidence that the vendor has attempted to give a City employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the City's purchasing activity.
- (7) Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133(3)(a).
- (8) Other reasons deemed appropriate by the City.

#### SECTION 4.05 COMPETITIVE SEALED PROPOSALS

All contracts for purchases of a single item or services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where qualifications, not price, is the basis for contract award, shall be awarded by competitive sealed proposals. All contracts for the procurement of professional architectural, engineering, landscape architectural, and land surveying services will be awarded according to the provisions of Section 4.051. All other contracts required to be awarded by competitive sealed proposals will be awarded according to the provisions of Section 4.052.

#### SECTION 4.051 PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES

A. Public Announcement. It is the policy of the City to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the City may require firms to submit a statement of qualifications, performance data, and other related information for the performance of professional services.

- (1) Scope of Project Requirements. Prior to submission of the request for proposals for professional services an item shall be placed on the agenda for approval by the City's Council indicating the nature and scope of the professional services needed, including but not limited to the following:

- (a) the general purpose of the service or study;
  - (b) the objectives of the study or service;
  - (c) estimated period of time needed for the service or the study;
  - (d) the estimated cost of the service or study;
  - (e) whether the proposed study or service would or would not duplicate any prior or existing study or service;
  - (f) list of current contracts or prior services or studies which are related to the proposed study or services;
  - (g) the desired qualifications, in order of importance, of the person or firm applicable to the scope and nature of the services requested.
- (2) Distribution of Project Requirements. All persons on the City's vendor list who have indicated an interest in being considered for the performance of such professional services and any other additional parties deemed desirable by the Purchasing Officer shall be notified of the project requirements including a statement of relative importance of each of the requirements. The project requirements shall be accompanied by an Invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. This date shall not be less than 12 calendar days from the date of public notice which the Purchasing Officer shall publish in at least one newspaper of wide general circulation in the region.
- (3) Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correcting of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 4.051B) prior to making its selection of those best qualified.
- (4) Reuse of Existing Plans. There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the City is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.

B. Selection Committee Membership and Evaluation. Depending on the expected complexity and expense of the professional services to be contracted the City may determine whether a two-member or three-member selection committee will best serve the needs of the City.

- (1) Two-Member Committee Composition. Membership of a two-member selection committee shall consist of the City Clerk and the Mayor or his/her designee.
- (2) Three-Member Committee Composition. Membership of a three-member selection committee shall consist of the City's Clerk, Fire Chief, and the Mayor or his/her designee.
- (3) Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated. Only evaluation of written responses and selected for formal interview may submit additional data. From among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:
  - (a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and (b) designate no less

than three persons, unless there were less than three submissions, on the alphabetical list considered by the selection committee to be best qualified to perform the work required.

- (4) Shortlisting. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed. The Selection Committee shall determine qualifications, interest and availability by reviewing the written responses that express an interest in performing the services, and by conducting formal interviews of no less than three selected respondents that are determined to be best qualified based upon the evaluation of written responses. The determinations may be based upon, but not limited to, the following considerations:
- (a) competence, including technical education and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extent of repeat business of the persons, and person to actual cost of previous projects;
  - (b) current work load;
  - (c) financial responsibility;
  - (d) ability to observe and advise whether plans and specifications are being complied with, where applicable;
  - (e) record of professional accomplishments;
  - (f) proximity to the project involved, if applicable;
  - (g) record of performance; and
  - (h) ability to design an approach and work plan to meet the project requirements, where applicable.
- (5) Interview and Council Approval. After conducting the formal interviews, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Council for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.

- C. Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Officer unless the Mayor directs that negotiations be conducted by a Negotiation Committee.

Negotiation. The Purchasing Officer or the Negotiation Committee shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Purchasing Officer or the Negotiation Committee determines to be fair and reasonable to the City. In making this decision, the Purchasing Officer or the Negotiation Committee shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. As a part of the negotiation, the Purchasing Officer or the Negotiating Committee shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price. Should the Purchasing Officer or the Negotiation Committee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm shall be formally terminated. The Purchasing Officer or the Negotiation Committee shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Officer or the Negotiation Committee shall

formally terminate negotiations, and shall then undertake negotiations with the third most qualified firm. Should the Purchasing Officer or the Negotiation Committee be unable to negotiate a satisfactory contract with any of the selected firms, the selection shall select additional firms in order of their competence and qualifications, and the Purchasing Officer or the negotiation Committee shall continue negotiations in accordance with this selection until an agreement is reached or until a determination has been made not to contract for services.

