

**GULF BREEZE CITY COUNCIL
REGULAR MEETING**

AUGUST 20, 2012
MONDAY, 6:30 P.M.
COUNCIL CHAMBERS

1. Roll Call
2. Invocation and Pledge of Allegiance

RECOGNITION OF CHRIS LITTLE

3. Approval of Minutes of August 6, 2012 (Regular Meeting)
Approval of Minutes of August 6, 2012 (Special CRA Meeting)
4. Ordinance No.06-12: Pertaining to Code Enforcement, Amending Sections 8-28,
8-29; 8-37; 8-56 and 9-128 - **FIRST READING**

Resolution No. 13-12: Capital Trust Agency Financing - Stuart Lodge

5. **CONSENT AGENDA ITEMS:***

- A. Discussion and Action Regarding Development Review Board Referrals of 08/07/12
 - I. Gulf Breeze United Methodist Church - 75 Fairpoint Drive
Requests to Install Two Masonry and Stone Columbariums,
50 Inches, Between the Small Chapel and Youth Building
 - II. St. Ann Catholic Church - 100 Daniel Drive
Requests to construct a Covered Walkway Connecting the
Parish Hall to the Sanctuary
- B. Discussion and Action Regarding Construction of Concrete Pad for Sculpture in
Woodland Park
- C. Discussion and Action Regarding the Declaration of the Water Treatment Filter
as surplus
- D. Discussion and Action Regarding Bergren Road Property Lease to Santa Rosa County

- E. Discussion and Action Regarding Recreation Center Service Road
- F. Discussion and Action Regarding Traffic Calming - Navarre Street
- G. Discussion and Action Regarding Employee Health Insurance Coverage for Fiscal Year 2013
- H. Discussion and Action Regarding Annual Population Estimate from the University of Florida, Bureau of Economic and Business Research

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

ACTION AGENDA ITEMS:

NONE

- 6. New Business
- 7. Open Forum
- 8. 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 the recognition from the Chair.

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

The 1,205th regular meeting of the Gulf Breeze City Council, Gulf Breeze, Florida was held at the Gulf Breeze City Hall on Monday, August 6, 2012, at 6:30 p.m.

Upon call of the roll the following Councilmen were present: Mayor Pro Tem J. B. Schluter, David G. Landfair, Joseph Henderson and Mayor Zimmern. Councilman Bob Cleveland was out of town.

APPROVAL OF MINUTES:

Councilman Henderson moved for approval of the minutes for the regular meeting held on Monday, July 16, 2012. Councilman Schluter seconded. The vote for approval was 4 - 0.

**RESOLUTION NO. 12-12: FORMALLY ACCEPTING CERTAIN PROPERTIES
OFFERED BY DEDICATION ON CERTAIN SUBDIVISION
PLATS KNOWN IN THE PUBLIC RECORD AS CASA
BLANCA PARCEL NUMBER TWO AND CASA BLANCA
RESUBDIVISION LOTS 13-21, PARCEL NUMBER TWO**

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

CONSENT AGENDA ITEMS:

- A. SUBJECT: DISCUSSION AND ACTION REGARDING SPECIAL EVENT
REQUEST FROM GULF BREEZE ROTARY FOR A 5K RUN
SATURDAY, OCTOBER 13, 2012 - 8:00 A.M.**

Reference: Deputy Police Chief memo dated July 9, 2012

RECOMMENDATION:

That the City Council approve the special event request from Gulf Breeze Rotary for a 5K run to be held Saturday, October 13, 2012, 8:00 a.m.

- B. SUBJECT: DISCUSSION AND ACTION REGARDING REQUEST TO
DECLARE SURPLUS ITEMS DISPOSAL ON GOVDEALS.COM**

Reference: City Manager memo dated July 26, 2012

RECOMMENDATION:

That the City Council declare certain equipment as surplus and direct staff to dispose of the items via the Govdeals auction website. Council authorized staff to add the old City Council chairs to the surplus list for items to be sold on Govdeals auction website.

C. SUBJECT: DISCUSSION AND ACTION REGARDING INSTALLATION OF INSPECTION PORT ON 24" STORM WATER LINE

Reference: Public Services Director memo dated July 23, 2012

RECOMMENDATION

That the City Council authorize Brown Construction to install the inspection port at a cost of \$5,851.06.

D. SUBJECT: DISCUSSION AND ACTION REGARDING HIGHWAY 98 GRAVITY MAIN REPAIR

Reference: Assistant Public Services Director memo dated July 25, 2012

RECOMMENDATION:

That the City Council award the repair of the Highway 98 gravity sewer main repair to Brown Construction of Northwest Florida, Inc., for \$10,560.20.

E. SUBJECT: DISCUSSION AND ACTION REGARDING SCOPE MODIFICATION - VHB MILLER SELLEN

Reference: City Manager memo dated July 26, 2012

RECOMMENDATION:

That the City Council approve the proposed changes in the scope of work for the VHB Miller Sellen master planning work detailed from Curt Ostradka.

F. **SUBJECT: DISCUSSION AND ACTION REGARDING CHANGES TO
CODE ENFORCEMENT REGULATIONS**

Reference: Community Services Director

RECOMMENDATION:

That the City Council approve the concept of establishing a compliance “window” and direct staff to draft an ordinance which would modify the applicable sections of the Code of Ordinances.

