

**GULF BREEZE CITY COUNCIL  
REGULAR MEETING AGENDA**

**AUGUST 17, 2015  
MONDAY, 6:30 P.M.  
COUNCIL CHAMBERS**

A. **ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

B. **APPROVAL OF MINUTES**

August 3, 2015, Regular Meeting

C. **PROCLAMATIONS AND PRESENTATIONS**

*There are no proclamations to consider at this meeting.*

D. **RESOLUTIONS AND ORDINANCES**

*There are no resolutions or ordinances to consider at this meeting.*

E. **CONSENT AGENDA ITEMS\***

A. Approval of Development Review Board Recommendation:

Ben Gordon, 22 Shoreline Drive, Gulf Breeze, FL  
Addition of topless boat lift to existing wet slip (#1) at  
Santa Rosa Yacht Club located at 300 Pensacola Beach Rd

B. Approval of special event application by Knights of Columbus to hold the People 4 People 5k run/walk on Saturday, September 12, 2015.

C. Accept the University of Florida's preliminary population estimate of 5,832 as reasonably correct and authorize staff to respond accordingly.

D. Approval of plan for Public Information and that it replace the current Public Information Outreach Strategy in Appendix Q of the Santa Rosa County Multi-Jurisdictional Flood Mitigation Plan.

E. Approval of payment to Private Club Associates (PCA) in the amount of \$17,145.

F. Approval of the Mayor or, in his absence, the Mayor Pro Tem, to swear in new Police Officers during a regularly scheduled council meeting.

**\*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.**

F. **ACTION AGENDA ITEMS:**

- A. Approve concept of cleaning the pond and installing a berm along the driving range as a contribution to the restoration of Country Club Road for submission in a grant application to the Department of Transportation.
- B. Ratify the prior approval of the Fairpoint Regional Utility Service (FRUS) water supply agreement and authorize the Mayor to execute the agreement.

G. **NEW ITEMS**

H. **INFORMATION ITEMS**

I. **PUBLIC FORUM**

J. **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. If you are a person with a disability who needs accommodation in order to participate in a public hearing you are entitled to the provision of certain assistance. Please contact the City Clerk's office at (850) 934-5115 or at 1070 Shoreline Drive, Gulf Breeze at least one (1) week prior to the date of the public hearing.*

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

---

The 1,277<sup>th</sup> Regular Meeting of the Gulf Breeze City Council, Gulf Breeze, Florida, was held at Gulf Breeze City Hall on Monday, August 3, 2015, at 6:30 p.m.

**ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE:**

Upon call of the roll the following Councilmembers were present: Councilwoman Renee Bookout, Councilwoman Cherry Fitch, Mayor Pro Tem Joseph Henderson, Councilman David G. Landfair, and Mayor Matt Dannheisser.

The City Clerk gave the invocation and led in the Pledge of Allegiance

**APPROVAL OF MINUTES:**

Councilman Landfair moved for approval of the minutes for the Regular meeting held on July 20, 2015. Councilwoman Fitch seconded. The vote for approval was unanimous.

**PRESENTATION AND PROCLAMATIONS:**

1. A proclamation designating Gulf Breeze as a “Purple Heart City in the State of Florida.”

Numerous members from the Military Order of the Purple Heart, Sharon Lane Chapter 566, were attended the City Council. Mayor Dannheisser read and presented the Proclamation to members, Eustice Shiver and Jim Copeland. Mr. Shiver then presented the Mayor and City Council with the plaque declaring the City a Purple Heart City in the State of Florida.

**RESOLUTIONS AND ORDINANCES:**

*There are no resolutions or ordinances to consider at this meeting.*

**CONSENT AGENDA ITEM(S):**

1. Approval of a special event application by Coastline Calvary Chapel to hold their annual fall festival at the Community Center on Saturday, October 24, 2015 from 2 p.m. – 6 p.m.

Reference: Deputy Chief of Police memo dated July 7, 2015

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

---

Recommendation:

That the City Council approve the application.

2. Approval to authorize Net Connections, LLC., of Birmingham, Alabama, to construct four (4) new softball backstops at their quoted price of \$26,500.

Reference: Director of Parks & Recreation memo dated July 22, 2015

Recommendation:

That the City Council Authorize Net Connections, LLC, of Birmingham, Alabama to construct four new softball backstops at their quoted price of \$26,500.

3. Approval of "Market in the Breeze" beginning on August 18<sup>th</sup> and continuing every Tuesday evening from 4:00 p.m. to 8:00 p.m.

Reference: City Manager memo dated July 24, 2015

Recommendation:

That the City Council approve Market in the Breeze being located in the front parking lot of the Community Center Beginning on August 18<sup>th</sup> and continuing every Tuesday evening from 4:00 p.m. to 8:00 p.m.

4. Approval of purchase and installation of Ecosystem Reef Structures for an amount not to exceed \$430,000 from Walter Marine of Orange Beach, Alabama, as part of the U.S. Army Corps of Engineers grant.