#### SECTION 4.052 OTHER COMPETITIVE SEALED PROPOSALS (non-287.055 services)

- A. Conditions for use. All contracts required by Section 5.05 to be awarded by competitive sealed proposals that are not for the procurement of professional architectural, engineering, landscape architectural, and land surveying services, will be awarded according to the provisions of this section.
- B. Consultant's Competitive Negotiation Act. Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined under the Consultant's Competitive Negotiation Act (Section 287.055, Florida Statutes), shall be secured under the provisions of Section 4.051.
- C. Council Approval. Proposals anticipated to exceed the threshold established in Section 4 for Competitive Sealed Proposals shall be approved by the City prior to solicitation.
- D. Public Notice. Adequate public notice of the Request for Proposals shall be given in the same manner as provided in subsection 4.04C of this policy for competitive sealed bidding.
- E. Evaluation Factors. The Request for Proposals shall state the relative importance of criteria outlined in the scope of services.
- F. Proposal Cancellation or Postponement. The Purchasing Officer may, prior to a proposal opening, elect to cancel or postpone the date and/or time for proposal opening or submission.
- G. Revisions and Discussions with Responsible Offerors. As provided in the request for proposals, and under regulations promulgated by the Council of the City, discussions may be conducted with responsible offerors who submit proposals determined to be qualified of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offers. The procurement officer shall prepare a written summary of the proposals and make a written recommendation of award to the City Council. As a part of the recommendation, the Purchasing Officer shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price.
- H. Award. Award shall be made by the City Council to the lowest responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation criteria that are not included in the Request for

Proposal.

#### SECTION 4.06 SOLE SOURCE PURCHASES

- A. Sole Source Certification. A contract may be awarded for a supply, service, material, equipment or construction item(s) without competition when the Purchasing Officer with the concurrence of the City Clerk, certifies in writing, after conducting a good faith review of available sources, that there is only one available source for the required material, supply, service equipment, or construction item(s). Such awards will be made within the authorized procurement limits. When a purchase exceeds five thousand dollars (\$5,000), the item will be placed on the agenda for Council approval and clarification that the vendor has been determined to be a sole source. When a purchase exceeds (\$25,000) it will require prior DCA approval.
- B. Additional Purchases From Certified Sole Source. The Purchasing Officer may be authorized, after initial sole source certification, to make additional purchases from a sole source vendor for not less than one year or until such time as contrary evidence is presented regarding sole source eligibility, whichever period is less.

#### SECTION 4.07 COOPERATIVE PURCHASING

- A. State Contracts. The Purchasing Officer is authorized to purchase goods or services for any dollar amount from authorized vendors listed on the respective state contracts of the Department of General Services, subject otherwise to the requirements of this policy.
- B. Other Governmental Units. The Purchasing Officer shall have the authority to join with other units of government in cooperative purchasing ventures when the best interest of the City would be served thereby, and the same is in accordance with this policy and with the City and State law.

#### SECTION 4.08 BID PROTEST

- A. Right to Protest. Any actual prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award or contract may protest to the City Council. Protestors shall seek resolution of their complaints initially with the Purchasing Officer and secondly with the City Clerk prior to protesting to the City Council.
- B. Filing a Protest. Any person who is affected adversely by the decision or intended decision of the City shall file with the Purchasing Officer a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of intended decision and file a formal written protest within 10 calendar days after the date he/she filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this Section. A written protest is filed with the City when it is delivered to and received in the office of the Purchasing Officer.
- (1) The notice of protest shall contain at a minimum: the name of the bidder; the bidder's address and phone number; the name of the bidder's representative to whom notices may be sent; the name and bid number of the solicitation; and a brief factual summary of the basis of the protest.