Councilman Henderson moved for approval of the Consent Agenda Items.
Councilman Landfair seconded. The vote for approval was 4 - 0.

ACTION AGENDA ITEMS:

NONE

OPEN FORUM:

NONE

ADJOURNMENT:

The Mayor adjourned the meeting at 6:36 p.m.

Marita Rhodes, City Clerk

Beverly H. Zimmern, 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, August 6, 2012, at 6:35 p.m.

Upon call of the roll for the Community Redevelopment Agency the following members were present: Mayor Pro Tem J. B. Schluter, David G. Landfair, Joseph Henderson and Mayor Beverly Zimmern. Councilman Bob Cleveland was out of town.

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

A. SUBJECT: DISCUSSION AND ACTION REGARDING CITY OF GULF BREEZE MASTER PLANNING INVOICE

Reference: Assistant City Manager memo dated August 25, 2012

RECOMMENDATION:

That the City Council meet as the Board of Directors of the Community Redevelopment Agency on Monday, August 6, 2012 and approve payment of invoice no. 150546 or \$77,168.84 to VHB Miller Sellen.

B. SUBJECT: DISCUSSION AND ACTION REGARDING CONVERSION TO UNDERGROUND WIRING

Reference: City Manager memo dated July 26, 2012

RECOMMENDATION:

That the City Council meet as the Board of Directors of the Community Redevelopment Agency on Monday, August 6, 2012 and approve Phase One and Phase One(a) of converting above ground electrical facilities to underground for a total cost of \$195,238.

Councilman Henderson moved for approval of both recommendations. Councilman Landfair seconded. The vote for approval was 4 - 0.

ADJOURNMENT: The meeting was adjourned at 6:36 p.m.

Marita Rhodes, City Clerk

Beverly H. Zimmern, Mayor

ORDINANCE NO. 06-12

AN ORDINANCE OF THE CITY OF GULF BREEZE FLORIDA, PERTAINING TO CODE ENFORCEMENT; AMENDING SECTIONS 8-28, 8-29, 8-37, 8-56 and 9-128; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gulf Breeze promotes and protects the health, safety and welfare of its citizens through the code enforcement process; and,

WHEREAS, the City of Gulf Breeze has recently undertaken steps to help revitalize and enhance the appearance of the City; and,

WHEREAS, the Code of Ordinances contains differing time periods for abatement of code violations; and,

WHEREAS, the City Council finds it to be in the interest of the City of Gulf Breeze to establish an uniform time period for abatement.

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

SECTION 1. Section 8-28 of the Code of Ordinances of the City of Gulf Breeze is hereby amended to read as follows:

Sec. 8-28. - Procedures for abatement of public nuisance.

The repair, rehabilitation, demolition, clearing, cleaning, or removal as contemplated in sections 8-26 and 8-27, above, shall be in accordance with the following procedures:

- (1) *Notice of violation:* Whenever the city determines that there are reasonable grounds to believe that an unsafe building exists or that a public nuisance as defined in section 8-27 exists, a notice of violation shall be given to the owners of the property of the fact that said building, lot or parcel, constitutes an unsafe building and/or a nuisance. Such notice shall:
 - a. Be in writing;
 - b. Include a statement of reasons why the building, lot or parcel is in violation of sections 8-26 and/or 8-27
 - c. State that the owners of the building, lot or parcel will be allowed ~~30 days~~ a **reasonable** time **period** for the performance of such acts which will render the building, lot or parcel in conformity with sections 8-26 and 8-27. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.**
 - d. Provide notice that if the necessary repairs, rehabilitation, demolition, clearing, cleaning or removals are not voluntarily completed within the stated time set forth in the notice of violation, that the city may (i) proceed to repair, rehabilitate, demolish, clean, clear or remove the buildings, lots or parcels and/or take such other actions which it deems necessary to abate the public nuisance; (ii) charge

the owners of the property with the expense of said action by the city, which said charge shall constitute a lien on the property that will accrue interest at the statutory rate for judgments; and (iii) upon completion of the repairs, rehabilitation, demolition, cleaning, clearing, removals or other actions taken to abate the nuisance, the city may initiate and commence efforts to foreclose the lien.

- e. State that the declaration of nuisance and/or unsafe building, as well as any actions required of the owner, may be appealed to the city council at a hearing which will be held for the purpose of hearing the property owner's objections thereto at a scheduled meeting of the city council, the date of which shall be set forth in the notice.

(2) *Service of notice of violation:* The service of the notice of violation shall be as follows:

- a. By personal service upon the owners of the property, or by leaving the notice at the usual place of abode of the owners of the property with a person over the age of 15 years;
- b. By service upon the owners by United States certified mail, return receipt requested; or
- c. Where the owners of the property cannot be found or secret themselves within the state or outside the state, by posting the notice on the premises for seven days, plus notice by publication in a newspaper of general circulation in the city once a week for two consecutive weeks.