Reference: City Manager memo dated July 24, 2015

Recommendation:

That the City Council approve the purchase and installation of Ecosystem Reef Structures for an amount not to exceed \$430,000 from Walter Marine of Orange Beach, Alabama, as part of the U.S. Army Corps of Engineers Grant.

5. Approval of invoice 314211 from Galloway/Johnson/Tompkins/Burr and Smith in the amount of \$751.00 for professional services in connection with the Peters/Reese lawsuit

Reference: City Clerk memo dated July 23, 2015

Recommendation:

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

---

That the City Council approve payment of invoice No 314211 in the amount of \$751.00 to Galloway/Johnson/Tompkins/Burr and Smith.

Councilwoman Fitch moved for approval of Consent Agenda Items 1 through 5. Councilwoman Bookout seconded. The vote for approval was unanimous.

*\*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:**

1. Authorization for staff and City Attorney to negotiate a lease agreement for Tiger Point Golf Club with Integrity Golf.

Reference: City Manager memo dated July 24, 2015

A.J. Sutton, 1157 Harbor Lane, Gulf Breeze, Florida, spoke regarding Tiger Point Golf Club.

Councilwoman Fitch moved for approval of staff's recommendation. Councilwoman Bookout seconded. The vote for approval was unanimous.

2. Private attorney-client session confined to settlement negotiations or strategy sessions related to litigation expenditures in connection with a worker's compensation litigation brought against the City by Christopher Lanzetta.

Mayor Dannheisser suspended the City Council meeting at 6:53 p.m. He then announced the commencement of the Private Attorney-Client meeting and advised that the only individuals allowed to be present during the meeting would be Councilwoman Fitch, Mayor Pro Tem Henderson, Councilman Landfair, Councilwoman Bookout, City Manager, court reporter Teri Hoffman, and attorney Colleen Ortiz. All other attendees were asked to leave the Council Chambers until the conclusion of the Private Attorney-Client meeting.

The Regular Meeting was reopened following the Attorney-Client meeting at 7:46 p.m

**NEW BUSINESS:** None

**INFORMATION ITEMS:** None

**PUBLIC FORUM:** None

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

---

**ADJOURNMENT:** Mayor Dannheisser adjourned the meeting at 7:47 p.m.

---

Stephanie D. Lucas, City Clerk

---

Matt E. Dannheisser, Mayor

The Gulf Breeze City Council held an Executive Meeting at Gulf Breeze City Hall on Wednesday, August 12, 2015, at 6:30 p.m.

**ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE:**

Upon call of the roll the following Councilmembers were present: Councilwoman Renee Bookout, Councilwoman Cherry Fitch, Mayor Pro Tem Joseph Henderson, Councilman David G. Landfair, and Mayor Matt Dannheisser.

**PROCLAMATIONS**

None

**RESOLUTIONS AND ORDINANCES**

- A. Approval of Ordinance No 05-15 amending section 21-28 and 21-1 of the City Code approving a zoning map and defining mixed use development on First Reading, August 17, 2015, and hold a Public Hearing and Second Reading on September 9, 2015.

*This item was removed from the agenda and will be presented to the Council at a later date.*

**ACTION AGENDA ITEMS**

- A. Approval of Development Review Board Recommendation:

Ben Gordon, 22 Shoreline Drive, Gulf Breeze, FL  
Addition of topless boat lift to existing wet slip (#1) at  
Santa Rosa Yacht Club located at 300 Pensacola Beach Rd

Reference: DRB Minutes – August 4, 2015

Recommendation:

That the City Council approve the project as submitted

Mayor Pro Tem Henderson made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Fitch seconded the motion. The vote for approval was unanimous.

- B. Special event application by Knights of Columbus to hold the People 4 People 5k run/walk on Saturday, September 12, 2015.

Reference: Deputy Chief of Police memo dated July 23, 2015

Recommendation:

That the City Council approve the Knights of Columbus Special Event application.

Councilman Landfair made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Fitch seconded the motion. The vote for approval was unanimous.

- C. University of Florida's preliminary population estimate of 5,832.

Reference: City Manager memo dated July 24, 2015

Recommendation:

That the City Council accept the University of Florida's preliminary population estimate of 5,832 as reasonably correct and authorize staff to respond accordingly.

Mayor Pro Tem Henderson made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Fitch seconded the motion. The vote for approval was unanimous.

- D. Plan for Public Information to replace the current Public Information Outreach Strategy in Appendix Q of the Santa Rosa County Multi-Jurisdictional Flood Mitigation Plan.

Reference: City Manager memo dated August 5, 2015

Recommendation:

That the City Council approve the plan for Public Information and that it replace the current Public Information Outreach Strategy in Appendix Q of the Santa Rosa County Multi-Jurisdictional Flood Mitigation Plan.

Councilman Landfair made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Mayor Pro Tem Henderson seconded the motion. The vote for approval was unanimous.

- E. Concept of cleaning the pond and installing a berm along the driving range as a contribution to the restoration of Country Club Road for submission in a grant application to the Department of Transportation.

Reference: Assistant Director of Public Services memo dated July 28, 2015

Recommendation:

That the City Council approve the concept of cleaning the pond and installing a berm along the driving range as a contribution to the restoration of Country Club Road for submission in a grant application to the Department of Transportation.