- (2) The formal written protest shall: identify the protestant and the solicitation involved; include a plain, clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems applicable to such grounds; and specifically request the relief to which the protestant deems himself entitled by application of such authorities to such grounds.
- C. Settlement and Resolution. The Purchasing Officer shall, within 14 days of the formal written protest, attempt to resolve the protest prior to any proceedings arising from the position. Provided, however, if such settlement will have the effect of determining a substantial interest of another party or business, such settlement must be reached in the course of the proceedings provided herein.
- D. Protest Proceedings. If the protest cannot be resolved by mutual agreement, the Purchasing Officer shall conduct or designate another to conduct a protest proceeding pursuant to the following procedures.
- (1) Protest Proceeding Procedures
- (a) The presiding officer shall give reasonable notice to all substantially affected persons of businesses. Otherwise petitions to intervene will be considered on their merits as received.
  - (b) At or prior to the protest proceeding, the protestant may submit any arguments which he/she deems relevant to the issues raised.
  - (c) In the proceeding, the protestant, or his representative or counsel, may also make an oral presentation of his evidence and arguments. However, neither direct nor cross examination of witness shall be permitted, although the presiding officer may make whatever inquiries he/she deems pertinent to a determination of the protest.
  - (d) The judicial rules of evidence shall not apply and the presiding officer shall base his/her decision on such information given in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.
  - (e) Within seven (7) working days of the conclusion of the proceeding, the presiding officer shall render a decision which sets forth the terms and conditions of any settlement reached. Such decision of the presiding officer shall be conclusive as to the recommendation to the City Council.
  - (f) Any party may arrange for the proceedings to be stenographically recorded and shall bear the expense of such recording.
- (2) Intervenor. The participation of intervenors shall be governed by the terms of the order issued in response to a petition to intervene.
- (3) Time Limits. The time limits in which protests must be filed as provided herein may be altered by specific provisions in the invitation for bids or request for proposals documents.
- (4) Entitlement to Costs. In no case will the protesting bidder or offerer be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.
- E. Stay of Procurement During Protests. In the event of a timely protest under Subsection A of this Section, the Purchasing Officer shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or unless the City Council

makes a determination that the award of a contract without delay is necessary to protect the substantial interests of the City.

#### SECTION 4.09 CONTRACT CLAIMS

- A. Authority of the Purchasing Officer to Settle Bid Protests and Contract Claims. The Purchasing Officer is authorized to settle any protest regarding the solicitation or award of a City contract, or any claim arising out of the performance of the City, prior to an appeal to the City Council or the commencement of an action in a court of competent jurisdiction of \$1,000.00 or greater in value without the prior approval of the City Council.
- B. Decision of the Purchasing Officer. All claims by a contractor against the City relating to a contract, except bid protest, shall be submitted in writing to the Purchasing Officer for a decision. The contractor may request a conference with the Purchasing Officer on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.
- C. Notice to the Contractor of the Purchasing Officer's Decision. The decision of the Purchasing Officer shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his appeal rights under Subsection D of this Section.
- D. Finality of the Purchasing Officer Decision; Contractor's Right to Appeal. The Purchasing Officer's decision shall be final and conclusive unless, within ten calendar days from the date of receipt of the decision, the contractor file a notice of appeal with the City Council.
- E. Failure to Render Timely Decision. If the Purchasing Officer does not issue a written decision regarding any contract controversy within fourteen calendar days after receipt of a written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been issued.

#### SECTION 4.10 REMEDIES FOR SOLICITATIONS OR AWARDS IN VIOLATION OF LAW

- A. Prior to Bid Opening or Closing Date for receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation is in violation of federal, state or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.
- B. Prior to Award. If after bid opening or the closing date for receipt of proposals, but prior to the award contract, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law or ordinance, then the solicitation or proposed award shall be canceled.
- C. After Award. If, after award, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation or award of a contract was in violation of applicable law or ordinance, then:

- (1) if the person awarded the contract has not acted fraudulently or in bad faith:
  - (a) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the City; or
  - (b) the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonable incurred under the contract plus a reasonable profit, but excluding attorney's fees, prior to termination; or
- (2) if the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the City.