(3) *Opportunity to cure; city's right to abate nuisance upon owner's failure:* If the repairs, rehabilitations, demolitions, clearing, cleaning, removals, or other acts contemplated by the notice of violation are not voluntarily completed within the time period set forth therein, the city may proceed to repair, rehabilitate, demolish, clear, clean, remove and otherwise abate the conditions causing the public nuisance. The city may charge the owners of the property with the expense of such action taken by the city to abate the public nuisance. The city shall submit to such persons a statement for said charges through United States certified mail, return receipt requested, to the address at which the said persons were served with the original notice. The owners and/or other persons having legal interest in the property shall have 30 days from the date of mailing of such statement to pay the city the amounts reflected therein. Upon the failure to timely pay the charges, the city shall have a lien upon the property for the amount of the charges which shall accrue interest at the statutory rate for judgments. The city may then record in the public records of Santa Rosa County, Florida, a notice of lien setting forth therein the nature of the lien, the ordinance or other legal authority upon which it is based, a brief description of the circumstances resulting in imposition of the lien, and the amount of the lien. The city may immediately commence foreclosure proceedings upon the lien.

(4) *Appeal rights; hearing:* The owners of the affected property and those who have a legal interest therein may appeal the declaration of nuisance and/or unsafe building and any actions required to abate the public nuisances, to the city council. The appeal shall be in writing, filed with the city manager, and state all grounds for the appeal. The notice of appeal must be filed with the city manager at least ten days before the date of the hearing as set forth in the notice of violation. A hearing will be held upon the appeal at a

regularly scheduled meeting of the city council, the date of which will be set forth in the notice of violation.

SECTION 2. Section 8-29 of the Code of Ordinances of the City of Gulf Breeze is hereby amended to read as follows:

Sec. 8-29. - Abatement of public nuisances imminent danger to public health, safety and welfare.

Notwithstanding the procedures set forth in section 8-28, in the event the city reasonably determines that a public nuisance poses imminent danger to public health, safety or welfare, the city may proceed to immediately repair, rehabilitate, demolish, clear, clean, remove and otherwise abate the conditions causing the public nuisance without first serving the required notice of violation or allowing the property owners opportunity to perform such acts which would render the building, lot or parcel in conformity with sections 8-26 and 8-27. Before taking such immediate action to abate a public nuisance, the city must reasonably determine that the danger to public health, safety and welfare is indeed imminent and that immediate abatement is necessary to avoid possible human injury or death and/or damage to property. Should the city undertake to immediately abate a public nuisance pursuant to the authority set forth in this section, all procedures set forth in section 8-28 shall be applicable to such undertaking, except:

- (1) The city shall serve the notice of violation upon the property owners as soon as possible following the city's determination of the need to proceed with immediate efforts to abate the public nuisance;
- (2) The owners of the building, lot or parcel will be allowed ~~30 days time~~ **a reasonable time period** for the performance of such acts which will render the building, lot or parcel in conformity with sections 8-26 and 8-27. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.** ~~But rather~~ The notice of violation shall state that due to the imminent threat of danger to public health, safety and welfare the city has immediately commenced and/or completed efforts to abate the public nuisance; and
- (3) That in addition to the appellate rights otherwise provided, the owners of the affected property may appeal to the city council the required determinations which were a precondition to the city immediately undertaking to abate the public nuisance.

SECTION 3. Section 8-37 of the Code of Ordinances of the City of Gulf Breeze is hereby amended to read as follows:

Sec. 8-37. - Removal of weeds and grasses; assessment of costs; lien.

- (a) It is the responsibility of each person or entity who owns or is in possession or in control of any parcel of land in the city to maintain that portion of the public right-of-way between said parcel and the paved roadway surface within said right-of-way in accordance with this section.
- (b) The following exceptions apply to the foregoing:
 - (1) Any section of public right-of-way in front of or adjacent to a lot or parcel which has not been cleared or altered from its natural state.

- (2) Any section of public right-of-way between the paved surface of Shoreline Drive and Fairpoint Drive and any adjacent lot or parcel.
 - (3) The portion of the public right-of-way at the rear of a residence developed on a parcel or lot which faces or fronts on another public right-of-way which has a paved roadway.
- (c) Delineation of maintenance responsibility in accordance with this section shall be made by drawing a straight line from:
- (1) The point at which the side lot line of a lot or parcel meets the right-of-way; and
 - (2) To the nearest point on the center line of the paved roadway surface.
- (d) It shall be the duty of the code enforcement officer to cause to be cut down and removed from all public ways and other public places of the city all weeds and grasses which shall grow to a height exceeding 12 inches and, also, to cause to be cut down and removed from any private premises all weeds growing thereon to a height exceeding 12 inches whenever the owner of such premises, occupant, agent of the owner or other person who is required by this section to cut down and remove the weeds and grasses fails or refuses to do so.
- (e) Prior to cutting down or removing weeds and grasses from private premises, an enforcement officer shall give written notice to the owner, occupant, agent of the owner or other person controlling the premises that if such weeds are not cut down or removed within ~~three days~~ **a reasonable time period**, the code enforcement officer will cause them to be cut down or removed, and the owner, occupant or agent of the owner will be billed and the property assessed for the cost thereof. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.** Notice shall be deemed to be sufficient if it is prominently posted upon the premises and mailed to the occupant of the premises, if any, or the last owner of record on file in the office of property appraiser or agent of the owner by certified mail, return receipt requested, or personally delivered to any of such persons.
- (f) Upon completion of the cleaning or clearing by the city of any lot, parcel or tract of land not in its original state within the city by removing therefrom the weeds and grasses, undergrowth, trash, filth, garbage or other refuse, the city manager, director of public service or designee shall certify the costs incident to and required by the removal of such offensive matter, specifying the lots and parcels so improved and the nature of the improvements. Thereafter, the city manager shall assess such land, lot or parcel of land for such improvements and the costs thereof and shall take such appropriate action as necessary to place a lien upon such land, parcel or tract of land, which lien shall be equal in dignity to all other special assessments for benefits against property within the city, and shall be collected in the same manner as other special assessments for benefits collected. The city manager is authorized and directed to perform and to do all things necessary for the recording, perfecting and collection of such lien. No such lien shall be recorded unless 30 days have expired without payment of the special assessment after the city manager has served notice of the nature and the amount of the special assessment.