Councilwoman Bookout made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Fitch seconded the motion. The vote for approval was unanimous.

- F. Authorize expenditure of \$3,900 to Warrington Utility and Excavating to construct an interconnection in the water supply line southeast of Gulf Breeze Hospital.

Reference: Assistant Director of Public Services memo dated August 7, 2015

Recommendation:

That the City Council meet on Monday, August 17, 2015, as the Board of Community Redevelopment Agency and authorize the expenditure of \$3,900 to Warrington Utility and Excavating to construct an interconnection in the water supply line southeast of Gulf Breeze Hospital.

Councilwoman Fitch made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Bookout seconded the motion. The vote for approval was unanimous.

- G. Fairpoint Regional Utility Service (FRUS) water supply agreement and authorize the Mayor to execute the agreement.

Reference: City Manager memo dated August 6, 2015

Recommendation:

That the City Council ratify the prior approval of the FRUS Water Supply Agreement.

The City Attorney will be providing a revised agreement for the August 17, 2015 meeting.

Councilwoman Fitch made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Councilwoman Bookout seconded the motion. The vote for approval was unanimous.

- H. Payment to Private Club Associates (PCA) in the amount of \$16,745.

Reference: City Manager memo dated August 6, 2015

Recommendation:

That the City Council authorize payment of 17,145 to Private Club Associates (PCA).

The invoice amount indicated on the agenda was incorrect. The amount should be changed from \$16,745 to \$17,145.

Councilman Landfair made a motion to place the item with the corrected amount on the August 17, 2015, Regular Council meeting agenda. Mayor Pro Tem Henderson seconded the motion. The vote for approval was unanimous.

- I. Approval of the Mayor or, in his absence, the Mayor Pro Tem, to swear in new Police Officers during a regularly scheduled council meeting.

Reference: City Manager memo dated August 6, 2015

Recommendation:

That the City Council approve the Mayor or, in his absence, the Mayor Pro Tem, to swear in new police officers during a regularly scheduled council meeting.

Councilman Landfair made a motion to place the item on the August 17, 2015, Regular Council meeting agenda. Mayor Pro Tem Henderson seconded the motion. The vote for approval was unanimous.

**NEW ITEMS**

Mayor Dannheisser advised that he had met with representatives of the United Peninsula Association (UPA) in regards to a possible resolution for the improvement of the West Golf Course.

The following addressed the Council regarding this issue:

AJ Sutton, 1157 Harbor Lane, Gulf Breeze and Don Richards, 1129 Park Lane, Gulf Breeze.

**INFORMATION ITEMS** None

**PUBLIC FORUM**

The following citizens spoke during the public forum: Robert Turpin, 2 Madrid, Gulf Breeze; Chuck Emling, 605 Chesapeake, Gulf Breeze and Tom Naile, 112 Windsor Place.

**COUNCIL COMMENTS:**

Councilwoman Bookout provided an update regarding the After School Program. The program will begin on the first day of school.

Mayor Pro Tem Henderson requested that an item be placed on the next Executive agenda in regards to the possibility of a new police station.

Councilman Landfair requested letters sent from the City include a signature.

**ADJOURNMENT** Mayor Dannheisser adjourned the meeting at 7:31 p.m.



# City of Gulf Breeze

**TO:** Edwin A. Eddy, City Manager  
**FROM:** Thomas E. Lambert, Assistant Director of Public Services  
**DATE:** July 28, 2015  
**RE:** Country Club Road Paving

The entrance to the Tiger Point Golf Course is through Country Club Road, which is privately owned by the Tiger Point Office Park Owner's Association and the City of Gulf Breeze through its purchase of the golf course. The condition of the pavement has deteriorated such that pot holes develop weekly and the City and County receive complaints often. Santa Rosa County is considering taking ownership if the roadway can be repaved to meet their standards. To achieve that goal, the County plans to apply for the Florida Department of Transportation County Incentive Grant Program (CIGP) which would cover 50% of the costs of design and construction.

The County's engineers are concerned with the drainage problem and its effect on the pavement in the future. The one stormwater pond for the area located partially on golf course property takes runoff from the Business Park, the clubhouse parking lot and the driving range. The County has asked if the City will participate in the project by cleaning out and restoring the pond and constructing a berm to keep water from the driving range from entering the area.

The City would be eligible for 50% reimbursement of the time and materials expended on the project, whether with the use of its work force or contracted services. Staff estimates the effort to be less than \$30,000 for both activities. The project would include repaving the portion of Country Club Road that is on golf course property as shown in the attached sketch.