## SECTION 5      CONTRACT ADMINISTRATION

### SECTION 5.1    CONTRACT PROVISIONS

- A. Standard Contract Clauses and Their Modification. The City after consultation with the City Attorney, may establish standard contract clauses for use in City contracts. However, the Purchasing Officer may, upon consultation with the City Attorney, vary any such standard contract clauses for any particular contract.
- B. Contract Clauses. All City contracts for supplies, services and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Officer after consultation with the City Attorney, may propose provisions appropriate for supply, service, or construction contracts, addressing among others the following subjects:
  - (1) the unilateral right of the City to order, in writing, changes in the work within the scope of the contract;
  - (2) the unilateral right of the City to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
  - (3) variations occurring between estimated quantities or working contract and actual quantities;
  - (4) defective pricing
  - (5) time of performance and liquidated damages;
  - (6) specified excuses for delay or nonperformance;
  - (7) termination of the contract for default;
  - (8) termination of the contract in whole or in part for the convenience of the City;
  - (9) suspension of work on a construction project ordered by the City;
  - (10) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
    - (a) when the contract is negotiated;
    - (b) when the contractor provides the site or design; or
    - (c) when the parties have otherwise agreed with respect to the risk of differing site conditions;
  - (11) value engineering proposals;
  - (12) remedies;
  - (13) access to records/retention records;
  - (14) environmental compliance; and

- (15) prohibition against contempt fees
- (16) insurance to be provided by contractor covering employee, property damage, liability and other claims, with requirements of certificates of insurance and cancellation clauses.
- (17) bonding requirements as set by the City Council
- (18) causes of and authorization for suspension of contract for improper contractor activity.

## SECTION 5.2 PRICE ADJUSTMENTS

- A. Methods of Price Adjustment. Adjustments in price during the term of a contract shall be computed in one or more of the following ways upon approval by the City:
- (1) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - (2) by unit prices specified in the contract or subsequently agreed upon;
  - (3) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon by the City;
  - (4) in such other manner as the contracting parties may mutually agree;
  - (5) in the absence of agreement by the parties, by a unilateral determination by the City of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the City, subject to the provisions of this section.
- B. Cost or Pricing Data Required. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of this Section.

## SECTION 5.3 CHANGE ORDERS/CONTRACT AMENDMENTS

Change orders and contract amendments, which provide for the alteration of the provisions of a contract may be approved by an appropriate person based upon the dollar value of the change or amendment. The purchasing categories thresholds designated in Sections 4.01 shall govern the appropriate level of approval.

## SECTION 5.4 ASSIGNMENT OF CONTRACTS

No agreement made pursuant to any section of this policy shall be assigned or sublet as a whole or in part without the written consent of the City nor shall the contractor assign any monies due or to become due to the contractor hereunder without the previous written consent of the City.

## SECTION 5.5 RIGHT TO INSPECT PLANT

The City may, at its discretion, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded, or to be awarded, by the City. The right expressed herein shall be included in all contracts or subcontracts that involve the performance of any work or service involving the City.

## SECTION 6      RIGHTS OF CITY COUNCIL

Nothing in this Policy shall be deemed to abrogate, annul, or limit the right of the Council, in the best interests of the City, to reject all bids received in response to a request, to determine in its sole discretion the responsiveness and responsibility of any bidder, to approve and authorize or to enter into any contract it deems necessary and desirable for the public welfare, or to vary the requirements of the Policy in any instance when desirable for the public good.

## SECTION 7      CITY PROCUREMENT RECORDS

- A. Contract File. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file.
- B. Retention of Procurement Records. All procurement records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules established by the State of Florida.

## SECTION 8      SPECIFICATIONS

### SECTION 8.1      MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted to promote overall economy and encourage competition in satisfying the City needs and shall not be unduly restrictive. This policy applies to all specifications including, but not limited to, those prepared for the City by architects, engineers, designers, and draftsmen.

### SECTION 8.2      USE OF BRAND NAME OR EQUIVALENT SPECIFICATIONS

- A. Use. Brand name or equivalent specifications may be used when the City determines that:
  - (1) no other design, performance, or qualified product list is available;
  - (2) time does not permit the preparation of another form of purchase description, not including a brand name specification;
  - (3) the nature of the product or the nature of the City requirements makes use of a brand name of equivalent specification suitable for the procurement; or
  - (4) use of a brand name or equivalent specification is in the City's best interest.
- B. Designation of Several Brand Names. Brand name or equivalent specifications shall seek to designate three, or as many different brands as are practicable, as "or equivalent" references and shall further state the substantially equivalent products to those designated may be considered for award.
- C. Required Characteristics. The brand name or equivalent specifications shall include a description of the particular design, functional, or performance characteristics required.
- D. Nonrestrictive Use of Brand Name or Equivalent Specifications. Where a brand name or equivalent specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

- E. Determination of Equivalents. Any prospective bidder may apply, in writing, for a pre-bid determination of equivalence by the Purchasing Director. If sufficient information is provided by the prospective bidder, the Purchasing Director may determine, in writing and prior to the bid opening time, that the proposed product would be equivalent to the brand name used in the solicitation.
- F. Specifications of Equivalents Required for Bid Submittal. Vendors proposing equivalent products must include in their bid submittal the manufacturer's specifications for those products. Brand names and model numbers are used for identification and reference purpose only.