SECTION 4. Section 8-56 of the Code of Ordinances of the City of Gulf Breeze is hereby amended to read as follows:

Sec. 8-56. - Exterior storage of vehicles, boats and trailers.

- (a) Nonoperating vehicles, boats and trailers.
- (1) No person who owns or is in possession of, in charge of or in control of any property shall keep or allow a nonoperating vehicle, boat, camper or any trailer designed to be pulled by a vehicle to remain in full view on such property longer than 30 days. A nonoperating vehicle is a vehicle which cannot be readily moved under its own power or which is not currently and properly licensed for operation by the state. A nonoperating boat is a boat which is not seaworthy or is not currently licensed for operation by the state. A nonoperating boat trailer, camper or other trailer is one which is not readily transportable on its own tires or is not currently licensed by the state.
 - (2) No ongoing, continuous body work or repair work or similar activities to automobiles, boats, trailers and vehicles is allowed on private property longer than 30 days. Any such activities must be moved to an enclosed building, garage or be so located and fenced so as not to be visible from any public place or street.
 - (3) This section shall not apply to any vehicle, boat or trailer in an enclosed building, or so located upon the premises as not to be visible from any public place or street.
 - (4) This section shall not apply to any vehicle, boat or trailer on the premises of a city-licensed business enterprise operated in a nonresidential district when the keeping or maintaining of such vehicle, boat or trailer is necessary to the operation of such business enterprise, otherwise known as purposeful inventory, or to any vehicle, boat or trailer in an appropriate storage place or depository maintained in a lawful place by the city or any public agency.
 - (5) No person who owns or is in possession of, in charge of or in control of any property shall keep or allow a vehicle, boat, camper or any trailer designed to be pulled by a vehicle to be parked or stored in any public or private right-of-way.
 - (6) Any person who is in violation of this section shall be issued a notice of violation and shall be allowed ~~seven calendar days~~ a **reasonable time period** for the performance of such acts which will render the property in conformity with this section. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.**
- (b) Storage of vehicles, boats and trailers.
- (1) Any recreational vehicle, camper, bus, flatbed truck, travel trailer, equipment trailer, boat, boat trailer, commercial vehicle or similar type vehicle stored on any residential parcel shall be maintained in a condition or appearance free from holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance, or loss of operating ability.
 - (2) The area immediately under, adjacent to and surrounding any stored recreational vehicle, camper, bus, flatbed truck, travel trailer, equipment trailer, boat, boat trailer, commercial vehicle or similar type vehicle shall be kept clear of any

debris, trash, filth, garbage, refuse, rubbish, waste, junk, parts, castoffs, oddments, litter, leavings, ruins.

- (3) The area immediately under stored recreational vehicle, camper, bus, flatbed truck, travel trailer, equipment trailer, boat, boat trailer, commercial vehicle or similar type vehicle shall be kept clear of any weeds, grasses or other vegetative material in excess of 12 inches in height.
- (4) No recreational vehicle, camper, bus, flatbed truck, travel trailer, equipment trailer, boat, boat trailer, commercial vehicle or similar type of vehicle shall be stored on any public or private right-of-way.
- (5) Any person who is in violation of this section shall be issued a notice of violation and shall be allowed ~~seven calendar days~~ a **reasonable time period** for the performance of such acts which will render the property in conformity with this section. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.**

SECTION 5. Section 9-128 of the Code of Ordinances of the City of Gulf Breeze is hereby amended to read as follows:

Sec. 9-128. - Same—Time allotted for abatement.

After receiving notice that a fire hazard exists, the owner, manager or other responsible party is hereby allotted ~~30 days~~ a **reasonable time period** from the initial inspection to abate all hazards. **Such time period will be determined by the City Manager or his/her designee and shall be no fewer than 3 calendar days and no more than 30 calendar days.** In the case of an extreme or repeat hazard that poses an immediate threat to the health, safety or welfare of the public, the fire marshal or his designee can reduce the time allotted for the abatement.

SECTION 6. SEVERABILITY

If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by any court to be unconstitutional, inoperative, invalid or void, such holding shall not in any manner affect the validity of the remaining portions of this Ordinance.

SECTION 7. CONFLICT

The provisions of this Ordinance shall be deemed to control and prevail over any ordinance or portion thereof in conflict with the terms hereof.

SECTION 8. EFFECTIVE DATE

This Ordinance shall become effective upon its adoption by the City Council.

PASSED ON THE FIRST READING ON THE _____ DAY OF _____, 2012.

ADVERTISED ON THE ON THE _____ DAY OF _____, 2012.