**RECOMMENDATION: The City Council approve the concept of cleaning the pond and installing a berm along the driving range as a contribution to the restoration of Country Club Road for submission in a grant application to the Department of Transportation.**

BREEZE PKWY

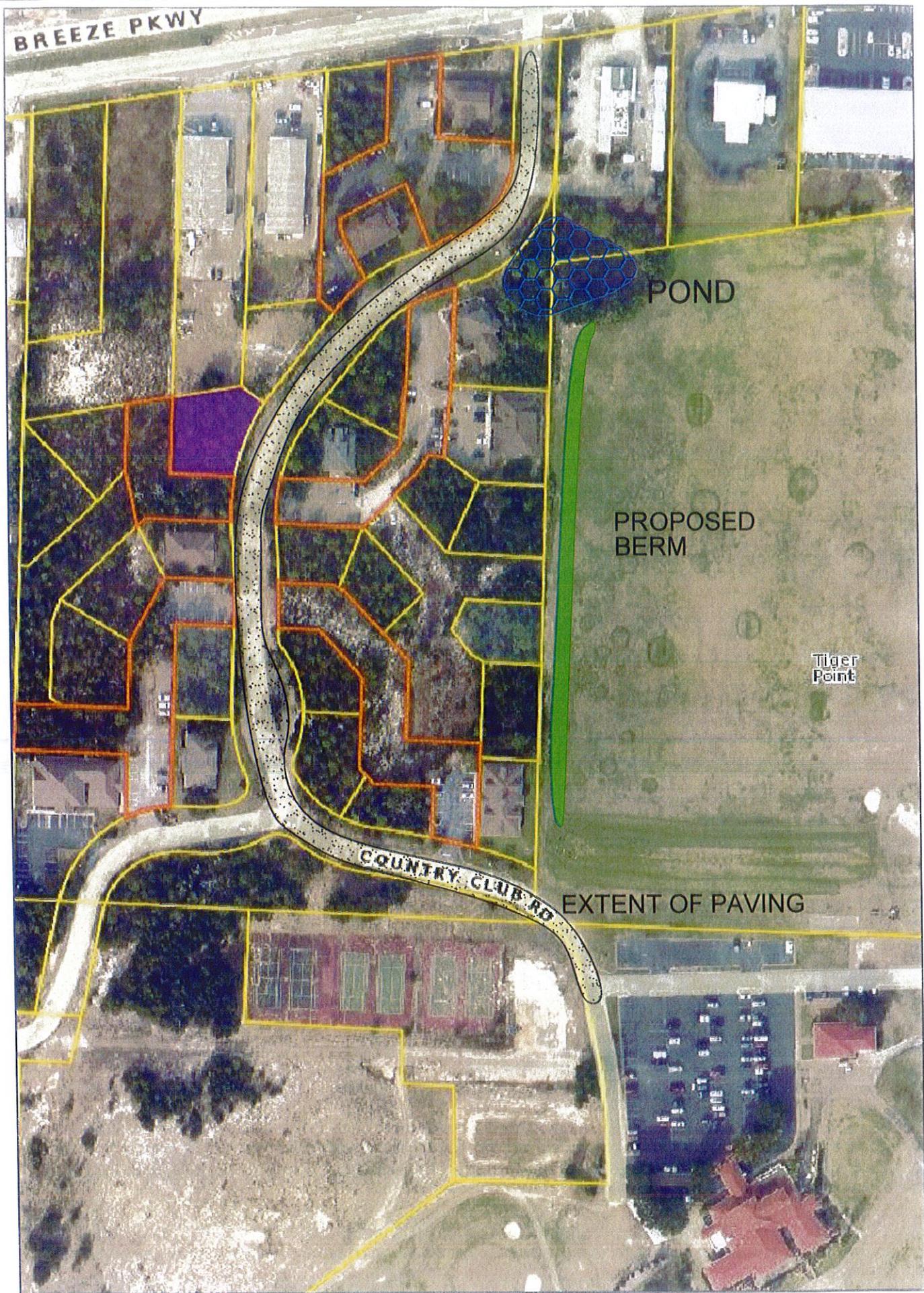
POND

PROPOSED BERM

Tiger Point

COUNTRY CLUB RD

EXTENT OF PAVING



## WATER SUPPLY AGREEMENT

THIS WATER SUPPLY AGREEMENT (hereinafter "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2004, (hereinafter the "Effective Date"), by and between FAIRPOINT REGIONAL UTILITY SYSTEM, INC., a Florida not-for-profit corporation, (hereinafter "Fairpoint"), and SANTA ROSA COUNTY, FLORIDA, a political subdivision of the State of Florida, (hereinafter "County"), who may hereinafter be collectively referred to as the "Parties" or individually referred to as a "Party."

WITNESSETH:

WHEREAS, the County operates a water supply distribution system serving customers in that certain area on Santa Rosa Island, Florida, known as Navarre Beach (hereinafter the said area shall be referred to as "Navarre Beach");

WHEREAS, Fairpoint owns and operates a wholesale water supply system with capacity of serving its present members as well as the water needs anticipated by the County for its water customers on Navarre Beach;

WHEREAS, the County entered into a certain Water Purchase Contract with Midway Water System, Inc. (hereinafter "Midway"), pursuant to which Midway does currently supply water to the County for resale to its customers on Navarre Beach;

WHEREAS, the three current retail water supply utilities in southern Santa Rosa County (i.e., Midway, Holley-Navarre Water System, Inc., and the City of Gulf Breeze) recognized potential limitations upon their abilities to adequately supply high quality potable water from currently utilized sources to meet anticipated future needs of residents and other water customers in southern Santa Rosa County and, consequently, joined together to form Fairpoint for purposes of developing a regional source of potable water supply for the southern portions of Santa Rosa County, Florida, with the goal of providing reliable, cost effective water sources for each said utility;