### SECTION 8.3 BRAND NAME SPECIFICATIONS

- A. Use of Brand Name Specifications. Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Director makes a determination that only the identified brand name item or items will satisfy the City needs.
- B. Competition. The Purchasing Director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 4.10, Sole Source Purchases.

### SECTION 9 ETHICS IN PUBLIC CONTRACTING

#### SECTION 9.1 CRIMINAL PENALTIES

To the extent that violations of the ethical standards of conduct set forth in this section constitute violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to civil sanctions set forth in this part.

#### SECTION 9.2 EMPLOYEE CONFLICT OF INTEREST

- A. Participation. It shall be unethical for any City employee, officer or agent to participate directly or indirectly in a procurement or administration of a contract. A conflict of interest would arise when:
- (1) the City employee, officer or agent;
  - (2) any member of his immediate family;
  - (3) his or her partner; or
  - (4) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.
- B. Blind Trust. A City employee, officer or agent or any member of their family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

### SECTION 9.3      CONTEMPORANEOUS EMPLOYMENT PROHIBITED

It shall be unethical for any City employee who is participating directly or indirectly in the procurement process to become or to be, while such a City employee, the employee of any person contracting with the City.

### SECTION 9.4      USE OF CONFIDENTIAL INFORMATION

It shall be unethical for any employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

### SECTION 9.5      GRATUITIES AND KICKBACKS

- A.    Gratuities. It shall be unethical for any person to offer, give, or agree to give any City employee, officer or agent or for any City employee, officer or agent to solicit, demand, accept, or agree to accept from another, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase requests, influencing the content of any specification or procurement standard rendering of advise, investigation, auditing, or performing in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, subcontract, or to any solicitation or proposal therefore.
- B.    Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or behalf or a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- C.    Contract Clause. The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefore.

### SECTION 9.6      SANCTIONS

- A.    Employee Sanctions. Upon violation of the ethical standards by an employee officer or agent the City or other appropriate authority may:
  - (1)    impose one or more appropriate disciplinary actions as defined in the City Personnel rules and Regulations, up to and including termination of employment; and
  - (2)    may request investigation and prosecution.
- B.    Non-employee Sanctions. The Council may impose any one or more of the following sanctions on a non-employee for violation of the ethical standards:
  - (1)    written warnings;
  - (2)    termination of contracts; or
  - (3)    debarment or suspension as provided in Section 15.

SECTION 9.7 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

- A. General Provisions. The value of anything being transferred or received in breach of the ethical standards of this policy by a City employee or non-employee may be recovered from both City employee and non-employee.
- B. Recovery of Kickbacks by the City. Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickback. Recovery from one offending party shall not preclude recovery from other offending parties.

SECTION 10 FEDERAL POLICY NOTICE

SECTION 10.1 PATENTS

If a contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, than the contract shall include the following provisions.

- A. Notice to Contractor. The contract shall give notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of, and rights to, any discovery or invention arising out of the contract.
- B. Notice By Contractor. The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

SECTION 10.2 NOTICE OF FEDERAL PUBLIC POLICY REQUIREMENTS

- A. Applicability. If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:
- (1) equal employment opportunity;
  - (2) affirmative action;
  - (3) fair labor standards;
  - (4) energy conservation;
  - (5) environmental protection; or
  - (6) other similar socio-economic programs
- B. Notice. The Purchasing Director shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Director shall include in the contract provisions the requirement that the contractor give similar notice to all of its subcontractors.

SECTION 11      PAYMENT TO VENDORS

All payment to vendors shall also be in accordance with the amended "Prompt Payment Act", Chapter 89-297, Florida Statutes.