PASSED ON THE SECOND READING ON THE _____ DAY OF _____, 2012.

By: _____
Beverly Zimmern, Mayor

ATTESTED TO BY:

Marita Rhodes, City Clerk

RESOLUTION 13-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA, APPROVING A PLAN OF FINANCE FOR THE COSTS OF THE ACQUISITION AND CONSTRUCTION OF AN ASSISTED LIVING FACILITY TO BE LOCATED IN THE STATE OF FLORIDA; APPROVING THE ISSUANCE OF NOT TO EXCEED \$25,000,000 CAPITAL TRUST AGENCY REVENUE BONDS FOR THE PURPOSE OF FINANCING A LOAN PROGRAM TO ASSIST IN FINANCING SUCH FACILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council (the "City Council") of Gulf Breeze, Florida (the "City"), a municipal corporation of the State of Florida, has heretofore adopted Resolution No. 14-99 dated as of July 19, 1999 (the "Original Resolution"), and entered into an Interlocal Agreement between the City and the Town of Century, Florida, dated as of August 2, 1999, as amended by Amendment No. 1 through No. 32 (including Amendments No. 14-A, 23-A, and 24-A) (collectively, the "Enabling Agreement"), approving the creation of the Capital Trust Agency (the "Agency"), a separate legal and administrative agency of the State of Florida, organized and existing under the provisions of Chapter 163, Part I, and Chapter 159, Part II, Florida Statutes, Ordinance No. 05-97 of the City, as amended, and its Articles of Incorporation, as amended and other applicable provisions of law (collectively the "Act"), to enable public, private and not-for-profit organizations to obtain public assistance in financing or refinancing certain beneficial projects or programs that benefit, enhance and/or serve a public purpose; and

WHEREAS, pursuant to the Act and in accordance with the provisions of the Original Resolution, the Agency did on July 31, 2012, take official action by adopting its preliminary resolution (the "Agency Resolution") indicating its intent to authorize the financing or refinancing of the hereinafter described Project, and the issuance from time to time of revenue bonds (the "Bonds") by the Agency for a loan program for the purpose, among other things, of acquiring, constructing, developing, furnishing and equipping an assisted living facility for the elderly, as further described on attached Schedule I, namely, the Stuart Lodge ALF to be located in Stuart, Florida within Martin County, Florida (the "Project"); and

WHEREAS, the City has been advised that the Agency desires to issue an aggregate principal amount not exceeding \$25,000,000 of the Bonds to finance the Project on behalf of Stuart Lodge Properties, LLC, a Florida limited liability company, whose principal place of business is 4130 United Avenue, Mt. Dora, Florida 32757 (the "Company"), or one or more its affiliates (as applicable, the "Borrower") to fund a program herein described (the "Plan of Finance"); and

WHEREAS, Section 147(f) of the Code, requires public approval of certain revenue bonds by an applicable elected representative or governmental unit on behalf of which such bonds are to be issued, following a public hearing; and

WHEREAS, as required pursuant to Section 147(f) of the Code notice of such public hearing was given in the form required by the Code by publication at least fourteen (14) days prior to such public hearing in the *Pensacola News Journal* on August 6, 2012, the Bonds and the Plan of Finance have been submitted to a public hearing held on behalf of the City Council of the City of Gulf Breeze, Florida (the "City Council") on August 20, 2012; and

WHEREAS, the City Manager has conducted the public hearing on behalf of the City Council and provided reasonable opportunity for all interested persons to express their views, both orally and in writing and diligently and conscientiously considered all comments and concerns expressed by such individuals, if any; and

WHEREAS, the City Council desires to approve the Bonds and the issuance and sale thereof pursuant to the Plan of Finance and to grant all approvals required or contemplated by Section 147(f) of the Code, to express its approval of the action taken by the Agency and its officials pursuant to the Agency Resolution, and to grant all other approvals required by the Enabling Agreement, as amended and the Original Resolution in connection with the issuance and sale of the Bonds;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA:

SECTION 1. PUBLIC HEARING NOTICE AND REPORT APPROVED.

The City Council hereby approves the form of and the manner of publication of the Notice of Public Hearing (the "Notice") published in the *Pensacola News Journal*, a newspaper of general circulation in the jurisdiction of the City on August 6, 2012. The City Council hereby approves the report of the public hearing conducted by the City Manager, a copy of which is attached as Exhibit "A" hereto. Such Notice and other means and methods utilized by the City to give notice of purpose, time and date of the public hearing provided reasonable notice sufficient to inform residents of the City of the proposed Bonds.

SECTION 2. BONDS AND PLAN OF FINANCE APPROVED.

For purposes of the Act, the City hereby approves the Plan of Finance described herein, and the Bonds in the aggregate principal amount not to exceed \$25,000,000. The Agency and its officers, employees, agents and attorneys are hereby authorized from time to time to take all action, to execute and deliver such authorizations, approvals, certificates and documents, and to enter into, on behalf of the Agency, such interlocal agreements, interest rate swap or hedge transactions, investment agreements, repurchase agreements, bond credit or insurance

agreements, reimbursement agreements, and other agreements, approvals or instruments deemed necessary or convenient to effect, implement, maintain and continue the Plan of Finance, the financing or refinancing of the Project through the issuance from time to time of the Bonds and the purposes for which the Bonds are to be issued. No obligation of the Agency under any such agreement shall constitute an obligation of the City except to the extent the same may be expressly approved by the City. The Bonds shall be limited and special obligations of the Agency, and shall not constitute a pledge of the faith and credit or taxing power of or constitute an obligation of the City.