WHEREAS, the aforesaid three utility operations which comprise the membership of Fairpoint have expended considerable sums, assumed considerable risks, and have become obligated for substantial indebtedness in connection with the acquisition, development, construction, improvement, implementation, and operation of Fairpoint's water supply production, transmission, and distribution systems;

WHEREAS, Midway will be unable to continue to supply water to County for the County's use in meeting the water supply needs of its residents and customers on Navarre Beach and, consequently, the County desires to henceforward purchase and acquire water from Fairpoint on a wholesale basis for resale to its water customers within Navarre Beach; and

WHEREAS, the Parties desire to enter into this Agreement to confirm the terms and conditions upon which Fairpoint will sell to County and County will purchase from Fairpoint water

on a wholesale basis to meet water consumption needs for residents and other customers on Navarre Beach; and

Whereas the County and Fairpoint have been operating under this Agreement since [date actual water supply began] but realized in the Spring of 2015 that neither party had signed the Agreement following the approval of the Agreement in 2004; and,

Whereas, the County and Fairpoint agreed on the terms and form of this Agreement in January 2004 [assuming this is the date reflected in the minutes] as reflected in the minutes of the County meeting on \_\_\_\_\_ and the minutes of the Fairpoint meeting on \_\_\_\_\_, which are both attached hereto as Exhibits A and B respectively (Original Date”); and,

Whereas, the County and Fairpoint desire that the Agreement be signed “as of” the Original Date notwithstanding that the ministerial action of signing this Agreement occurred in 2015;—

NOW, THEREFORE, for and in consideration of the premises and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE I: COUNTY’S CURRENT WATER SUPPLY**

Section 1.1. Termination of Midway Water Purchase Contract. The County does hereby agree and acknowledge that the Water Purchase Contract between the County and Midway, as well as any other agreements or arrangements by, between, or among the County and Midway pertaining to the supply by Midway of water to the County, are hereby deemed as having been terminated and canceled as of the date Fairpoint commences to supply water to the County pursuant to this Agreement. Midway joins in this Agreement for the sole purpose of acknowledging, agreeing and confirming the termination of all and any said agreements and/or arrangements with the County.

**ARTICLE II: SUPPLY OF WATER**

Section 2.1. Commitment to Supply Water. Fairpoint does hereby commit to produce and have available to be supplied unto the County, and the County shall have the right to purchase and receive for purposes of resale to its customers on Navarre Beach, potable water up to the quantities set forth in the schedule that is attached hereto as Exhibit “A” (and such quantities are referred to herein as the County’s “Supply Allocation”). The County may, but shall not be guaranteed the right to, receive water from Fairpoint in excess of its Supply Allocation provided that the excess does not infringe upon or impede any of Fairpoint’s other obligations or commitments. The County shall not have the right to receive from Fairpoint, and Fairpoint shall not be required to supply unto the County, any quantity of water in excess of the County’s Supply Allocation.

- Formatted: Font: (Default) Times New Roman, 12 pt, Not Italic
- Formatted: Font: (Default) Times New Roman, 12 pt, Bold, Not Italic, Font color: Blue
- Formatted: Justified
- Formatted: Font: (Default) Times New Roman, 12 pt, Not Italic
- Formatted: Font: (Default) Times New Roman, 12 pt, Not Italic
- Formatted: Font: (Default) Times New Roman, 12 pt, Bold, Not Italic
- Formatted: Font: (Default) Times New Roman, 12 pt, Not Italic
- Formatted: Font: (Default) Times New Roman, 12 pt
- Formatted: Font: (Default) Times New Roman, 12 pt, Not Italic

Notwithstanding Fairpoint's above commitment to produce potable water and have potable water available to be supplied unto the County, the County shall not be entitled to receive potable water from Fairpoint and Fairpoint shall not be required to supply unto the County potable water in quantities that exceed the amounts permitted by the Northwest Florida Water Management District and/or other applicable regulatory agencies.

Section 2.2. Commitment to Purchase Water. During the term of this Agreement, the County does hereby agree and covenant to purchase from Fairpoint in accordance with the terms and conditions set forth herein all potable water necessary to meet and satisfy the needs of the County's water customers on Navarre Beach. The County further acknowledges that as of the Effective Date of this Agreement the Supply Allocations as set forth in the attached Exhibit "A" are anticipated to be sufficient to meet the needs and demands of the County's water customers on Navarre Beach; provided, however, upon mutual agreement the Parties may modify the Supply Allocations set forth in Exhibit "A." Accordingly, unless Fairpoint is unable to fulfill its obligations to supply water as contemplated in Section 2.1, above, during the term of this Agreement the County does hereby agree and covenant that it shall not purchase or acquire any water from any supplier or producer thereof (including the County) that may be used for resale to or otherwise satisfy the needs and demands of any person or entity on Navarre Beach.