SECTION 12      MINORITY BUSINESS ENTERPRISES PARTICIPATION PROGRAM

- A.    Purpose and Scope. The purpose of the Minority Business Enterprise Program is to enhance the participation of qualified minority and women-owned businesses in providing goods and services and construction contracts required by the City Council. This program describes procedures to accomplish this purpose and to monitor and evaluate progress. All Departments and Divisions under the jurisdiction of the City Council are responsible for implementing this program.
- B.    Policy Statement.
- (1)    It is the policy goal of the City that two (2%) of the Council approved procurement as contained with both operating and capital improvement budgets (exclusive of in-house services and construction) shall be identified and let through the competitive bid process to minority and women businesses or persons. The program is based on an in-depth evaluation of all actual as well as projected procurement (CIPS, equipment, commodities, and services) and on the availability of minority and women owned businesses in the market place. Procurement identified to establish a base for this program are not limited to those items only. This evaluation is the main factor in building a realistic program with attainable targets.
  - (2)    All departments and divisions under the jurisdiction of the City Council are responsible for implementing this program and for making every reasonable effort to utilize MBEs when opportunities are available. The Purchasing Officer will take the lead role in this process by taking active steps to encourage minority or women owned businesses.
  - (3)    Regarding the implementation of this policy, it is the Council's intent to foster economic development in the City's area by establishing its MBE goals based on availability of minority and women-owned businesses located within the City. This is no way intended to limit or restrict competition. Rather, availability of area companies will be used to guide MBE goals. Such geographical preference may be adjusted, amended or repealed by the City Council, with or without a public hearing, as deemed necessary.
- C.    Definition. Minority Business Enterprise (MBE) as used herein, means a business that is owned and controlled at least 51% by one or more minority persons (MBE) or by one or more women (WBE) and whose management and daily operations are controlled by one or more such persons.
- D.    Administrative Responsibilities. The Purchasing Officer is responsible for the coordination of the Minority Business Enterprise Program and registration.
- (1)    Capital Improvement Projects
    - (a)    Review  
The Purchasing Officer and an appropriate department representative shall

review each proposed project or bid to determine potential for utilization of MBE/WBEs availability of capable MBE/WBE in the area in relation to the scope of the bid package and considers how a project might be broken down into sub-bids.

(b) **Pre-Bid Activity**

- (1) Language regarding the Minority Business Enterprise Program will be inserted into bid specifications to assure that prospective bidders are aware of a requirement to make good faith efforts to utilize MBE/WBEs.
- (2) Registered MBE/WBEs, the Minority Contractors Association and other organizations for minority and women owned businesses will be notified in writing regarding pre-bid conferences where information on project scope and specifications will be presented, along with other types of technical assistance.
- (3) Available plans and specifications will be noticed to MBE/WBE associations along with any special instructions on how to pursue bids.
- (4) Majority (prime) contractors on a bid list will be sent a letter outlining the Minority Business Enterprise Program procedures, the supportive documentation required for submittal with their bid, and a list of MBE/WBE contractors on the bid list.
- (5) No contractor will be awarded a bid until the contractor has provided specific detailed documentation on how MBE/WBEs will be utilized, and such a plan is approved by the Council.
- (6) The MBE/WBE participation plan for a specific project and the contractor commitment to carry out the program will become a part of the contract awarded by the City. Failure to keep these commitments will be deemed noncompliance with the contract and may result in a breach of contract.

(2) **Contractor Responsibilities**

- (a) Contractors must indicate all MBE/WBEs contracted for quotes regarding a particular scope of work and submit a completed "Intent to Perform" sheet containing information and documentation obtained from each MBE/WBEs.
- (b) A contractor who determines that an MBE/WBEs, named in the bid submittal, is unavailable or cannot perform will request approval from the Purchasing Officer to name an acceptable alternate. Such requests will be approved when adequate documentation of cause for the change is presented by the contractor.
- (c) A contractor's MBE/WBE plan will utilize MBE/WBEs to perform commercially useful functions in the work bid. A MBE/WBE is performing a commercially useful function when it is responsible for the management and performance of a distinct element of the total work.
- (d) Contractors are required to make good faith efforts to obtain MBE/WBE participation when so stipulated by bid specifications and/or contracts. If these efforts are unsuccessful, the contractor will submit a non-availability or refusal to participate and will request waiver of MBE/WBE participation.