SECTION 3. AMENDMENT NO. 33 TO THE ENABLING AGREEMENT RATIFIED.

Pursuant to the Enabling Agreement, there is hereby approved the execution and delivery of an amendment to Enabling Agreement (the "Amendment") to effect the approvals set forth in Section 1 and Section 2 hereof. Such Amendment shall be in substantially the form attached hereto as Exhibit "B," and the Mayor is authorized to execute and deliver the same on behalf of the City Council, with such changes not inconsistent herewith as the Mayor shall approve, her execution thereof to conclusively establish such approval.

SECTION 4. TEFRA APPROVAL.

After diligent and conscientious consideration of the views expressed by the persons appearing at the public hearing, the City Council hereby approves the Agency's Plan of Finance, and the issuance by the Agency of not to exceed \$25,000,000 aggregate principal amount of revenue bonds for the all purposes under Section 147(f) of the Code, for all purposes of the Enabling Agreement, as amended and for all purposes of the Original Resolution.

SECTION 5. REPEALING CLAUSE.

All resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. EFFECTIVE DATE.

This resolution shall take effect immediately upon its adoption this _____ day of _____, 2012.

**GULF BREEZE, FLORIDA
CITY COUNCIL**

(SEAL)

By: _____
Beverly H. Zimmern, Mayor

ATTEST:

By: _____
Marita Rhodes, City Clerk

EXHIBIT "A"

REPORT OF CITY MANAGER

EXHIBIT "B"

**AMENDMENT NO. 33
OF THE ENABLING AGREEMENT**

[Follows]

SCHEDULE I

THE PROJECT

The acquisition and construction of Stuart Lodge ALF, a 96 unit assisted living facility to be located at 1301 SE Palm Beach Road, Stuart, Florida 34994, within Martin County, Florida to be financed in an aggregate principal amount not exceeding \$25,000,000.

MW\Gulf Breeze Reso -ILA 33 (Stuart Lodge) 08/14/2012 – 2059243.0028 - #41316030 (v.1).doc

AMENDMENT NO. 33 TO INTERLOCAL AGREEMENT

This **AMENDMENT NO. 33 TO INTERLOCAL AGREEMENT** (this "Amendment No. 33") is made and entered into as of the 1st day of _____, 2012, by and among the **CITY OF GULF BREEZE, FLORIDA**, a municipal corporation of the State of Florida ("Gulf Breeze") and the **TOWN OF CENTURY, FLORIDA**, a municipal corporation of the State of Florida ("Century"). Gulf Breeze and Century may collectively be referred to herein as the "Parties,"

WITNESSETH:

WHEREAS, the Parties hereto have by Interlocal Agreement, dated as of August 2, 1999, as amended by Amendments No. 1 through No. 32 (including Amendments No. 14-A, 23-A, and 24 - A) (collectively, the "Enabling Agreement"), heretofore provided for the creation of the Capital Trust Agency (the "Agency"), to enable public, private and not-for-profit organizations to obtain public assistance in financing certain projects or programs that benefit, enhance and/or serve a public purpose; and

WHEREAS, Stuart Lodge Properties, LLC, a Florida limited liability company (the "Company") and whose principal place of business is 4130 United Avenue, Mt. Dora, Florida 32757, or one or more its affiliates (as applicable, the "Borrower"), is engaged in, among other things of acquiring, constructing, developing, furnishing, equipping, owning, and operating assisted living facilities for the elderly; and

WHEREAS, on July 31, 2012, the Agency approved a request by the Borrower that the Agency issue its revenue bonds in a principal amount not to exceed \$25,000,000 (the "Bonds") in one or more series and loan the net proceeds thereof to the Borrower, for the purpose, among other things, of financing and refinancing assisted living facilities for the elderly, as further described on attached Schedule 1, namely, Stuart Lodge ALF, to be located at 1301 SE Palm Beach Road, Stuart, Florida (the "Project"), including acquiring, constructing, developing, furnishing and equipping the Project; and

WHEREAS, the Agency will issue its Bonds on a case-by-case basis after review by the Agency, to provide financing and refinancing from time to time for individual projects or groups of projects, or eligible financing programs, based upon the credit pledged therefor from one or more of the projects, the Borrower, the Company, a credit enhancement facility, if any, or from the revenues of any such programs; and

WHEREAS, Section 7 of the Enabling Agreement requires that as a condition precedent to the Agency issuing the Bonds, the Agency must obtain the prior written approval, evidenced by resolution, from the governing bodies of Century and Gulf Breeze approving such issuance and approving an amendment to the Enabling Agreement specifically authorizing such issuance. Such

approval evidenced by appropriate resolutions has been obtained authorizing the execution and delivery of this Amendment No. 33 to the Enabling Agreement with respect to the financing herein described; and

WHEREAS, the Parties desire to amend the Enabling Agreement to permit and authorize the Agency to issue the Bonds herein described from time to time and loan the proceeds to the Borrower in order to provide financing and refinancing for the Project; provided that at no time shall the aggregate principal amount of Bonds outstanding exceed the maximum principal amount set forth herein.