The Parties acknowledge that the County currently maintains certain water production facilities (including wells) at Navarre Beach and that the County intends to maintain such facilities in working condition in order to have a redundant source of potable water should Fairpoint be unable to furnish the County with Supply Allocations. In order to maintain said water production facilities the County will need to periodically operate those facilities whereby limited quantities of potable water will be pumped into the County's water supply distribution system on Navarre Beach. Accordingly, notwithstanding any provision in this Section 2.2 to the contrary, for the limited purpose of maintaining its aforesaid water production facilities, during any calendar year the County shall be allowed to produce up to the "Maintenance Quantity" of potable water from its aforesaid water production facilities and pump the said into its water distribution system on Navarre Beach for eventual consumption by customers of the County. For purposes of this paragraph, the term "Maintenance Quantity" shall be a quantity of potable water equal to three percent (3%) of the Supply Allocation for the corresponding year as set forth in Exhibit "A."

Section 2.3. Point of Delivery. Water supplied pursuant to this Agreement by Fairpoint to the County shall be delivered to a point of delivery where the County's delivery system interconnects with Fairpoint's transmission system adjacent to Midway's Station #1 (as more particularly depicted in the attached Exhibit "B") in the vicinity of the intersection of State Highway 87 and U.S. Highway 98 (said interconnect point shall hereinafter be referred to as the "Point of Delivery"). The County's water supply distribution system past the Point of Delivery serving Navarre Beach shall hereinafter be referred to as the "Navarre Beach Water System."

Section 2.4. Metering of Water. Fairpoint shall furnish, install, operate, and maintain at its own expense at the Point of Delivery the necessary metering equipment for properly

measuring the quantity of water delivered by Fairpoint to the County, and to calibrate such metering equipment at least once every twelve (12) months. The type and design of the metering equipment shall be mutually agreed upon by the Parties. The annual calibration of the metering equipment shall be performed by independent third parties. A meter registering not more than two percent (2%) above or below test results shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the entire period subsequent to the last accurate test. The correction shall be in accordance with the percentage of inaccuracy found by the test. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period in the immediately preceding calendar year, unless the Parties agree upon a different amount or method.

Section 2.5. Water Quality and Pressure. The quality of water to be supplied by Fairpoint to the County pursuant to this Agreement shall, at the Point of Delivery, conform to or be of better quality than all applicable requirements of state and federal governmental bodies and administrative agencies. In addition, water supplied by Fairpoint to the County pursuant to this Agreement shall be delivered at the County's Point of Delivery with a line pressure of not less than 65 psi and a chlorine content level of at least 1 mg/L. If the County desires additional line pressure at the Point of Delivery, the cost of providing such additional pressure shall be the responsibility of the County. Unanticipated and/or emergency failures of pressure of water supply due to transmission line breaks, power failure, flood, fire, use of water for fire suppression, earthquake, or other catastrophes shall excuse Fairpoint from the foregoing minimum pressure requirement for such reasonable period of time as may be necessary to restore service.

The County shall be responsible for assuring that the quality of water within the Navarre Beach Water System conforms to, meets, and satisfies all applicable requirements of state and federal governmental bodies and administrative agencies. Fairpoint's obligations with respect to water quality shall be limited to those requirements set forth in the preceding paragraph. In the event that any governmental body or administrative agency seeks to require that Fairpoint undertake any efforts relating to deficient water quality (i.e., water quality that fails to meet and conform to applicable requirements of state and federal governmental bodies and administrative agencies) of water within the Navarre Beach Water System, the County shall reimburse Fairpoint for all expenses and damages incurred in connection therewith.

Section 2.6. Failure or Inability to Deliver. Fairpoint shall, at all times, operate and maintain its system in an efficient manner and will take such actions as may be reasonably necessary to furnish the County with the quantities of water contemplated herein. Temporary or partial failures to deliver water shall be remedied with all possible dispatch within reason. In the event of an extended shortage of water, or the supply of water to Fairpoint is otherwise diminished over an extended period of time, the supply of water to the County shall be reduced or diminished in the same ratio or portion as the supply to Fairpoint's customers is reduced or diminished. Except for termination of this Agreement pursuant to the provisions of Section 5.3, below, or acquiring water from another supplier in accordance with the provisions of Section 2.2, above, the County shall have no other remedy against Fairpoint on account of or in connection with its failure or inability to

supply water as contemplated in this Section.

### ARTICLE III: CHARGES FOR WATER

Section 3.1. Payment for Water Purchases. In addition to any other obligations or duties imposed upon the County pursuant to this Agreement, as consideration for (i) its right and ability to purchase and receive potable water from Fairpoint and (ii) actual water supplied to the County pursuant to this Agreement, the County shall pay unto Fairpoint, on a monthly basis as more particularly set forth herein an amount equal to the total of the County's (a) Monthly Base Charge (as more particularly described in Section 3.2, below) and (b) Monthly Volumetric Charges (as more particularly identified in Section 3.3, below).

Section 3.2. Monthly Base Charge. As referenced in this Agreement, the term "Monthly Base Charge" shall for each calendar month during the initial term of this Agreement be the sum of \$10,416.67.