- (e) The contractor who is the successful bidder will attend pre-construction conferences with appropriate City representatives to review the project scope and the MBE/WBE utilization plan.
  - (f) The contractor who is the successful bidder must request a change order for any modification to the MBE/WBE plan. Change orders require Council approval and are contingent on contractor documentation of MBE/WBE involvement in the change requested and documentation of cause for the change.
- (3) WBE/MBE Contractor's Responsibilities
- (a) MBEs/WBEs must register with the Purchasing Officer in order to participate in the Minority Business Enterprise Program
  - (b) MBEs/WBEs should attend pre-construction conferences to obtain information and technical assistance on projects and bid procedures in which they (MBE/WBEs) have submitted bids.
- (4) Joint Venture Responsibilities
- (a) All joint ventures between minority and non-minority contractors must meet the "joint venture" definition included in this Policy.
  - (b) The use by MBE/WBEs or prime contractors of "minority fronts" or other fraudulent practices which subvert the true meaning and spirit of the Minority Business Enterprise Program will not be tolerated and may result in termination of participation.
  - (c) A joint venture consisting of minority and non-minority business enterprises will be credited with MBE/WBE participation on the basis of the percentages of the dollar amount of the work to be performed by the MBE/WBEs.
  - (d) Contracts subject to this policy shall contain provisions stating that liquidated damages may be assessed against the general contractor and/or the MBE/WBE firm for violations of this policy and MBE/WBE specifications in the contract(s). Such liquidated damage provisions shall be in a form approved by the Council.
- E. Fulfilling MBE/WBE Participation Requirements  
 For the purpose of this policy, a general contractor may utilize the services of a MBE/WBE subcontractor, manufacturer, and/or supplier in estimating and satisfying the scope of work, provided that written contract/agreement is executed between the general contractor and the subcontractor, manufacturer, and/or the supplier.
- F. Payment
- (1) Payment will be expedited by the Council within thirty (30) days upon completion and acceptance of the project. Special consideration may be given to hardship cases upon notification by MBE/WBEs.
  - (2) The City will provide work progress payments to all businesses at the completion and subsequent acceptance by Council representatives within various stages of a particular project.
- G. Waiver of Bid Bond Requirements  
 The Council may, at its discretion, waive any of the requirements of this Section when it is determined to be in the best interest of the City.

H. Bid List

A bid list for the purpose of bid solicitations shall be maintained by the City. The list shall consist of firms that apply.

- (1) The City may remove firms from the bid list for any of the following reasons:
  - (a) consistent failure to respond to bid invitations (three [3] consecutive instances) within the last eighteen month period; or
  - (b) failure to update the information on file including address, product or service description or business description.
- (2) The City may remove firms from the bid list for the following reasons:
  - (a) failure to perform according to contract provisions;
  - (b) conviction in a court of law of any criminal offense in connection with the conduct of business;
  - (c) clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals or awarding of contracts;
  - (d) clear and convincing evidence that the vendor has attempted to give a Council employee, officer or agent a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Council's purchasing activity;
  - (e) violation or circumvention of the Minority Business Enterprise Program; or
  - (f) other reasons deemed appropriate by the City Council.
- (3) This policy is consistent with and subordinate to the City Purchasing Policy. Wherever conflicts may exist, the provision in the Purchasing Policy will prevail.

J. Reporting

The Purchasing Officer or appropriate person will report, at least annually, to the Council on the status of the Minority Business Enterprise Program. Records will be maintained reflecting participation of local minority and women owned businesses and shall be reported.

K. Severability Clause

Each separate provision of this program is deemed independent of all other provisions herein so that if any provision or provisions be declared invalid, all other provisions hereof shall remain valid and full force and effect.

This policy has been adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2010

\_\_\_\_\_  
Signature

Attest:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Chief Elected Official

\_\_\_\_\_  
Clerk

Ellie Ackley  
Dear Buz, Shane and the  
Gulf Breeze City Council,  
I'd like to take this  
opportunity to thank you for  
a couple of extra specially  
nice things you have  
done for the community  
lately.

One, is the delicious  
appreciation meal you gave

the volunteers and city  
employees. That is positive  
reinforcement for positive,  
hard work. Thank you.

Thank you also for helping  
the absentee resident at  
1 North Sunset whose grass  
had not been cut for over 3 mos.  
It looks much better since  
Buz arranged for it to be cut.  
Thank you also - in advance - for  
extending a helping hand to  
another SB resident who needs  
lawn care & a ramp. It is actions  
like these that show how much city hall cares.  
Sincerely, Ellie Ackley