NOW, THEREFORE, the Parties hereby agree as follows:

SECTION 1. ENABLING AGREEMENT AMENDED FOR PROJECT.

This Amendment No. 33 is entered into pursuant to Section 7 of the Enabling Agreement for the purpose of authorizing the Agency to issue the Bonds and to finance projects of the type and character of the Project.

SECTION 2. BONDS, PROGRAM, PLAN OF FINANCE APPROVED.

The Parties do hereby approve and authorize the Bonds, and the issuance of Bonds from time to time, in one or more series, in an aggregate principal amount not to exceed \$25,000,000. Each installment or issue of such Bonds shall be designated by series, in such manner as the Agency shall determine, so as to separately identify each such installment or issue. The Agency and its officers, employees, agents and attorneys are hereby authorized to enter into, on behalf of the Agency, from time to time, interlocal agreements, cash management agreements, interest rate swap or hedge transactions, investment agreements, repurchase agreements, bond credit or insurance agreements, escrow agreements, reimbursement agreements, security documents and other agreements, approvals or instruments deemed necessary or convenient to effect or implement the financing and refinancing of the Project through the issuance of the Bonds, and the purposes and programs for which the Bonds are to be issued and to conform the purposes stated in the Articles of Incorporation of the Agency to authorizations herein contained. No obligation of the Agency under any such agreement or instrument shall constitute an obligation of Century or of Gulf Breeze. The Bonds shall be limited and special obligations of the Agency, payable from the revenues or receipts of the programs or projects, payments by the Borrower, or other sources relating to the purpose for which they are issued, all in the indentures for the Bonds. The Bonds shall not constitute a pledge of the faith and credit or taxing power of or constitute an obligation of Century or of Gulf Breeze.

SECTION 3. ADMINISTRATIVE FEES AND EXPENSES FOR THE TOWN OF CENTURY.

Upon the issuance of each series or installment of Bonds, Century shall be paid by either the Agency or Gulf Breeze, solely from amounts received from the Borrower the sum specified on

Schedule 2 attached hereto.

SECTION 4. ENABLING AGREEMENT CONTINUED.

The Enabling Agreement, as amended hereby, is hereby ratified, confirmed and approved and shall otherwise continue in full force and effect. Nothing in this Amendment No. 33 shall be deemed to adversely affect the authorizations in the Enabling Agreement as it existed prior to the effective date of this Amendment No. 33, or to adversely affect the interests of the holders of any Bonds issued or to be issued pursuant to such authorizations. Except as and only to the extent specifically amended hereby, such Enabling Agreement is hereby incorporated by reference.

SECTION 5. INDEMNITY.

To the extent permitted by law, the Agency and Gulf Breeze shall indemnify and defend Century and hold Century harmless against any and all claims, losses, liabilities or damages to property or any injury or death of any person or persons occurring in connection with the issuance of the Bonds pursuant hereto, or in connection with the acquisition or operation of any Project, or for any liability any way growing out of or resulting from the Enabling Agreement, as amended, this Amendment No. 33, the financing agreements and/or bond indentures executed in connection with the Bonds or the Bonds, including, without limitation, all costs and expenses of Century, including reasonable attorney's fees, incurred in the performance of any activities of Century in connection with the foregoing or the enforcement of any agreement of the Agency herein contained. Any such obligation of Gulf Breeze or the Agency shall be payable solely from the amounts available to them for such purposes under the Bond financing or any other plan of finance heretofore or hereafter undertaken by the Agency, and shall not constitute a general obligation or a pledge of the faith and credit of Gulf Breeze or the Agency, or an obligation to pay the same from any sources other than such amounts available to them for such purposes under the Bond financing.

SECTION 6. SEVERABILITY OF INVALID PROVISIONS.

If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereto.

SECTION 7. COUNTERPARTS.

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 8. EFFECTIVE DATE; AMENDMENTS.

This Amendment shall take effect when duly executed by the Parties and filed in accordance with law. This Amendment may be amended only by written instrument signed by authorized representatives of Century and of Gulf Breeze; provided, however, that no such amendment which would adversely affect the rights of the holders or owners of any then outstanding Bonds of the Agency or of any other member shall take effect until such time as all necessary consents or approvals with respect to such Bonds shall have been obtained, in the case of the rights of bondholders, or the consents and approvals of the affected members, in the case of the rights of members.

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IN WITNESS WHEREOF, the Parties have caused this Amendment No. 33 to Enabling Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF GULF BREEZE, FLORIDA

[SEAL]

By: _____
Beverly H. Zimmern, Mayor

ATTEST:

By: _____
Marita Rhodes
City Clerk

TOWN OF CENTURY, FLORIDA

[SEAL]

By: _____
Freddie W. McCall, Mayor

ATTEST:

By: _____
Leslie Gonzalez, Town Clerk

SCHEDULE 1

THE PROJECT

The acquisition and construction of Stuart Lodge ALF, a 96 unit assisted living facility to be located at 1301 SE Palm Beach Road, Stuart, Florida 34994, within Martin County, Florida to be financed in an aggregate principal amount not exceeding \$25,000,000.

**SCHEDULE 2
PAYMENT TO TOWN OF CENTURY**

\$350.00 per million principal amount of each issue, upon issuance thereof, but not less than \$2,500.00.