Section 3.3. Monthly Volumetric Charges. As referenced in this Agreement, the term "Monthly Volumetric Charges" shall mean and refer to a sum of money equal to the total of the following:

(a) For quantities of water supplied by Fairpoint to the County pursuant to this Agreement during the particular month in question that are less than or equal to the product of multiplying 315,000 gallons times the number of days in said month (i.e., for twenty-eight day months: 315,000 gallons times twenty-eight days equals 8,820,000 gallons; for twenty-nine day months: 315,000 gallons times twenty-nine days equals 9,135,000 gallons; for thirty day months: 315,000 gallons times thirty days equals 9,450,000 gallons; and for thirty-one day months: 315,000 gallons times thirty-one days equals 9,765,000 gallons), the sum of seventy-five cents (\$0.75) for each 1,000 gallons; and

(b) For quantities of water supplied by Fairpoint to the County pursuant to this Agreement during the particular month in question that are greater than the product of multiplying 315,000 gallons times the number of days in said month, the sum of One and 65/100 Dollars (\$1.65) for each 1,000 gallons.

Section 3.4. Adjustments of Volumetric Rates. The Volumetric rates of seventy-five cents (\$0.75) for each 1,000 gallons and One and 65/100 Dollars (\$1.65) for each 1,000 gallons as set forth in Section 3.3(a) and (b), respectively, shall be referred to herein as the "Volumetric Rates". The Volumetric Rates shall apply and remain constant during the first year of this Agreement. Fairpoint shall be entitled, at its sole discretion, to increase the Volumetric Rates from time to time, but no more frequently than once each year. The percent increase of any such rate adjustment shall be no greater than the percent of increase in Fairpoint's "Operating Costs" (as that term is defined below) since the later of (i) the Effective Date of this Agreement or (ii) the effective

#### ARTICLE IV: PAYMENT TERMS

Section 4.1. Billing Procedures. Fairpoint shall endeavor to read the metering equipment on the last day of each month. Appropriate officials of the County shall be allowed to observe the meter reading and shall otherwise have access at all reasonable times to the meter for purposes of verifying its readings. Fairpoint shall endeavor to bill the County for water supplied during each calendar month. However, the Parties recognize and acknowledge that circumstances may render it difficult to read the meter at the end of each calendar month, in which event Fairpoint shall endeavor to read the meter as soon as practical thereafter. In the event that the meter is not read at the end of each calendar month, the Monthly Volumetric Charges shall be prorated and based upon appropriate prorations.

Section 4.2. Time for Payment. All payments to be paid by the County to Fairpoint pursuant to this Agreement shall be paid on or before ten (10) days from the date that the County receives an invoice from Fairpoint requesting payment.

Section 4.3. Late Payment. In recognition that Fairpoint's financial stability and soundness is largely dependent upon the timely payment by each of Fairpoint's customers of their financial obligations (and, further, in recognition that the charges to the County for the supply of potable water as contemplated herein presuppose expeditious payment thereof), and that the failure of the County to make timely payment of the sums owed to Fairpoint could cause significant expense and operating difficulties for Fairpoint, the County agrees that in the event it is late in making any payment to Fairpoint as contemplated in this Agreement, the County shall pay to Fairpoint, in addition to the amount of the late payment, the total of (a) a late charge equal to either five percent (5%) of the amount of the payment that is late, or \$1,000.00, whichever is greater; and (b) simple interest upon the late payment at the rate of 1.5% for each month or portion thereof that the payment is late.

#### ARTICLE V: TERM OF AGREEMENT

Section 5.1. Term. The term of this Agreement shall be for a period of twenty (20) years from the Effective Date.

Section 5.2. Termination. Subject to the terms, conditions, and limitations set forth in this Section, the County may terminate this Agreement, with or without cause, by providing Fairpoint with twenty-four (24) months advance written notice of termination. Fairpoint may terminate this Agreement, with or without cause, by providing the County with forty-eight (48) months advance written notice of termination. Notwithstanding any term or condition of this Agreement to the contrary, in the event that the County terminates this Agreement at any time during the twenty (20) year term hereof, the County shall remain obligated to pay the Monthly Base Charge to Fairpoint through the end of said twenty (20) year term. The County shall pay the Monthly Base Charge unto Fairpoint on or before the first day of the first month following the effective date of the

termination and such payments shall continue on or before the first day of each month thereafter during the remainder of the said twenty (20) year term of this Agreement.

Section 5.3 Extension of Term. At the option of the County, the term of this Agreement shall be extended for a period of time equal to the number of days that Fairpoint fails and/or is unable to supply water as contemplated in Section 2.1, above. In order to exercise its right to extend this Agreement, the County shall provide written notification that it desires to extend the Agreement on account of Fairpoint's failure and/or inability to supply potable water. The said notification must be furnished within ninety (90) days of each instance when Fairpoint is unable or fails to supply water. The County shall not be entitled to seek any extension of the term of this Agreement for failures or inability to supply water which are of durations of less than twenty-four (24) hours. The term of this Agreement shall be automatically extended upon receipt from the County of the written notifications as contemplated in this paragraph. The County shall not be required to pay any Monthly Base Charges during any extension of the term of this Agreement obtained as provided in this paragraph.

#### **ARTICLE VI: DEFAULT**

Section 6.1. Remedies - Fairpoint's Inability to Supply Water. Except as otherwise provided in this Agreement, County's remedy as a result of Fairpoint's inability to supply water as contemplated in this Agreement shall be limited to injunctive relief from a court of competent jurisdiction to require the provision of water according to the terms hereof and the County shall have no other remedy against Fairpoint as a result of such failure or inability to supply water.

Section 6.2. Remedies - Other. With respect to any failure of performance, breach or default upon the terms of this Agreement other than as contemplated in Sections 2.6 and 6.1, above, each Party shall be entitled to pursue all remedies and causes of action available under applicable law.

#### **ARTICLE VII: MISCELLANEOUS**

Section 7.1. Regulatory Agencies. This Agreement is subject to such rules, regulations and laws as may be applicable to similar agreements in this State and the Parties agree and covenant to take all reasonable steps necessary to obtain such permits, certifications, or the like as may be required to comply therewith.

Section 7.2. No Waiver. Failure of either Party to exercise any right or privilege of that Party, or to insist upon strict and faithful compliance with the terms of this Agreement, shall not constitute a waiver of such provisions. Any custom or practice of the Parties in variance with the terms of this Agreement shall not constitute a waiver of the aggrieved Party's right to demand strict compliance with the terms of this Agreement. A waiver by either Party of any provision of this

Agreement shall be enforced only if in writing signed by the affected Party. All rights and remedies provided or implied in this Agreement are cumulative and shall not be exclusive of any rights and remedies provided or available at law or in equity.

Section 7.3. Force Majeure. Notwithstanding any provision in this Agreement to the contrary, Fairpoint shall not be liable to the County for any failure of Fairpoint to provide potable water in accordance with the terms of this Agreement if such failure results from natural causes or from damage to Fairpoint's water production, distribution and/or transmission facilities or other cause outside the reasonable control of Fairpoint.

Section 7.4. Severability. The invalidity, unenforceability or lawful rejection of any provision of this Agreement shall not affect or impair the validity or enforceability of any other provision. To the extent any provision is invalid, unenforceable, or lawfully rejected, the Parties desire and hereby request the courts (or other applicable regulatory authorities) to construe, reconstruct and/or reform this Agreement in a manner rendering this Agreement effective within the intent and purpose of this Agreement.

Section 7.5. Entire Agreement. This Agreement constitutes the entire agreement of Parties and supercedes any prior understandings, written or oral, between the Parties respecting the subject matter of this Agreement. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless in writing and duly executed by the Parties.

Section 7.6. Attorney's Fees. In connection with any dispute or litigation arising under, from, as a result of, or out of this Agreement, the Parties agree that the prevailing Party in such dispute or litigation shall be entitled to recover all costs and expenses incurred in connection therewith (including those incurred in any appeals from any litigation and in enforcement of judgment) including reasonable attorney's fees and fees for services of other professionals, paraprofessionals and similar persons.

Section 7.7. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Section 7.8. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons or authorities other than the Parties to this Agreement and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons or authorities to either Party to the Agreement, nor shall any provision of this Agreement give any third persons or authorities any right of subrogation or action over or against either Party to this Agreement.

Section 7.9. Relationship of Parties. This Agreement is not intended, and shall not be construed, to create a partnership, joint venture or similar relationship between the Parties.

Section 7.10. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

Section 7.11. Assignment. Neither this Agreement, nor any of the rights, duties and obligations set forth herein, may be assigned without the expressed, -advanced written approval by all Parties hereto.

Section 7.12. Interpretation. This Agreement has been negotiated at arm's length by the Parties, and the Parties agree that for purposes of construing the terms of this Agreement no Party shall be responsible for drafting this Agreement.

Section 7.13. Covenant of Further Assurances. Each Party shall perform such other acts and deliver such additional instruments as may be necessary to carry out the intent and purpose of this Agreement.

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

SANTA ROSA COUNTY, by and through  
Its Board of County Commissioners

By: \_\_\_\_\_  
W.D. SALTER  
Its: Chairman

ATTEST TO:

\_\_\_\_\_  
Its: Deputy Clerk

FAIRPOINT REGIONAL UTILITY SYSTEM,  
INC., a Florida Not-for-Profit Corporation

By: \_\_\_\_\_  
HAROLD G. WHITE  
Its: President

ATTEST TO:

\_\_\_\_\_  
PHIL JOWERS  
Its: Secretary

**Midway Consent**

Midway Water System, Inc., does hereby join in this Agreement for the sole purpose of approving the provisions of Section 1.1, above, and by its execution of this Consent Midway does confirm, agree and acknowledge that all agreements and/or arrangements providing for it to supply water to Santa Rosa County shall be deemed terminated and cancelled as of the date that Fairpoint commences to furnish potable water to Santa Rosa County pursuant to this Agreement.

MIDWAY WATER SYSTEM, INC.,

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

Its: President

ATTEST TO:

\_\_\_\_\_

Its: Secretary