Councilmen Present: Bob Cleveland, Joseph Henderson, David G. Landfair, Mayor Pro Tem
J. B. Schluter and Mayor Beverly Zimmern

ACTION AGENDA ITEMS:

**A. SUBJECT: DISCUSSION AND ACTION REGARDING RECOGNITION OF
CHRIS LITTLE, 304 WASHINGTON**

Reference: City Manager memo dated August 9, 2012

RECOMMENDATION:

**That the City Council recognize Chris Little on Monday, August 20, 2012 at the
Regular Council meeting, for his good work for the City of Gulf Breeze.**

**B. SUBJECT: DISCUSSION AND ACTION REGARDING DEVELOPMENT
REVIEW BOARD REFERRALS OF AUGUST 7, 2012**

Reference: Minutes from DRB August 7, 2012 meeting

RECOMMENDATION:

- I. Gulf Breeze United Methodist Church - 75 Fairpoint Drive
Requests to install two masonry and stone columbariums,
50 inches, between the small chapel and youth building

That the City Council approve the project as submitted. (Ms. Elise Evans, 11
Fairpoint Place, asked questions regarding the project.)

- II. St. Ann Catholic Church - 100 Daniel Drive
Requests to construct a covered walkway connecting the
Parish Hall to the Sanctuary

That the City Council approve the project as submitted. (Mr. Tom Naile,
Administrator of St. Ann Catholic Church, 100 Daniel Drive, explained how the
walkway will connect the buildings.)

**C. SUBJECT: DISCUSSION AND ACTION REGARDING ORDINANCE 06-12,
PERTAINING TO CODE ENFORCEMENT; AMENDING
SECTIONS 8-28; 8-37; AND 9-128**

Reference: Community Services Director memo dated August 9, 2012

RECOMMENDATION:

That the City Council approve Ordinance 06-12 on First Reading August 20, 2012 and schedule the Public Hearing and Second Reading for Wednesday, Sept. 5, 2012.

D. SUBJECT: DISCUSSION AND ACTION REGARDING CONSTRUCTION OF CONCRETE PAD FOR SCULPTURE IN WOODLAND PARK

Reference: City Manager memo dated August 9, 2012

RECOMMENDATION:

That the City Council approve a proposal by Hewes Construction to build a concrete base for installation of a sculpture at Woodland Park subject to approval from the Advisory Park Board. Funding is from donations.

E. SUBJECT: DISCUSSION AND ACTION REGARDING THE DECLARATION OF THE WATER TREATMENT FILTER AS SURPLUS

Reference: Assistant Public Services Director memo dated August 10, 2012

RECOMMENDATION:

That the City Council designate the Filtronics Water System to be surplus and allow an "as is" sale with our online auction service.

F. SUBJECT: DISCUSSION AND ACTION REGARDING BERGREN ROAD PROPERTY LEASE TO SANTA ROSA COUNTY

Reference: Assistant Public Services Director memo dated August 10, 2012

RECOMMENDATION:

That the City Council authorize the City Attorney to negotiate the lease of the Bergren Road property to Santa Rosa County for final approval by City Council

and give Santa Rosa County permission to perform the work allowed by and in accordance with the City's dredge and fill permit.

G. SUBJECT: DISCUSSION AND ACTION REGARDING RECREATION CENTER SERVICE ROAD

Reference: Assistant Public Services Director memo dated August 10, 2012

RECOMMENDATION:

That the City Council award the Recreation Center Service Road to Radford and Nix Construction, LLC for \$150,701.25 as a change order to the South Sunset Boulevard paving project. (Council made suggestions regarding replacement of the approximately 20 protected trees that will have to be cut down.)

H. SUBJECT: DISCUSSION AND ACTION REGARDING TRAFFIC CALMING NAVARRE STREET

Reference: City Manager memo dated August 10, 2012

RECOMMENDATION:

That the City Council authorize Ken Horne and Associates to conduct a traffic calming analysis of Navarre Street including public meetings at a cost not to exceed \$5,000. (Council asked that Mr. Horne provide an approximate time line to produce the information for Council.)

I. SUBJECT: DISCUSSION AND ACTION REGARDING CAPITAL TRUST AGENCY FINANCING - STUART LODGE

Reference: City Manager memo dated August 10, 2012

RECOMMENDATION:

That the City Council direct staff to prepare a Resolution approving a Capital Trust Agency financing for Stuart Lodge in an amount not to exceed \$25,000,000 for adoption on August 20, 2012.

J. SUBJECT: DISCUSSION AND ACTION REGARDING EMPLOYEE HEALTH INSURANCE COVERAGE FOR FISCAL YEAR 2013

Reference: Assistant City Manager memo dated August 10, 2012

RECOMMENDATION:

That the City Council accept and approve the Blue Cross Blue Shield of Florida Self Referral HMO plan for fiscal year 2013.

K. SUBJECT: DISCUSSION AND ACTION REGARDING ANNUAL POPULATION ESTIMATE FROM THE UNIVERSITY OF FLORIDA, BUREAU OF ECONOMIC AND BUSINESS RESEARCH

Reference: Assistant City Manager memo dated August 10, 2012

RECOMMENDATION:

That the City Council accept the estimate of the City's population of 5,790.

L. INFORMATION ITEMS